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Meeting	<b>PLANNING COMMITTEE</b>
Time/Day/Date	6.00 pm on Wednesday, 12 March 2025
Location	Forest Room, Stenson House, London Road, Coalville, LE67 3FN
Officer to contact	Democratic Services (01530 454512)

## AGENDA

Item		Pages
<b>1.</b>	<b>APOLOGIES FOR ABSENCE</b>	
<b>2.</b>	<b>DECLARATION OF INTERESTS</b>	
	Under the Code of Conduct members are reminded that in declaring interests you should make clear the nature of that interest and whether it is a disclosable pecuniary interest, registerable interest or other interest.	
<b>3.</b>	<b>MINUTES</b>	
	To confirm and sign the minutes of the meeting held on 14 January 2025	<b>3 - 6</b>
<b>4.</b>	<b>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>23/01712/FULM: The construction and operation of a ground mounted solar farm with a generation capacity of 7.15mw together with access, landscaping and associated infrastructure</b>  Donington Park Service Area, Junction 23A, Ashby Road, Castle Donington	Permit	11 - 72
<b>A2</b>	<b>24/01503/FUL: Change of use from dwelling house (C3) to childrens home (C2) for up to three children</b>  2 Frearson Road, Hugglescote, Coalville	Permit	73 - 90
<b>A3</b>	<b>24/00574/OUT: Erection of 1 no. self build dwelling (outline - access and layout only)</b>  Land adjoining 20 Worthington Lane, Breedon on the Hill	Permit subject to S106 Agreement	91 - 118
<b>A4</b>	<b>24/01294/FUL: Erection of three detached dwellings and three double garages (one attached and two detached) with associated access, landscaping and drainage</b>  Land at Drum and Monkey Lane, Packington, Leicestershire	Permit subject to S106 Agreement	119 - 156

MINUTES of a meeting of the PLANNING Committee held in the Forest Room, Stenson House, London Road, Coalville, LE67 3FN on TUESDAY, 14 January 2025

Present: Councillor R Boam (Chair)

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

In Attendance: Councillors A Barker

Officers: Mr J Arnold, Ms J Davies, Mr C Elston, Mr A Mellor and Mrs R Wallace

### **33. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors J Simmons and N Smith.

### **34. DECLARATION OF INTERESTS**

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

Councillor P Moulton declared a registerable interest in item A1 – application 23/01277/OUTM as a Whitwick Parish Councillor.

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 23/01277/OUTM: Councillors D Bigby, R Blunt, R Canny, D Everitt, J Legrys, C Sewell and P Moulton.

### **35. MINUTES**

Consideration was given to the minutes of the meeting held on 12 November 2024.

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

RESOLVED THAT:

The minutes of the meeting held on 12 November 2024 be approved and signed by the Chair as a correct record.

### **36. 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.

### **37. A1 23/01277/OUTM: DEMOLITION OF NOS. 137 AND 139 CHURCH LANE AND THE REDEVELOPMENT OF THE SITE TO PROVIDE 13 DWELLINGS WITH ASSOCIATED WORKS (OUTLINE, MEANS OF ACCESS, LAYOUT AND SCALE FOR APPROVAL)**

137 Church Lane, Whitwick, Coalville

**Officer's Recommendation:** Permit subject to Section 106 Agreement

The Head of Planning and Infrastructure announced that an appeal to the Planning Inspectorate against non-determination had been lodged by the applicant on 13 January

2025 and the Committee could no longer determine the application. Therefore, Members were asked to make a resolution on how the Planning Committee would have decided the application which would then form the Council's case presented to the Planning Inspectorate as part of the appeal process.

The Principal Planning Officer presented the report.

Mr P Hopkins, objector, addressed the Committee. He highlighted that as the applicant was unwilling to conduct a further highway survey the Committee were being asked to make an opinion on flawed data. It was reported that traffic regularly travelled along Church Lane in excess of 30 miles per hour which was dangerous for both road users and pedestrians, especially the children that walked to the local school 500 metres away from the site. In addition, the development would mean a loss of amenity and natural habitat, loss of direct sunlight for several properties due to poor design and lack of additional parking which could lead to dangerous on street parking on Church Lane. It was also felt that the development was too dense for the size of the site. To conclude Members were urged to refuse the application on the grounds of the reasons stated and the many local objections.

Legal advice was sought regarding the right of the Ward Member to speak following the additional information received on the appeal process prior to the meeting. It was clarified that the Council's rules on registering to speak at Planning Committee were being adhered and although the Ward Member could not speak at the meeting, they would have the opportunity to provide evidence as part of the appeal process.

During discussion, several Members acknowledged the merits of the application and noted the lack of objection from statutory authorities. Some concern was raised regarding the proposed removal of trees, density of the site, loss of amenity and visual impact. It was requested that should the application be approved, a note to the applicant be included to retain the landscaping on the parcel of land adjoining the development.

Members expressed disappointment that the applicant had not undertaken another highway survey as requested at the previous meeting, as well as lodged the appeal which meant a determination by the committee could not be made.

Following a comment in relation to costs to the Council as part of the appeal process, it was noted that this was dependant on the reasons for the decision. Members were advised that should the committee be minded to refuse, then the Council could incur costs if it was considered that the circumstances of the refusal was unreasonable.

During discussion, Officers clarified the appeal process, timescales for determining and the non-determination rules. It was confirmed that a Section 106 Agreement would now be determined by the Planning Inspector as part of the appeal process.

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

A Member sought to move an amendment to refuse the application, however they were advised that the proposal was unacceptable in accordance with the Council's Constitution as it negated the motion.

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

RESOLVED THAT:

If the Council were able to determine the application, it would have been permitted subject to Section 106 Agreement.

<b>If the Council were able to determine the application, motion to permit the application (Motion)</b>	
Councillor Russell Boam	Against
Councillor Ray Morris	Against
Councillor Dave Bigby	For
Councillor Richard Blunt	For
Councillor Morgan Burke	For
Councillor Rachel Canny	For
Councillor David Everitt	For
Councillor John Legrys	Against
Councillor Peter Moulton	Against
Councillor Carol Sewell	Against
Councillor Michael Wyatt	For
<b>Carried</b>	

The meeting commenced at 6.00 pm

The Chairman closed the meeting at 7.04 pm

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**APPENDIX B**

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

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

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

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



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

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

## **6 Refusal contrary to officer recommendation**

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

## **7 Amendments to Motion**

An amendment must be relevant to the motion and may:

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

as long as the effect is not to negate the motion

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

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

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

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

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

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

## **8 Delegation of wording of Conditions**

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

to the Head of Planning and Infrastructure.

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

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

The construction and operation of a ground-mounted solar farm with a generation capacity of 7.15MW together with access, landscaping and associated infrastructure  
Donington Park Service Area Junction 23A Ashby Road Castle  
Donington Derby DE74 2TN

Report Item No  
A1

Application Reference  
23/01712/FULM

Grid Reference (E) 446715  
Grid Reference (N) 325160

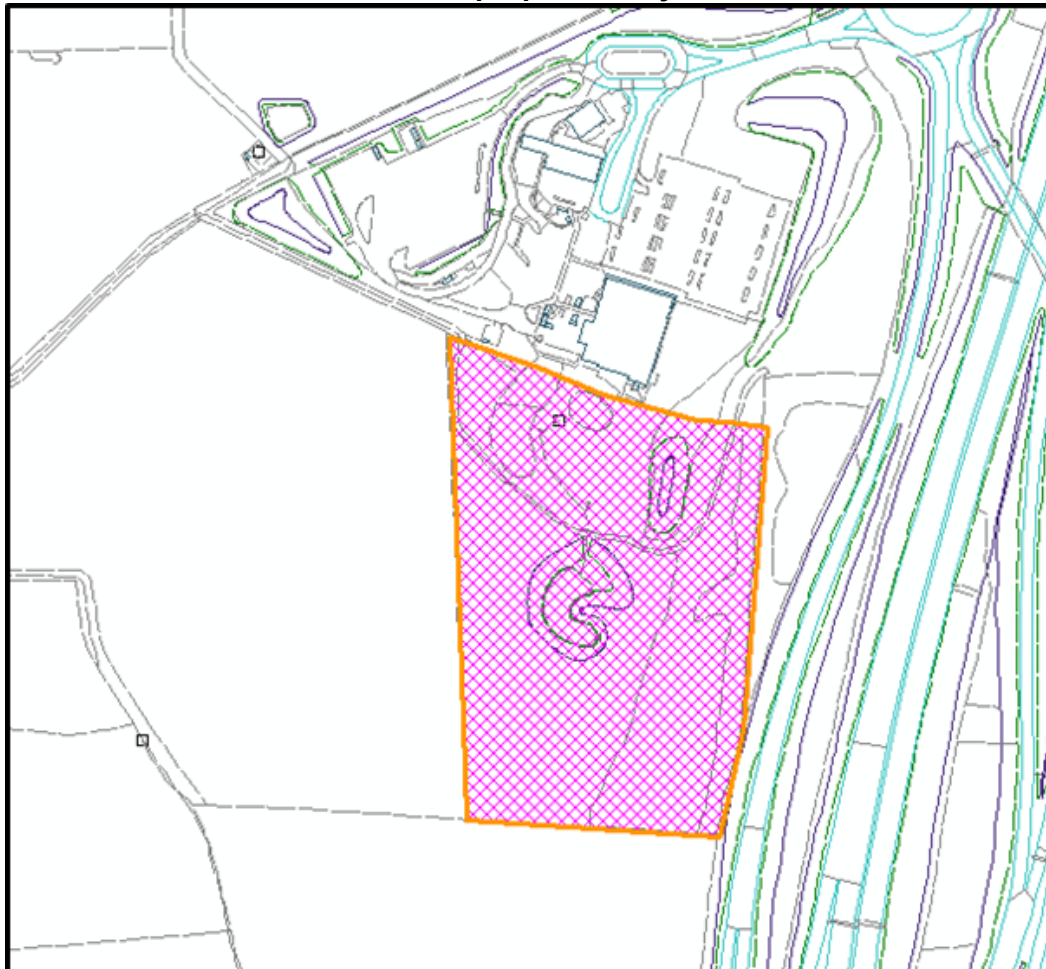
Date Registered:  
22 January 2024  
Consultation Expiry:  
13 February 2025  
8 Week Date:  
18 March 2024  
Extension of Time:  
17 March 2025

Applicant:  
Moto Hospitality Limited

Case Officer:  
Adam Mellor

Recommendation:

Site Location - Plan for indicative purposes only



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

This application is brought to the Planning Committee at the request of Councillor Rushton as in his opinion the proposed location of the scheme is highly inappropriate due to it being adjacent to the Diseworth Conservation Area and that the land in question is open countryside and where a solar farm would destroy the heritage, wildlife and biodiversity value of the application site.

### RECOMMENDATION – PERMIT, subject to the following conditions;

1. Standard time limit (three years).
2. Approved plans.
3. Within 10 working days of electricity being exported to the electric vehicle charging points notify the District Council.
4. 40 year timespan for the solar farm.
5. Submission of a decommissioning and restoration scheme (DRS) no later than six months prior to the expiry of the 40 year timespan, or within six months of the cessation of electricity generation, whichever is the sooner to be submitted, approved and implemented.
6. Submission of a restoration management plan (RMP) no later than six months prior to the expiry of the 40 year timespan, or within six months of the cessation of electricity generation, whichever is the sooner to be submitted, approved and implemented.
7. Development to be compliant with submitted glint and glare study (GGS).
8. Method statement for reporting glint and glare complaints and a programme for mitigation to reduce any complaints of glint and glare prior to the first use of the development to be submitted, approved and implemented.
9. Monitoring and management programme for glint and glare impacts to the A42 trunk road prior to the first use of the development to be submitted, approved and implemented.
10. Development to be compliant with submitted noise impact assessment (NIA).
11. Precise design details of the solar panel arrays, transformers, battery storage container units and perimeter fencing prior to the installation of such infrastructure to be submitted, approved and implemented.
12. All cables to be laid underground.
13. Height of solar panel to be limited to a maximum of 2.04 metres above ground level.
14. All installed alarms systems to be silent at all times.
15. Hours of construction and decommissioning.
16. Biodiversity construction environmental management plan (BCEMP) prior to commencement to be submitted, approved and implemented.
17. Aviation safety construction management plan (ASCMP) prior to commencement to be submitted, approved and implemented.
18. Revised arboricultural method statement (AMS), including a scheme of tree and hedge protection measures for retained trees and hedges, prior to the commencement to be submitted, approved and implemented.
19. Biodiversity enhancement management plan (BEMP) prior to commencement to be submitted, approved and implemented.
20. Soft landscaping scheme (including timetable(s) for provision) and requirement for the replacement of failed landscaping prior to commencement to be submitted, approved and implemented.
21. Scheme of ecological enhancements (including timetable(s) for provision) prior to commencement to be submitted, approved and implemented.

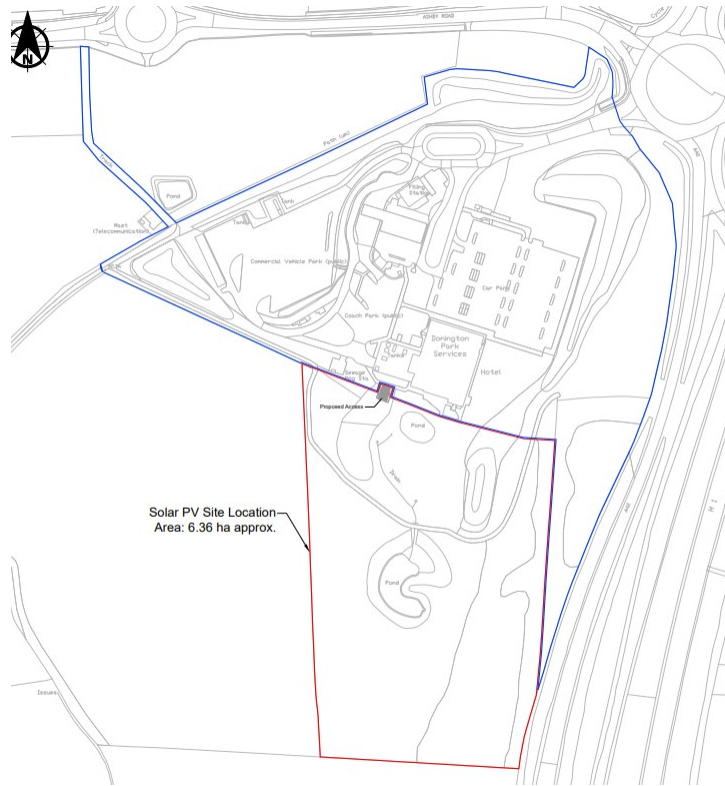
22. Landscape and ecological management plan (LEMP) prior to the first use of the development to be submitted approved and implemented.
23. Hard landscaping scheme (including timetable(s) for provision) prior to hard landscaping being installed to be submitted, approved and implemented.
24. Boundary treatment scheme (including timetable(s) for provision) prior to boundary treatments being installed to be submitted, approved and implemented and removal of permitted development rights for alternative boundary treatments.
25. Surface water drainage scheme during the construction phase prior to commencement to be submitted, approved and implemented.
26. Infiltration testing to demonstrate that infiltration is feasible as part of the surface water drainage scheme prior to commencement to be submitted and approved.
27. Surface water drainage scheme prior to commencement to be submitted, approved and implemented.
28. Surface water drainage maintenance scheme prior to the first use of the development to be submitted, approved and implemented.
29. Battery safety management plan (BSMP) prior to the installation of any electrical equipment or battery unit to be submitted, approved and implemented.
30. No external lighting to be installed (including during the construction phase) unless precise details and location of such external lighting is first submitted and approved.
31. No CCTV cameras to be installed unless precise details and locations of such CCTV cameras are first submitted and approved.
32. Details to demonstrate that the proposed development will not generate electromagnetic interference to critical aviation communications, navigation, and surveillance infrastructure prior to the first use of the development to be submitted and approved.
33. Timetable for the delivery of the informal footpath depicted on the submitted plans prior to commencement to be submitted, approved and implemented.
34. Details of signage for the informal footpath depicted on the submitted plans (including timetable for implementation) prior to the first use of the development to be submitted, approved and implemented.
35. Scheme of replacement picnic area (including timetable(s) for implementation) prior to the first use of the development to be submitted, approved and implemented.

## 1. Proposals and Background

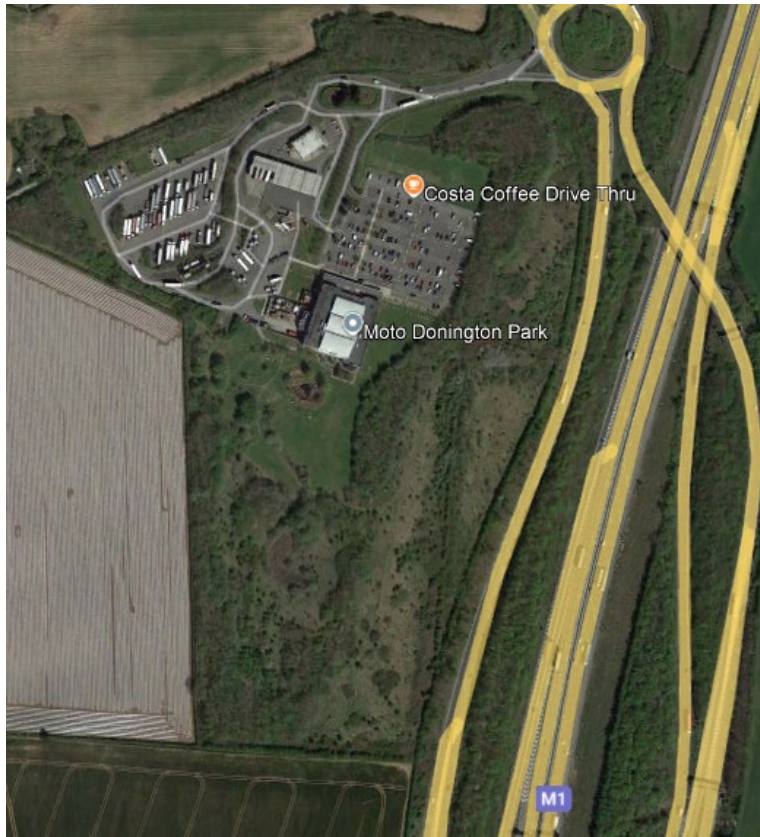
***The mandatory requirement for 10% Biodiversity Net Gain (BNG) for major development as required by the Environment Act came into force on the 12th of February 2024. However, this requirement would only be applicable to those applications received on or after the 12th of February 2024 and is not to be applied retrospectively to those applications already under consideration before this date and subsequently determined after this date. On this basis the proposed development would not be required to demonstrate a 10% BNG.***

Planning permission is sought for the construction and operation of a ground-mounted solar farm with a generation capacity of 7.15 megawatts (MW) together with access, landscaping and associated infrastructure at Donington Park Service Area (DPSA), Junction 23A, Ashby Road. The 6.36 hectare site (as identified in the image below) is located to the immediate south of the DPSA and is outside the defined Limits to Development. The proposed solar farm would be operational for a 40 year time period

### Site Location Plan



## Aerial Image of the Site Location



A screening opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) in respect of the proposed solar farm was issued on the 4<sup>th</sup> of October 2023 (under application reference 23/01189/EIA) and where it was determined that a planning application would not need to be accompanied by an Environmental Statement (ES).

The scheme as originally proposed related to the provision of a solar farm of up to 9MW but following amendments to the scheme the generating capacity of the solar farm has been reduced to 7.15MW.

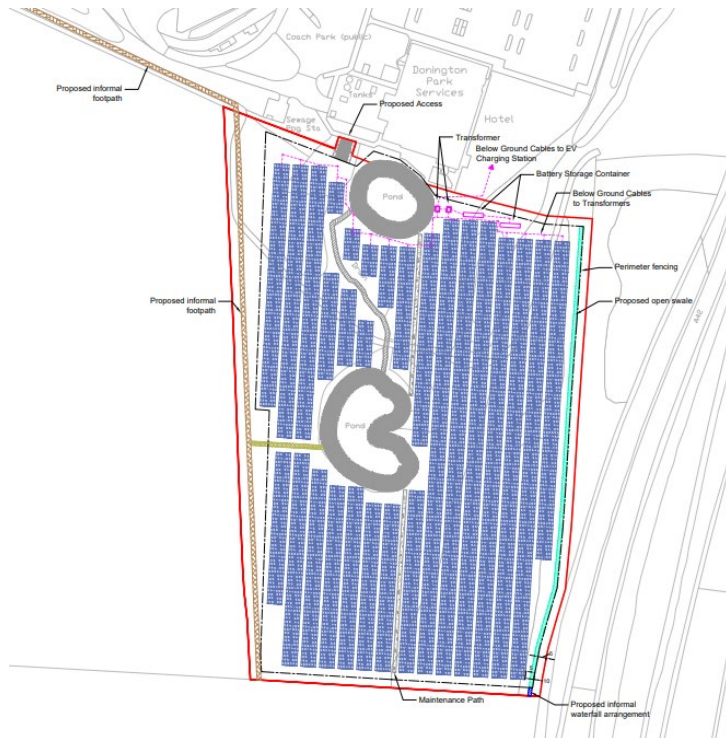
The submitted planning statement (PS) outlines that the proposal would comprise of the following development:

- (i) Installation of 12,544 photovoltaic (PV) solar panels mounted on 16 rows of supporting structures of 8.77 metres in length and having a maximum height of 2.04 metres. Such rows would run north to south with the panels facing east and west, with the spacing between rows being 2.5 metres. Such solar panels would be fixed and therefore their orientation would not change during the day to track the course of the sun;
- (ii) Two transformer units on the northern boundary of the site which would have maximum heights of 2.2 metres;
- (iii) Two battery storage container units housing battery modules. Such units would be the standard size of a shipping container;
- (iv) The laying of below ground cables from the solar PV banks to the transformers;
- (v) The laying of below ground cables from the transformer units to the electric vehicle (EV) charging stations;

- (vi) The construction of a central maintenance path in the middle of the solar installation;
- (vii) The construction of access from the services to the application site;
- (viii) The installation of a perimeter fence; and
- (ix) New hedges and vegetation to provide screening of the proposed development.

The layout of the development is as shown in the image below:

### Site Layout



The submitted PS also outlines that the main purpose of the solar farm would be to provide electrical power to the EV charging stations (whilst also enabling the installation of electric heavy goods vehicle (eHGV) charging points) which forms part of the applicant's plans to reduce carbon emissions and assist the UK in reaching its net zero targets. In order to achieve this, suitable infrastructure needs to be in place to make EV charging faster, simpler and more reliable given that the National Grid cannot meet such demands for power.

It is proposed that the access for construction, operation and maintenance would be via the existing access to the DPSA off the south-western arm of the Finger Farm Roundabout which connects the A42 with the A453 (Ashby Road).

At the end of the 40 year operational lifespan of the solar farm, the PS outlines that the site would be restored back to its former agricultural condition with all equipment and below ground connections removed. However, proposed landscaping infrastructure would be retained to provide long-term benefits to the local landscape character of the site.

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



- 9800376/MP – Motorway service area including three-storey amenity/Travelodge building, fuel filling station, car lorry, caravan and coach parking and landscaping – Approved 29<sup>th</sup> July 1998.
- 24/00265/PNM – Prior notification application for the installation of 271 roof mounted solar panels and associated equipment – Approved 16<sup>th</sup> April 2024.

## 2. Publicity

24 neighbours initially notified on the 26<sup>th</sup> of January 2024, with 46 neighbours notified on the 8<sup>th</sup> of July 2024 following the receipt of amended plans and a change to the description of the development.

A site notice was originally displayed on the 26<sup>th</sup> of January 2024 and then on the 17<sup>th</sup> of July 2024 following an amendment to the description of the development.

A press notice was originally published in the Derby Evening Telegraph on the 31<sup>st</sup> of January 2024 and then on the 17<sup>th</sup> of July 2024 following an amendment to the description of the development.

## 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.

### Objections from:

Long Whatton & Diseworth Parish Council (LWDPC) who objected to the application as originally submitted on the following summarised grounds:

- (i) Diseworth is not mentioned in the Planning Statement as the nearest settlement to the development;
- (ii) The land is adjacent to the East Midlands Freeport site and therefore will have a cumulative effect on the village of Diseworth;
- (iii) When Donington Park Service Area was built there was a commitment to leave the application site as a haven for wildlife; and
- (iv) The development results in the loss of a circular walking route linking Hyam's Lane with Long Holden.

Following re-consultation, LWDPC maintained their objection and outlined that whilst members had met with representatives of the applicant, and there was an understanding that some wildlife habitat would be retained, there was a need for further ecological surveys to be submitted for consideration. LWDPC were also of the view that elevated solar panels over the car park would be a more appropriate solution in order to negate the loss of a greenfield site.

A further consultation response from LWDPC indicated that whilst supporting the need for renewable and clean energy this should not be at the expense of developing a greenfield site, particularly when the applicant had a vast car park available to accommodate the development. Therefore, whilst LWDPC accepted the amendments made by the applicant to accommodate a wildlife corridor and an informal footpath through the site, an objection was maintained due to the

cumulative impact with other developments around Diseworth.

Breedon on the Hill Parish Council who support the views of LWDC.

Leicestershire County Council – Ecology who object to the application due to the significant harm to the candidate Local Wildlife Site (cLWS) with the applicant not demonstrating that their proposed mitigation would off-set the significant harm arising. The County Council Ecologist also considers that a net gain in biodiversity would not be delivered as part of the development.

**No Objections from:**

Historic England (subject to the advice of the Council’s Conservation Officer and County Council Archaeologist being considered).  
 Leicestershire County Council – Highways Authority.  
 Leicestershire County Council – Minerals and Waste Planning Authority.  
 NWLDC – Conservation Officer.  
 NWLDC – Environmental Protection.  
 The Gardens Trust.

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

East Midlands Airport Safeguarding.  
 Leicestershire County Council – Lead Local Flood Authority.  
 National Highways.

**Third Party Representations**

30 third party representations have been received objecting to the application with the comments raised summarised as follows.

Grounds of Objections	Description of Impact
<p><b>Principle of Development</b></p>	<p>Whilst not objecting to the provision of solar panels, it is considered that the chosen ground-mounted solar panels location is flawed and that consideration should be given to the installation of solar panels on the roofs of the existing buildings or positioned on structures above the cars parked within the car park. Such approaches are adopted throughout Europe and would be more environmentally friendly.</p>
	<p>The proposed development should be assessed in the context of other developments which are proposed within the area (including any development of the Freeport site and the new settlement at Isley Woodhouse) and the overall urbanisation which would occur.</p>
	<p>Piecemeal solar schemes will not address the energy</p>

	requirements of the country and more comprehensive schemes should be brought forward.
<b>Landscape and Visual Impacts</b>	The proposed development would have an adverse visual impact given its positioning on rising ground.
<b>Impact to the Historic Environment</b>	There would be a direct line of sight to the Diseworth Conservation Area and therefore this heritage asset would be compromised by both the visual impact and potential glare.
<b>Residential Amenity</b>	The proposed development will result in noise, glare and shadow impacts to residential amenity.
<b>Ecology</b>	More comprehensive ecological assessments should be conducted at appropriate timepoints throughout the year and not just September as outlined in the submitted report given that ecological species are present at differing times of the year.
	The application site is designated as a candidate Local Wildlife Site (cLWS) and is therefore of high value with the proposed development diminishing the biodiversity value of the site and not resulting in a biodiversity net gain (BNG). The BNG calculations are also flawed and inaccurate.
	The positioning of the solar panels in an east – west orientation to maximise yield in comparison to a south facing configuration has a detrimental effect to biodiversity as less light penetrates through to the ground.
	Renewable energy cannot be at the expense of nature which has equal levels of importance, with the loss of nature, habitats and wildlife not being offset by the proposed solar farm.
<b>Flood Risk and Drainage</b>	The removal of features which contribute to enabling the infiltration of rain water and slowing flows of water downhill towards Diseworth Brook will increase the risk of surface water flooding occurring.
<b>Aviation Safety</b>	The solar panels will cause glint and glare to aircraft using

	East Midlands Airport.
<b>Other Matters</b>	It is understood that the area of the application site was developed as a wildlife and recreation area as part of the original approval of the service area and secured via condition and/or a Section 106 agreement.
	The supporting documentation does not refer to the settlement of Diseworth (instead focusing on Kegworth and Castle Donington) and includes references to service stations elsewhere in the country. Such documents should therefore not be considered acceptable for assessing the application.
	The engagement with the public has been inadequate and any responses provided have either been ignored or downplayed.
	The application site provides an area with amenity value to both users of the service station and those residents who use the route through the site as part of the only traffic free circular walking route from Diseworth. The lack of pedestrian connectivity from Diseworth also prevents residents from using the services available.

A representation has also been received from Protect Diseworth objecting to the application on the following summarised grounds:

- The proposed development is contrary to relevant policies which the application would be assessed against.
- The supporting documentation does not refer to the settlement of Diseworth and therefore cannot be considered acceptable for assessing the application.
- The layout of the development does not account for any proposed employment development on the Freeport site and the relevant height of such development impacting the solar panels.
- The impact of surface water runoff to Diseworth Brook needs to be appropriately considered.
- The proposed development will impact on Great Crested Newts (GCNs) and will result in the loss of a candidate Local Wildlife Site (cLWS) which is not mitigated against.
- The development will result in the loss of existing trees.
- Any visual impacts to the Diseworth Conservation Area need to be appropriately mitigated.
- The development will result in the loss of a circular informal walking route from Diseworth through the Donington Park Service Area; mitigation should be provided so that a route is maintained.
- Did the planning permission granted under application reference 9800376/MP seek to retain the cLWS by condition/legal agreement?

- There would be adverse landscape impacts resulting from the development.
- The development would be visual to residential receptors and adverse noise impacts would arise.
- Glint and glare impacts to residential receptors needs to be appropriately considered.

#### 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 8 and 10 (Achieving sustainable development);  
 Paragraphs 11 and 12 (Presumption in favour of sustainable development);  
 Paragraph 35 (Development contributions);  
 Paragraphs 39, 40, 41, 42, 43, 45, 48 and 55 (Decision-making);  
 Paragraphs 56, 57 and 58 (Planning conditions and obligations);  
 Paragraph 105 (Promoting healthy and safe communities);  
 Paragraphs 109, 110, 112, 113, 115, 116 and 117 (Promoting sustainable transport);  
 Paragraphs 124, 125 and 129 (Making effective use of land);  
 Paragraphs 131, 133, 134, 135 and 139 (Achieving well-designed places);  
 Paragraphs 161, 163, 164, 166, 168, 170, 173, 174, 175, 181 and 182 (Meeting the challenge of climate change, flooding and coastal change);  
 Paragraphs 187, 193, 196, 197, 198 and 201 (Conserving and enhancing the natural environment);  
 Paragraphs 202, 207, 208, 210, 212, 213, 215, 216, 218 and 219 (Conserving and enhancing the historic environment); and  
 Paragraphs 222 and 224 (Facilitating the sustainable use of minerals).

##### National Planning Policy Statement for Energy (NPS EN-1)

NPS EN-1 was originally published in July 2011 to set out national policy for energy infrastructure in the UK. Its primary purpose is to be applied to decisions for Nationally Significant Infrastructure Projects (NSIPs), but this document can be a material consideration in the determination of planning applications: *“In England and Wales this NPS may be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended). Whether, and to what extent, this NPS is a material consideration will be judged on a case by case basis.”*

Paragraph 3.4.1 sets out the UK’s commitment to sourcing 15% of energy from renewable sources by 2020. In order to hit this target, and to largely decarbonise the power sector by 2030, Paragraph 3.4.5 goes on to state that: *“It is necessary to bring forward new renewable electricity generating projects as soon as possible. The need for new renewable energy electricity generation projects is therefore urgent.”*

The updated National Policy Statement for Energy EN-1 took effect in January 2024 and includes a new section with the heading *‘The urgency of need for new electricity infrastructure’* and reiterates the imperative of bringing forward renewable energy schemes as soon as possible. This

is particularly pertinent, given the clear and immediate need to reduce reliance on the importation and use of fossil fuels.

### **National Planning Policy Statement for Renewable Energy Infrastructure (NPS EN-3)**

This NPS, which was updated on the 17<sup>th</sup> January 2024, taken together with the overarching NPS for Energy (NPS EN-1), provides the primary policy for decisions by the Secretary of State on applications they receive for nationally significant renewable energy infrastructure. It is also confirmed in this document that NPS EN-3 may be a material consideration in decision making by local planning authorities.

### **Sixth Carbon Budget (2021)**

This commits the government to fully decarbonise the electricity grid by 2035.

### **National Legislation**

On the 12<sup>th</sup> June 2019, the Government laid the draft Climate Change Act 2008 (2050 Target Amendment) Order 2019 to amend the Climate Change Act 2008 by introducing a target for at least a 100% reduction of greenhouse gas emissions (compared to 1990 levels) in the UK by 2050. This is otherwise known as a '*net zero target*'. The draft order would amend the 2050 greenhouse gas emissions reduction target in the Climate Change Act from at least 80% to at least 100%, thereby constituting a legally binding commitment to end the UK's contribution to climate change.

### **Local Policies**

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

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

Policy S2 – Settlement Hierarchy;  
 Policy S3 – Countryside;  
 Policy D1 – Design of New Development;  
 Policy D2 – Amenity;  
 Policy Ec5 – East Midlands Airport: Safeguarding;  
 Policy IF1 – Development and Infrastructure;  
 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 Cc1 – Renewable Energy;  
 Policy Cc2 – Water – Flood Risk; and  
 Policy Cc3 – Water – Sustainable Drainage Systems.

#### **Pre-Submission Long Whatton & Diseworth Neighbourhood Plan (2024)**

On the 12<sup>th</sup> of February 2024, public consultation commenced on the Long Whatton & Diseworth

Neighbourhood Plan. Consultation took place for a period of six weeks closing on the 25<sup>th</sup> of March 2024.

The following draft Neighbourhood Plan policies are considered relevant to this application, however, in view of the early stage to which the Neighbourhood Plan has progressed, only very limited weight can be attributed to its policies at this stage in line with the requirements of Paragraph 49 of the NPPF (as explained below under the section titled '*Weight to be Afforded to the Policies of the Pre- Submission LW&DNP*'):

LW&D3: Locally Important Views;  
LW&D5: Countryside Access;  
LW&D6: Ecology and Biodiversity;  
LW&D7: Trees and Hedgerows;  
LW&D10: Design;  
LW&D11: Water Management;  
LW&D16: Donington Park Services;  
LW&D18: Noise Impact; and  
LW&D19: Construction Method Statements.

### **Leicestershire Minerals and Waste Local Plan (2019)**

This plan was adopted on the 25<sup>th</sup> September 2019 and as such the following policies would be considered relevant to this application:

*Providing for Minerals:*

Policy M11: Safeguarding of Mineral Resources.

### **Other Policies**

National Planning Practice Guidance which gives more specific guidance on the considerations which apply to large scale solar farms such as the one proposed. The list of factors is set out at Paragraph 013 (Reference ID: 5-013-2015032).

Paragraph 001 (Reference ID: 5-001-20140306) states that *"Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable."*

North West Leicestershire District Council Zero Carbon Roadmap & Action Plan – June 2019.

North West Leicestershire District Council Renewable and Low Carbon Energy Study – 2021.

Good Design for North West Leicestershire Supplementary Planning Document – April 2017.

Leicestershire Highways Design Guide (Leicestershire County Council).

National Design Guide – October 2019.

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

Diseworth Village Design Statement - January 2021.

## **5. Assessment**

### **Weight to be Afforded to the Policies of the pre-submission LW&DNP**

Paragraph 49 of the NPPF (2024) outlines that Local Planning Authorities may give weight to relevant policies in emerging plans according to:

- a) *The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) *The degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

Public consultation on the pre-submission Long Whatton & Diseworth Neighbourhood Plan (LW&DNP) commenced on the 12<sup>th</sup> of February 2025 with the six week period concluding on the 25<sup>th</sup> of March 2025.

It is the view of officers that at this stage very limited weight can be given to the policies of the submission LW&DNP given that the extent of unresolved objections is currently unknown.

### **Principle of Development**

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance comprises the adopted North West Leicestershire Local Plan (2021) and pre-submission Long Whatton & Diseworth Neighbourhood Plan (LW&DNP) (2024).

Paragraph 187 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside but does not specifically preclude development within the countryside.

The application site lies outside of the defined Limits to Development, and therefore the proposal would be subject to Policy S3 (Countryside) of the adopted Local Plan. Policy S3 outlines, under criterion (o), that renewable energy development is acceptable outside the defined Limits with any development supported under Policy S3 also needing to adhere to criteria (i) to (vi) of the second part of this policy.

Part (1) of Policy Cc1 of the adopted Local Plan also outlines support for renewable energy development, be that within or outside the defined Limits to Development, subject to compliance with criteria (a) to (g) of this policy.

For the purposes of the pre-submission LW&DNP the application site would be within the confines of the Donington Park Service Area (DPSA) which is not recognised as Countryside under Policy LW&D1 (Countryside) of the pre-submission LW&DNP. Policy LW&D16 is specific to the DPSA (refer to the '*Policy LW&D16 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan (LW&DNP)*' section of this report below).

In terms of the compliance with Policies S3 and Cc1 of the adopted Local Plan this would be as follows:

#### *Criterion (i) of Policy S3*



- (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.*

*Criterion (b) of Policy Cc1*

- (b) *There is no adverse impact on the landscape character taking account of the special qualities set out within the individual National Character Areas.*

For the reasons as outlined in the 'Landscape and Visual Impact' section of this report below, it is considered that the proposed development would not impact adversely on the appearance and character of the landscape.

On this basis the proposed development would be compliant with criterion (i) of Policy S3 and criterion (b) of Policy Cc1 of the adopted Local Plan.

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

The application site is situated to the north-east of Diseworth, north-west of Long Whatton, and south-west of Kegworth.

In addition to the above, the application site is bound to its east by the M1/M42, and to its north by the A453, the existing infrastructure comprising the Donington Park Service Area (DPSA), and East Midlands Airport.

When accounting for the location of the application site in relation to the neighbouring settlements, the existing infrastructure which bounds and separates the application site from Long Whatton and Kegworth, and the existing landscaping infrastructure to the boundaries of the application site, it is considered that the physical and perceived separation (*officer emphasis*) between settlements would not be undermined and consequently there would be no conflict with this criterion.

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

On this basis the proposed development would be compliant with criteria (ii) and (iii) of Policy S3 of the adopted Local Plan.

*Criterion (iv) of Policy S3*

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

Whilst the solar arrays would be 'spread' across the site it is considered that they would be integrated with existing development, including the infrastructure associated with the DPISA and man-made ponds. The associated infrastructure would also be well integrated with the same infrastructure given its location to the north of the solar arrays.

On this basis the proposed development would be compliant with criterion (iv) of Policy S3 of the adopted Local Plan.

*Criterion (v) 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 proposed development this criterion is not considered to be relevant.

*Criterion (vi) of Policy S3*

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

Under Policy S2 (Settlement Hierarchy) of the adopted Local Plan, Diseworth is identified as a 'Sustainable Village' which is defined as a settlement which has a "*limited range of services and facilities and where a limited amount of growth will take place within the defined Limits to Development.*"

It is considered that criterion (vi) of Policy S3 is more applicable to developments which have the potential to generate a large number of vehicular movements (i.e. residential or employment generating development) and whose purpose is to ensure that such developments are appropriately located to reduce the reliance on the private car to access the most basic of services and employment opportunities.

In respect of the proposal, it is considered that the majority of the vehicular movements would be associated with the construction phase of the development which would be unavoidable given that large scale infrastructure would need to be transported on private vehicles. The submitted Construction and Decommissioning Traffic Management Plan (CDTMP) specifies that the development would be constructed over a 12 week period (3 months) with there being 4 two-way daily movements by delivery vehicles and 20 two-way daily movements by construction staff.

For the operational phase, the submitted information highlights that there would be three visits per year for equipment maintenance which would either be via a light van or 4x4 vehicle. It is again considered that such movements would be undertaken in private vehicles given the need to transport maintenance equipment/tools to the site. Such trips, however, are very infrequent and would only amount to 0.82% of the total days in a calendar year.

Notwithstanding that the ability to use non-car modes of transport to serve a development of the nature proposed would be extremely limited, it is noted that the SkyLink services to East Midlands Airport (EMA) would provide construction employees (in particular) with an opportunity to reach the site via means other than the private car given that a surfaced footway exists between EMA and the DPISA.

Overall, it is considered that the proposal would be compliant with criterion (vi) of Policy S3 of the

adopted Local Plan when accounting for the type of development proposed.

*Criterion (a) of Policy Cc1*

- (a) There is no unacceptable impact on residential amenity in terms of noise, shadow flicker, vibration and visual dominance.*

For the reasons as outlined in the ‘Residential Amenity’ section of this report below it is considered that there would be no unacceptable impact on residential amenity. Shadow flicker would not be applicable in this instance as it relates to wind turbine development.

On this basis the proposed development would be compliant with criterion (a) of Policy Cc1 of the adopted Local Plan.

*Criterion (c) of Policy Cc1*

- (c) All impacts on biodiversity have been adequately mitigated or enhanced.*

For the reasons as outlined in the ‘Ecology’ section of this report below, the County Council Ecologist considers that significant harm would arise to the part of the candidate Local Wildlife Site (cLWS) which falls within the boundary of the application site and whereby the applicant has not adequately demonstrated that such an impact would be mitigated against.

On this basis the proposed development would not be compliant with criterion (c) of Policy Cc1 of the adopted Local Plan.

*Criterion (d) of Policy Cc1*

- (d) Heritage assets and their settings are conserved or enhanced.*

For the reasons as outlined in the ‘Impact on the Historic Environment’ section of this report below it is considered that no harm would arise to the significance of any designated heritage assets including the Grade II listed Wartoft Grange, the Diseworth and Long Whatton Conservation Areas, and the Whatton House Registered Park and Garden.

On this basis the proposed development would be compliant with criterion (d) of Policy Cc1 of the adopted Local Plan.

*Criterion (e) of Policy Cc1*

- (e) Proposals take account of the cumulative effect that would result from the proposal in conjunction with permitted and existing renewable energy schemes.*

A solar array at Whatton Road, Kegworth is located 1.4 kilometres to the north-east and a solar array at Langley Priory, Walnut Yard, Diseworth is 3.9 kilometres to the south-west of the site.

In addition planning permission was granted, on the 5<sup>th</sup> of March 2024, for a solar farm together with associated works, equipment and necessary infrastructure at land to the west of Hathern Road, Long Whatton under application reference 23/00211/FULM. This solar farm would be 2.8 kilometres to the south-east of the site.

It is considered that these solar farms are most likely to have a cumulative impact with the development at DPSA and have therefore been assessed accordingly.

Officers are also aware of other solar farms elsewhere, both within and outside of North West Leicestershire, however these are unlikely to have material cumulative impacts with the proposal at the DPSA.

Whilst representations have been received outlining that the proposal should be assessed cumulatively with other developments proposed within the area (including development on the Freeport site and a new settlement), it is a fundamental tenet of the planning system that a planning application be assessed on its own merits with the terms of this criterion only requiring a proposed renewable energy scheme to be assessed cumulatively with other renewable energy developments.

When accounting for the limited visual impact arising from the proposed development as outlined in the '*Landscape and Visual Impact*' section of this report below, the separation distances involved, and that the site would be screened by existing and proposed soft landscaping infrastructure, it is considered that no adverse cumulative effects would arise.

On this basis the proposed development would be compliant with criterion (e) of Policy Cc1 of the adopted Local Plan.

*Criterion (f) of Policy Cc1*

*(f) Proposals are accompanied by details to demonstrate how the site will be decommissioned to ensure the restoration of the site following cessation.*

The submitted Construction and Decommissioning Traffic Management Plan (CDTMP), along with the submitted Planning Statement (PS), indicate that at the end of the 40 year operational lifespan of the solar farm the site would be restored back to its existing agricultural use with all equipment and below ground connections removed. It is, however, intended that the proposed landscape infrastructure, along with any deliverable biodiversity improvement measures, would remain to provide long-term benefits to the local landscape character of the area.

It is considered that a condition could be imposed on any permission granted which would require the submission of a Decommissioning and Restoration Scheme (DRS) at an appropriate time prior to the solar farm ceasing operation.

On this basis the proposed development would be compliant with criterion (f) of Policy Cc1 of the adopted Local Plan.

*Criterion (g) of Policy Cc1*

*(g) Proposals for large scale renewable energy should demonstrate that the economic, social and environmental benefits are for those communities closest to the proposed facility.*

The proposed solar farm would generate much needed power to the electric vehicle (EV) charging infrastructure at the DPSA and therefore reduce dependency on the grid to provide such electricity. In addition to providing an invaluable facility to those travelling on the strategic road network, the EV charging infrastructure would also be available to local residents who own electric vehicles.

It is also the case that the proposed solar farm would achieve a reduction of approximately 1,325 tonnes of carbon dioxide (CO<sub>2</sub>) emissions annually and 53,000 tonnes of CO<sub>2</sub> over the lifetime of the development. This reduced reliance on fossil fuels for energy production would contribute to reducing harmful emissions such as particulate matter (PM<sub>10</sub>), Nitrogen Oxides (NO<sub>x</sub>) and carbon monoxide (CO), with the subsequent creation of 'cleaner' air being of benefit to the local communities.

The introduction of planting infrastructure of a better standard to that to be removed, which would be retained even after the decommissioning of the solar farm, would also be of benefit to local communities as a result of the development being suitably screened whilst also encouraging biodiversity improvements.

An informal footpath along the western perimeter of the application site, which would adjoin to formal footpaths to the north and south of the application site, would also maintain an important walking route for the local community and maintain access to the services available at the DPSA.

On this basis the proposed development would be compliant with criterion (g) of Policy Cc1 of the adopted Local Plan.

#### Principle of Development Conclusion

The National Planning Policy Statement for Energy (NPS EN-1) sets out the UK's commitment to sourcing energy from renewable sources in order to largely decarbonise the power sector by 2030. Paragraph 3.4.58 states that *"there is an urgent need for new (and particularly low carbon) electricity NSIPS to be brought forward as soon as possible, given the crucial role of electricity as the UK decarbonises its economy."*

The intention of the development is to provide renewable energy generation to the electric vehicle (EV) charging points at the DPSA, whilst also enabling the applicant an opportunity to deliver electric heavy goods vehicle (eHGV) at the site to meet rising demand. It therefore seeks to relieve pressure on the National Grid which cannot accommodate such demands and has a specific purpose, with Paragraph 168 of the NPPF specifying that *significant* weight should be given to the benefits associated with renewable and low carbon energy generation.

In principle the development is an acceptable form of development outside the defined Limits to Development given its compliance with criterion (o).

It is also concluded within this report that no significant conflict with criteria (i) to (vi) of Policy S3 of the adopted Local Plan would arise as a result of the development and consequently the proposal would be considered acceptable in principle.

The assessment above has also concluded that whilst the development would be compliant with criteria (a) to (b) and (d) to (g) of Policy Cc1 of the adopted Local Plan, which provides support for renewable energy development, it would conflict with criterion (c) given the significant harm to the cLWS and whereby the applicant has not demonstrated (to the satisfaction of the County Council Ecologist) that such harm would be mitigated against. This conflict would be weighed in the overall planning balance which is undertaken in the *'Overall Planning Balance, Contribution to Sustainable Development and Conclusions'* section of this report below, but does not alter the suitability of the principle of the development given that criterion (o) of Policy S3 does not specify that the renewable energy development has to be compliant with Policy Cc1 (in the same way that other forms of development (e.g. affordable housing) have to be compliant with an additional policy within the adopted Local Plan).

Other issues associated with the development are assessed in more detail in the relevant sections of this report below.

### **Consideration of Alternatives**

Representations received from third parties, Long Whatton and Diseworth Parish Council (LW&DPC) and Protect Diseworth have outlined that consideration should be given to the solar panels either being located on existing roofs within the confines of the Donington Park Service Area (DPSA) or on car ports constructed over the existing car park.

In terms of roof mounted solar, permission was granted under application reference 24/00265/PNM for the installation of 271 roof mounted solar panels on the main amenity building within the DPSA. Such solar panels would be used to supply power to this building and therefore cannot be used as an alternative to source renewable energy to the electric vehicle (EV) charging points.

With regards to the use of carports, whilst the applicant acknowledges that they represent an effective way of utilising car parks for generating solar power they are not deemed feasible at DPSA.

Currently parking space at the DPSA is over 100% capacity with the occupancy rate continuing to grow. As such, the applicant is to engage in a fundamental redesign of the site layout and car parking area in order to meet the increasing parking demand at the site. Given the bulky frame of any carports and the space their associated infrastructure utilises (substations, transformers etc.), their installation at DPSA would significantly reduce parking capacity, and also impede the applicant's ability to introduce other facilities at the site such as electric heavy goods vehicle (eHGV) parking spaces.

Furthermore, to generate the same amount of power output as the ground-mounted solar farm it would be estimated that around 4 hectares of densely packed carports would be required. Such a large extent of carports would not be feasible at DPSA due to the physical constraints of the car park and the impact such carports would have to visitor movements in and around the car park.

It is therefore considered that the applicant has undertaken a suitable assessment of the alternative means of delivering renewable energy within the DPSA with the application site remaining the most viable option.

### **Policy LW&D16 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan (LW&DNP)**

Policy LW&D16 of the pre-submission LW&DNP supports the improvement of roadside services at Donington Park Service Area (DPSA) which contribute to the safety and welfare of road users. It also indicates that the wetland, picnic area and Sustainable Drainage System (SuDS) to the south of the site should be retained and, where possible, enhanced.

It is considered that the proposed development would contribute towards the safety of road users by ensuring that the electric vehicle (EV) charging points are provided with a consistent power supply. This will enable road users to stop and appropriately charge their vehicles, therefore preventing breakdowns and obstructions to other highway users should such vehicles not have adequate opportunities to recharge.

As proposed the development would retain the existing SuDS features, with additional SuDS features being introduced as a means of mitigating surface water runoff associated with the development. It would, however, impact on the existing picnic area to the south of the site, albeit it is not explicit within Policy LW&D16 as to whether the 'wetland' referred to in the pre-submission LW&DNP also applies to the candidate Local Wildlife Site (cLWS). As the cLWS specifically relates to grassland, it is considered that the 'wetland' designation would apply to the immediate habitat around the ponds and not the cLWS.

Although the picnic area to the south would be lost, the applicant has agreed to relocate the picnic area to a suitable location around the DPSA amenity building (with the grassed area to its immediate south-east appearing to be a suitable location) and therefore a condition would be imposed on any permission granted to secure a precise scheme. On this basis a picnic area would still support the welfare of road users.

The existing ponds, and wetland around such ponds, would be retained and improved as part of the development.

*Policy LW&D16 of the pre-submission LW&DNP Conclusion*

Overall it is considered that any conflict with Policy LW&D16 of the LW&DNP would be limited to the impact to the existing picnic area, albeit an alternative picnic area could be delivered as part of the development. Even if a view was taken that the 'wetland' did relate to the cLWS, it is unclear from the wording of the policy how the cLWS (or wetland) contributes substantially to the welfare of road users. Notwithstanding this, only very limited weight can be afforded to terms of Policy LW&D16 and as such there would not be sufficient justification to refuse the application on the basis of any conflict with this policy.

The significant positive weight to be given to the delivery of solar farm development in the overall planning balance would also substantially outweigh the limited conflict with Policy LW&D16.

**Landscape and Visual Impact**

Criterion (i) of Policy S3 and criterion (b) of Policy Cc1 of the adopted Local Plan support development which safeguard and enhance the appearance and character of the landscape.

A Landscape and Visual Impact Assessment (LVIA) has been submitted in support of the application, which has been undertaken in accordance with best practice as outlined in the '*Guidelines for Landscape and Visual Impact Assessment 3<sup>rd</sup> Edition*' (also known as GLVIA3), '*Landscape Character Assessment Guidance for England and Scotland*' and the Landscape Institute Technical Guidance Note (TGN 02/21) '*Assessing landscape value outside national designations.*'

*Landscape Impact*

The application site is not subject to any statutory landscape (i.e. National Park or National Landscape, nature conservation or heritage designations, or non-statutory designations (such as a Local Wildlife Site (LWS)).

It is outlined within the LVIA that the application site currently supports neutral rank grassland with areas of young woodland and dense scrub, along with areas of amenity grassland, two ponds, and boundary hedgerows. The majority of the application site is covered by the candidate Local

Wildlife Site (cLWS) designation (known as the M1 J23A Donington Park Services Grassland and Scrub), given that the Mesotrophic grassland and secondary scrub habitat would meet LWS criteria, however the LVIA indicates that since the cLWS assessment in August 2020 “*it is evident that the grassland now contains far more scrubby species...suggesting that without management the area is in succession.*”

At a National Level the application site falls within the ‘*Melbourne Parklands*’ National Character Area (NCA 70) (which is outlined in Paragraphs 5.5.1 to 5.5.4 of the LVIA) whilst also being close to the ‘*Trent Valley Washlands*’ NCA (NCA 69).

The East Midlands Region Landscape Character Assessment (EMRLCA) identifies that the application site is wholly within the ‘*Wooded Village Farmlands*’ (ref: 5B) landscape character type which is outlined in Paragraphs 5.6.1 to 5.6.6 of the LVIA.

The LVIA determines that the landscape is of medium value as whilst it is not particularly tranquil, it retains a quiet rural character albeit major infrastructure such as the strategic road network (SRN) and East Midlands Airport (EMA) have resulted in a significant effect on the local landscape character.

It is also concluded within the LVIA that the scale of enclosure and interlocking nature of the gently rolling landform within the wider landscape in and around the site is such that open views towards the application site are largely limited to locations within close proximity to, or immediately adjacent (as assessed in more detail in the ‘*Visual Impact*’ sub-section below). Views towards the application site from the wider landscape, including higher ground to the south and west, are screened by intervening hedgerows and trees. Where any views are possible, the development would be viewed in the context of a relationship with the infrastructure of the SRN, EMA, and that within the Donington Park Service Area (DPSA). Whilst existing young woodland and scrub would be removed to facilitate the development, this would not affect local views given that such woodland would be replaceable. On this basis the LVIA determines that the susceptibility of the local landscape to this form of development would be low.

When accounting for the limited scale and influence on a single landscape type, as well as the relatively short-term and reversible effect of the proposed development, the LVIA determines that the overall impact to the landscape would be of negligible significance.

It is, however, recognised within the LVIA that the loss of a relatively large area of existing woodland and trees (as discussed in the ‘*Landscaping*’ section of this report below) would result in the significance of effect to landscape features being major adverse.

### *Visual Impact*

In terms of visual amenity, a series of representative publicly accessible views from the area surrounding the site were identified through desktop and field studies. Such viewpoints are not intended to cover every possible view of the proposed development, but rather they are representative of a range of receptor types at varying distances and orientations to the site.

The LVIA assesses the visual impacts to the north, east, south and west of the site which are considered below.



### *Visual Impact to the North*

The LVIA includes seven representative viewpoints and two context photos representing the views to the north (and north-west) of the site which include close range views from the car park and open space around the DPSA (representative viewpoints 1 and 2), from the internal permissive paths within the DPSA (representative viewpoint 7) and from public right of way (PRoW) L45 close to the site (representative viewpoint 3). These representative viewpoints (as well as the context photos) are shown below.

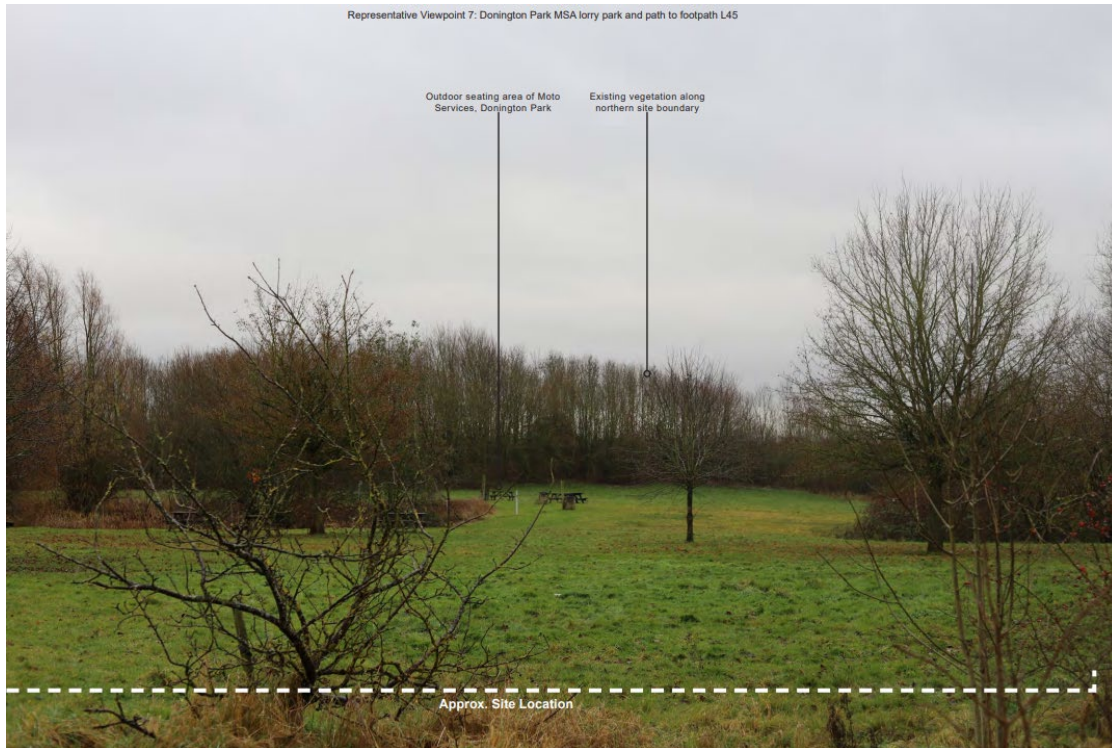
### **Representative Viewpoint 1 taken from the LVIA**



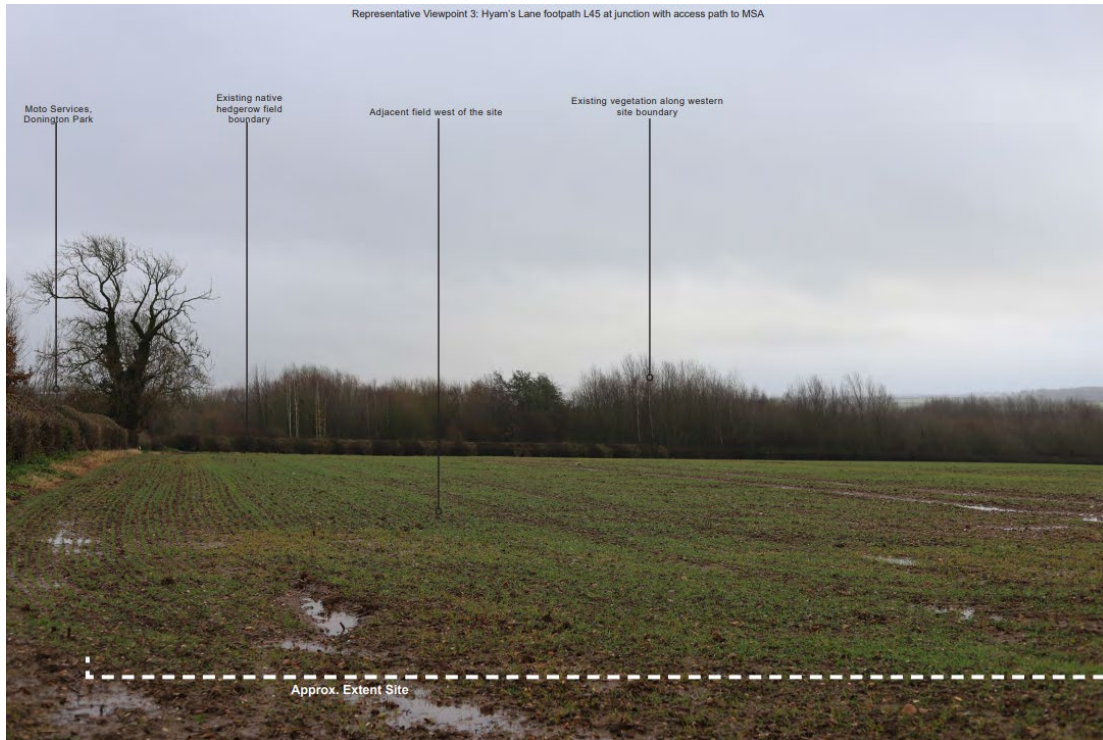
## Representative Viewpoint 2 taken from the LVIA



### Representative Viewpoint 7 taken from the LVIA



### Representative Viewpoint 3 taken from the LVIA



**Context Image 1 taken from the LVIA**



**Context Image 2 taken from the LVIA**



Views from within the semi-public DPSA would experience close range views into the northern part of the application site, with the southern extent of the application site being screened by the development in the northern part along with the sloping landform. The introduction of the solar farm (including the solar panels, security fencing and transformers) will be the principal feature of these views, with the loss of woodland, trees and scrub within the site very noticeable.

The nature of these receptors is primarily users of the DPSA, as well as the limited users of the permissive paths. Representative viewpoints 1 and 2 demonstrate that viewers would already experience a number of detracting features (including the main building on the DPSA and its

associated infrastructure) and therefore their sensitivity to the proposed development form would be diminished. Whilst views within the site would be affected by the loss of woodland and trees, the existing landscaping infrastructure to the site boundaries would be retained (and enhanced) thereby screening views out of the site towards the wider landscape.

Representative viewpoint 7 is in close proximity to representative viewpoints 1 and 2 and would represent the view to users of the permissive path between DPSA and PRow L45. For the vast majority of this route the existing landscaping infrastructure (including hedgerows) to both sides of the route would be retained thereby largely screening the development from view, albeit there would be limited potential for glimpsed heavily filtered views through the landscaping infrastructure. As part of the proposed development such landscaping infrastructure would be enhanced.

It is considered that from representative viewpoint 3 (which is to the north-west) there would be limited potential for the solar farm to be visible (including during the winter months) given the retention of the landscaping infrastructure to the western site boundary.

Whilst the LVIA (at Paragraph 7.3.9) suggests that the loss of woodland centrally within the site may have the potential to open up views of the wider landscape, such that 'taller' elements associated with the DPSA (i.e. the principal building, lighting columns, tallest vehicles) become visible. The applicant has provided photomontages taken from representative viewpoint 3 to demonstrate the impact at year 1 as well as year 15 and these are shown in the images below.

### Photomontage from Representative Viewpoint 3 at Year 1



### Photomontage from Representative Viewpoint 3 at Year 15



Whilst such photomontages do not demonstrate the impact during the winter months (i.e. the worst case scenario) it is clear that the loss of woodland and trees centrally within the site would not 'open' up the wider landscape therefore leading to the 'taller' infrastructure of the DPSA being visible. The solar farm would be screened in this view with only the potential for limited, glimpsed views in the winter months, the improvement and retention of the landscaping infrastructure would reduce this limited impact over time.

When accounting for the above, the LVIA concludes that in representative viewpoint 3 there would largely be no change in the visual impact or a neutral visual impact where limited, glimpsed views may be established. In terms of representative viewpoints 1, 2 and 7, it is considered that the visual impact would be moderate to minor adverse when accounting for the low sensitivity of receptors who would primarily be users of the DPSA.

#### *Visual Impact to the East*

The LVIA includes a context image (Context Image 4) representing the view from the east of the site which is taken from Whatton Road and public right of way L54.

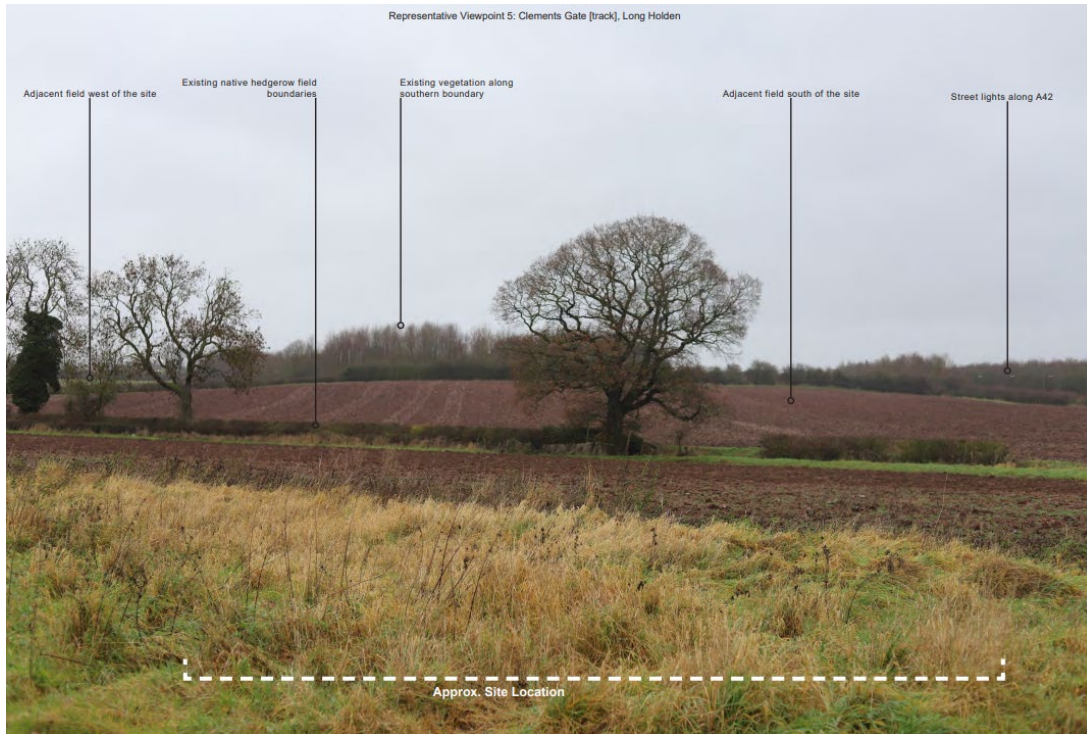
There are no locations along Whatton Road or PRow L54 where the proposed development would be visible.

On this basis the LVIA concludes that there would be no change in the visual impact to the east.

#### *Visual Impact to the South*

The LVIA includes three images representing the mid-distant view (i.e. 100 to 500 metres) from the south of the site which are taken from the Clements Gate/Long Holden track (representative viewpoint 5) and a desire line footpath between Long Holden and the DPSA adjacent to the A42 (representative viewpoint 6). These images are as shown below.

### Representative Viewpoint 5 taken from the LVIA



### Representative Viewpoint 6 taken from the LVIA







In views from these locations the infrastructure associated with the DPSA is not visible given that it is screened by the intervening hedgerows and landscaping infrastructure both within the site and to its southern boundary. Even before mitigation is considered, the proposed solar farm would be screened by the retained landscaping infrastructure.

The loss of trees centrally within the site would be noticeable in the viewpoints above but given that the landscaping infrastructure to the south would be retained, and enhanced, the horizon would remain wooded.

In this respect the applicant has provided photomontages taken from representative viewpoint 5 to demonstrate the impact at year 1 as well as year 15 and these are shown in the images below.

### **Photomontage from Representative Viewpoint 5 at Year 1**



**Photomontage from Representative Viewpoint 5 at Year 15**



Given the rising ground between the viewpoint and the site, as well as the retention of the mature hedgerow and trees along the sites southern boundary, the above images demonstrate that the solar farm would be screened in its entirety at year 1. The improvement and management of the hedgerow to the southern site boundary, as well as additional tree planting, would therefore serve to increase the vegetation cover along the horizon and be of a visual benefit.

On the above basis the LVIA concludes that the visual impact to the south from a mid-distance would be neutral.

The LVIA also includes three images representing a longer distance view from the south of the site which are obtained from the local road network of Salter Road (representative viewpoint 8), West End (representative viewpoint 9) and Smithy Lane (representative viewpoint 10).

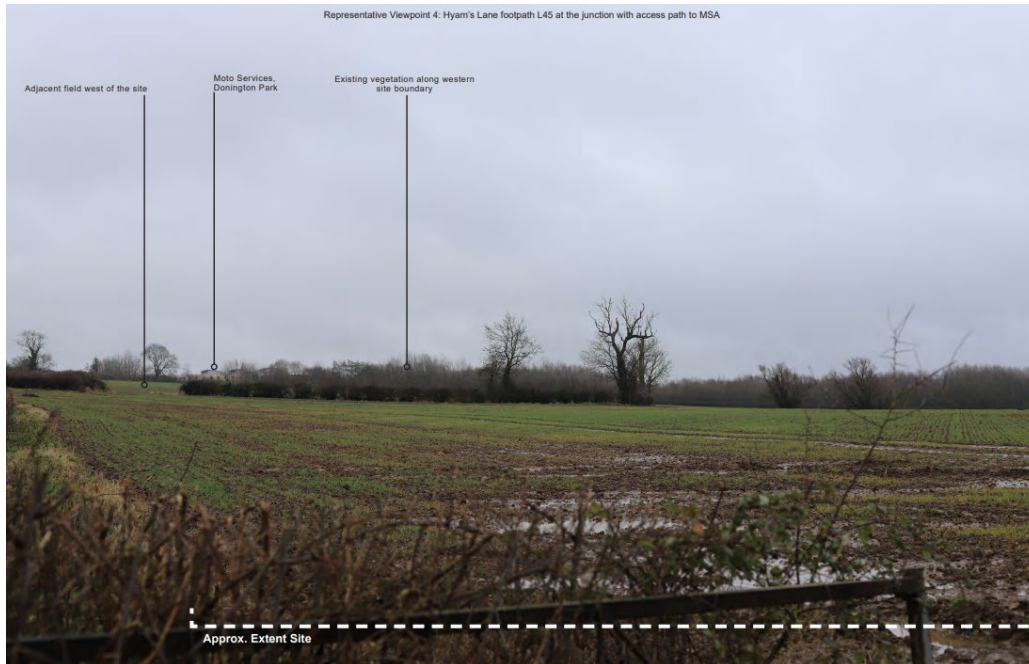
Views from these three locations include the M1 and A42 road networks and the associated moving vehicles along with lighting and signage infrastructure which would all serve to be detractor factors in these views (particularly in the winter months). As is the case with the mid-distance view, the solar farm would be entirely screened by the local topography and intervening vegetation on the site boundaries and wider landscape.

It is, however, accepted in the LVIA that the loss of trees centrally within the site would be noticeable in these views until any mitigation planting has matured. The significance of this would be neutral to vehicle and pedestrian receptors (of low sensitivity to the change in view) but minor adverse to the upper storey windows of residential properties along West End which are of a higher sensitivity.

*Visual Impact to the West*

The LVIA includes two images representing the view from the west of the site which are taken from Hyam's Lane PRow L45 at its junction with the access path to the DPSA and are as shown below.

**Representative Viewpoint 4 taken from the LVIA**



Such images illustrate how the landscape topography and vegetation would screen the proposed development from Diseworth and the local PRow network given that the overall height of the infrastructure to be provided is limited.

Although there would be a loss of woodland and trees within the site, which would be noticeable in the view, it is intended that the tree and hedge infrastructure to the western site boundary would be maintained, reinforced and enhanced which would therefore lead to the development being screened from view (even in winter months) with the horizon therefore remaining treed.

On this basis the LVIA concludes that the visual impact to the west would be *neutral*.

**Landscape and Visual Impact Conclusion**

As is outlined above the LVIA determines that the landscape is of *medium value* and that the

susceptibility of the local landscape to this form of development would be low. On this basis the overall impact to the landscape would be of negligible significance. It is, however, acknowledged that the significance of effect to landscape features would be major adverse when accounting for the loss of a relatively large area of existing woodland and trees.

In terms of visual impacts, it is outlined above, that there would be a moderate to minor adverse visual impact to users of the DPSA but such receptors would be of a low sensitivity to such a change with there also be a minor adverse visual impact experienced from the upper storeys of residential receptors at West End, Long Whatton (although this would be associated with the loss of woodland and trees centrally within the site rather than of the solar farm itself).

The LVIA recommends a number of landscape improvements and mitigations as follows:

- (a) Retain existing boundary trees and hedgerows and bring them into management to enable them to be thickened;
- (b) Provide additional screening in the form of new trees and shrubs on the site boundaries;
- (c) Provide new hedgerows trees at field corners and margins to connect to existing habitat;
- (d) Reseed areas of cleared woodland and scrub;
- (e) Maximise biodiversity and landscaping opportunities on unmanaged land to the east and north-east of the site by the provision of a Landscape and Ecological Management Plan (LEMP); and
- (f) The use of recessive colours (potentially khaki green/brown shades) to the exterior surfaces of the associated infrastructure (perimeter fencing, transformers and battery storage units).

It is considered that such landscape improvements and mitigations could be secured by condition on any permission granted and would be beneficial to the overall landscape, including the character of the landscape. Such improvements and mitigations would also reduce the impact associated with the loss of the young woodland.

In terms of 'visual dominance' to residential receptors, it is considered that no adverse impacts would arise given the screening of the solar panels by retained and proposed soft landscaping infrastructure and the relevant separation distances to the nearest residential receptors.

Overall, the proposal would be compliant with criterion (i) of Policy S3 and criterion (b) of Policy Cc1 of the adopted Local Plan, as well as guidance within the NPPF and NPPG in relation to landscape and visual impacts.

### **Policies LW&D3 and LW&D4 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan**

Policy LW&D3 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan (LW&DNP) requires a development which would have a significant visual impact on any key or representative viewpoint to be accompanied by an LVIA.

Policy LW&D4 of the pre-submission LW&DNP requires development to be located and designed in a way that is sensitive to the open landscape, as well as natural and historical features. Development which does not conserve or maintain the characteristic features of the designated Vulnerable Landscapes will not be supported.

Key viewpoint 6 of Appendix 1 of the pre-submission LW&DNP is as shown in the image below.

**Key Viewpoint 6 of Appendix 1 of the pre-submission LW&DNP**

The supporting text within Appendix 1 of the pre-submission LW&DNP states that such a viewpoint *“is recorded from the Public Right of Way which connects along Hyams Lane between Donington Park Services and the village. This is a key view encompassing the characteristics of the landscape which defined the setting and context of Diseworth. This is an open and panoramic view, providing a visual connection along a recreational route, including the spire of St Michaels in Diseworth and the wider surrounding countryside.”*

The application is accompanied by an LVIA with the conclusions reached above determining that there would be no significant visual impact on key viewpoint 6 within Appendix 1 of the pre-submission LW&DNP which is taken from a similar position to representative viewpoint 3 within the applicant’s LVIA (see relevant image above).

It is also the case that the application site is not within a ‘Vulnerable Landscape’ with the scheme being designed so that the landscaping infrastructure to the site boundaries would provide screening, thereby ensuring that the wider open landscape would not be impacted on.

*Policies LW&D3 and LW&D4 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan Conclusion*

Notwithstanding the very limited weight to be afforded to the policies of the pre-submission LW&DNP, it is considered that there is no conflict with Policies LW&D3 and LW&D4.

### **Agricultural Land Impact**

Whilst the application site is outlined to comprise agricultural land it is considered that it is not utilised for agricultural purposes given its integration within the boundaries of the Donington Park Service Area (DPSA). Notwithstanding this, an Agricultural Land Classification (ALC) Report has been submitted which confirms that the site comprises Grade 3b which is not Best and Most Versatile (BMV) agricultural land.

The proposed development would not result in the permanent loss of agricultural land, given that the solar panels would be secured to the ground with steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality. It is also the case that the application site is within a Minerals Safeguarded Area (MSA) and whilst it is unlikely that such land would be worked for minerals in the future, given its location within the DPSA, any mineral extraction undertaken would have a more lasting impact on the agricultural value of the land.

As part of the consideration of the application the applicant has also provided a rationale as to why the proposed solar farm cannot be accommodated upon structures over the existing car park (see the ‘*Consideration of Alternatives*’ section of this report). It is also considered that it would not be feasible to accommodate the proposed solar farm on a greenfield site of a lesser quality than Grade 3b (not BMV) on the basis that its primary purpose is to generate electricity for the

electric vehicle (EV) charging facilities at the DPSA.

### Agricultural Land Impact Conclusion

Overall the proposed development would not result in the loss of BMV and the location of the solar farm has been justified, on this basis there would be no conflict with Policy En6 of the adopted Local Plan, Paragraphs 187 and 188 of the NPPF and the guidance within the NPPG (in particular Paragraph 013 (Reference ID: 5-013-20150327) of the *'Renewable and Low Carbon Energy'* section).

### **Glint and Glare – Aviation and Highway Safety**

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

Solar panels are partially reflective which gives rise to a risk of glint and glare; however, this is much reduced with modern panels designed to absorb light (as reflected light is lost energy) which are coloured nearly black and are partially translucent. It is the case that modern solar panels reflect as little as 2% of the incoming sunlight.

Published guidance (including that within *"A Study of the Hazardous Glare Potential to Aviators from Utility Scale Flat-Plate Photovoltaic Systems"* by Evan Riley and Scott Olson (2011) and *"Technical Guidance for Evaluation Selected Solar Technologies on Airports"* by the Federal Aviation Association (FAA) (2018)) shows that the intensity of solar reflections from solar panels are equal to or less than those from still water and similar to those from glass. It also shows that reflections from solar panels are significantly less intense than many other reflective surfaces, which are common in an outdoor environment, including steel.

A Glint and Glare Study (GGS) has been submitted in support of the application and which considers the effects of glint and glare arising from the proposed panel layout on the receptors around the site. Particular attention is paid to receptors considered to be more sensitive to glint and glare, such as pilots utilising East Midlands Airport (EMA) and motorists on main roads (particularly the M1, A42 and A453 (Ashby Road)). The assessment of glint and glare to residential amenity is undertaken in the *'Other Residential Amenity Impacts'* sub-section of the *'Residential Amenity'* section of this report below.

### *Highway Safety*

From the perspective of a motorist using roads within the vicinity of the site, the GGS concludes that solar reflections would be geometrically possible towards a 1.3 kilometre section of the M1, and towards a 1.1 kilometre section of the A42. However, screening in the form of existing vegetation is predicted to significantly obstruct views of reflecting panels for these sections of the M1 and A42 such that no solar reflections would be experienced in practice. On this basis, no impact is predicted upon these sections of the M1 and A42 and therefore no mitigation is required.

In the above respect, neither the County Highways Authority (CHA) or National Highways (NH) have raised any objections to the conclusions reached in the GGS, with NH requesting that a monitoring and management program for the solar panels is subject to condition on any planning permission granted.

### *Aviation Safety*

In terms of aviation safety, the GSS assesses the impacts to the following aviation receptors:

- (a) Air Traffic Control (ATC) Tower at East Midlands Airport;
- (b) 10 Nautical Miles Approach Paths for Runway 09/27;
- (c) 10 Nautical Miles Departure Paths for Runway 09/27;
- (d) General Aviation Circuits;
- (e) Commercial Aviation Circuits;
- (f) Overhead 5 kilometre x 5 kilometre Airspace Area;
- (g) Helicopter Approach Paths; and
- (h) Visual Flight Routes.

In terms of aviation receptor (a), the GSS concludes that solar reflections with an intensity of '*low potential for temporary after-image*' from the eastern solar arrays would be geometrically possible towards the Air Traffic Control (ATC) Tower. Such glare, however, has been considered in an operational context and is deemed acceptable.

With regards to aviation receptors (b) to (h), the GSS concludes that solar reflections with an intensity of '*low potential for temporary after-image*' would be predicted. However, when accounting for associated guidance and industry best practice, which state this level of glare to be acceptable, the GSS determines that a low impact is expected which is not required to be mitigated.

Glint could also be visible to overflying aircraft, although any effect would not be sustained for extended durations and would be much less intense than glint possible from large waterbodies.

As part of the consideration of the application East Midlands Airport Safeguarding (EMAS) has been consulted and they have raised no objections to the application in relation to glint and glare impacts to aviation safety. This is subject to the imposition of an informative on any permission granted advising the applicant that they should be prepared to mitigate against a glint and/or glare hazard should any adverse reports be received.

#### *Glint and Glare – Aviation and Highway Safety Conclusion*

With regards to highway users, both the CHA and NH have no objections to the application, subject to the imposition of a condition on any permission granted as requested by NH, and therefore it can be concluded that no adverse glint and glare impacts would arise to highway users. On this basis the proposal would be compliant with Policy IF4 of the adopted Local Plan and Paragraph 116 of the NPPF.

In terms of aviation safety EMAS has no objections to the application, subject to the imposition of an informative on any permission granted, and therefore it can be concluded that no adverse glint and glare impacts would arise to aviation users. On this basis the proposal would be compliant with Policy Ec5 of the adopted Local Plan.

#### **Impact on the Historic Environment and Archaeology**

Policy He1 and criterion (d) of Policy Cc1 of the adopted Local Plan, as well as the advice in the NPPF, requires heritage assets to be preserved and enhanced. Where development results in harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposed development must also be considered against Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which

state that special regard shall be had to the desirability of preserving the setting of a listed building and the character and appearance of the conservation area.

An Archaeology and Heritage Assessment (AHA) has been submitted in support of the application and provides information regarding the significance of the historic environment and archaeological resource, as well as a detailed review of the historic environment.

There are no known designated or undesignated heritage assets within the site.

For their part Historic England (HE) has raised no objections subject to the advice of the Council's Conservation Officer and County Council Archaeologist being taken into account.

As part of the consideration of a pre-application advice associated with the proposed development, the Council's Conservation Officer outlined that in 2003 the erection of a 22.5 metre high telecommunications mast was permitted (ref: 03/01069/FUL) on land to the north-west of the application site and where it was concluded that an "acceptable" visual impact would arise and there was no impact upon designated heritage assets. The Council's Conservation Officer considers that from a distance the telecommunications mast can be used to identify the approximate location of the application site.

Following consideration of the submitted Landscape and Visual Impact Assessment (LVIA), the Council's Conservation Officer outlined that it identified a zone of theoretical visibility (ZTV) as well as ten 'representative viewpoints' within a 2.5 kilometre radius of the application site. As part of the pre-application process the Council's Conservation Officer identified a 'limited risk' that the proposal would affect the setting of the Diseworth Conservation Area, but that there may be no harm if the screen planting to the west of the site was maintained. The Council's Conservation Officer determined that the ZTV contradicted their assessment as it indicated a 'theoretical' visual impact upon the north-eastern corner of the Diseworth Conservation Area, as well as Wartoft Grange which is a Grade II listed building. As the LVIA did not include any 'representative viewpoints' related to the Diseworth Conservation Area it did not disprove this 'theoretical' impact.

On this basis the Council's Conservation Officer advised that the LVIA should assess the impact upon views looking east along public rights of way (PRoW) L47 and L89A.

Following the receipt of a Landscape and Visual Technical Note (LVTN), the Council's Conservation Officer undertook a site visit and determined that there would be no harmful impact upon Wartoft Grange if the screen planting to the west of the application site was maintained, and that there would be no harmful visual impact upon the north-eastern corner of the Diseworth Conservation Area.

The applicant's landscape consultant has consequently outlined that "*there is not expected to be any visual effects on any sensitive receptors beyond the site boundaries*" due to the "*retention, enhancement and management of boundary vegetation*" This assessment reflects that of the Council's Conservation Officer.

Overall, the Council's Conservation Officer has determined that there would be no harm to the significance of the setting of any designated heritage assets, including the Diseworth Conservation Area, Wartoft Grange and the Long Whatton Conservation Area.

The Gardens Trust has also been consulted on the application and they have outlined that any impact on the setting of the Whatton House Registered Park and Garden (RPG) would be minimal



given the separation distance involved, therefore no harm to the significance of the setting of the RPG would arise.

On the basis that no harm arises to the significance of the setting of any heritage assets an assessment in the context of Paragraph 215 of the NPPF is not required.

The lack of harm would also ensure that the setting of the identified heritage assets would be preserved.

In terms of archaeology, following a review of the Leicestershire and Rutland Historic Environment Record (HER) the County Council Archaeologist advised as part of the pre-application advice request that there would be no significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets. As such no further archaeological action is required.

When accounting for the above there would also be no conflict with the relevant design codes (HA-1, HA-2 and HA-3) of the 'Heritage Assets' category of the Long Whatton & Diseworth Design Code as referenced in Policy LW&D10 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan.

#### Impact on the Historic Environment and Archaeology Conclusion

When accounting for the above conclusions, the proposed development would be compliant with Policy He1 and criterion (d) of Policy Cc1 of the adopted Local Plan, Paragraphs 207, 208, 210, 212, 217 and 218 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### **Ecology**

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

Part (1) of Policy En1 of the adopted Local Plan states that proposals for new development will be supported which conserve, restore or enhance the biodiversity in the district. Criterion (c) of Policy Cc1 requires all impacts on biodiversity to be adequately mitigated or enhanced.

Policy LW&D6 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan (LW&DNP) outlines that development should conserve, restore and enhance the network of local ecological features and habitats which include Local Wildlife Sites (including historical sites) and Wildlife Corridors. It also states that new development shall secure measurable net gains for biodiversity.

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for major development as required by the Environment Act came into force on the 12<sup>th</sup> of February 2024. However, this requirement would only be applicable to those applications received on or after the 12<sup>th</sup> of February 2024 and is not to be applied retrospectively to those applications already under consideration before this date and subsequently determined after this date. On this basis the proposed development would not be required to demonstrate a 10% BNG. Notwithstanding this, Paragraphs 187(d) and 193(d) of the NPPF set out a requirement for developments to provide net gains for biodiversity. In this case it is noted that the development would be undertaken on a

greenfield site.

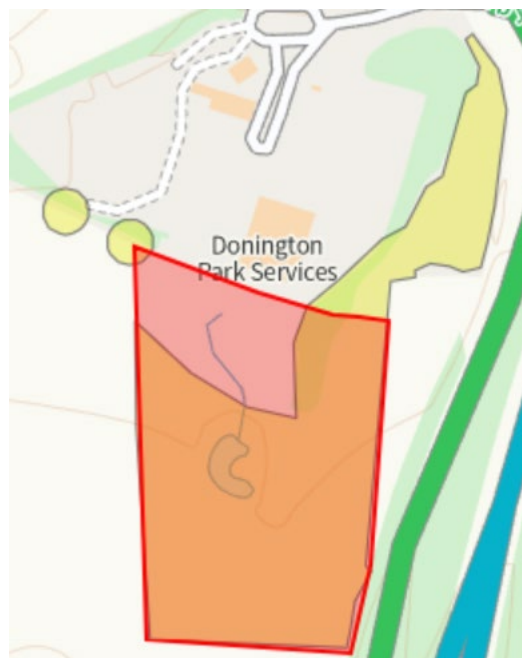
The application was originally accompanied by a Preliminary Ecological Appraisal (PEA) and Biodiversity Net Gain (BNG) Metric Calculations, but following a review of the PEA the County Council Ecologist indicated that it specified that further surveys were needed to establish the impacts to ecological species. In line with the advice at Paragraph 99 of Circular 06/05, such surveys were needed prior to determination to ensure that the impact to protected species could be established and appropriately mitigated before a decision was made.

An Ecological Impact Assessment (EclA) has since been submitted in support of the application which includes badger, reptile, breeding birds and grassland botanical surveys, along with a bat tree assessment.

In terms of great crested newts (GCNs), it was not a requirement for further surveys to be undertaken if the District Level Licencing Route (DLLR) was to be utilised but a copy of an Impact Assessment and Conservation Payment Certificate (IACPC) countersigned by Natural England (NE) was required prior to determination. The purpose of the IACPC is to increase the number of GCNs by providing new or better habitats in targeted areas to the benefit of their wider population (i.e. no specific on-site mitigation would be required). The applicant has since supplied a copy of the IACPC which is acceptable to the County Council Ecologist.

The majority of the site comprises a candidate Local Wildlife Site (cLWS) (known as the M1 J23A Donington Park Services Grassland and Scrub), with a cLWS being defined as a site which is known through survey data to meet LWS criteria but which has not been designated to date as a LWS. The below image shows the interaction of the application site with the cLWS.

**Extent of cLWS (highlighted in yellow) and Relationship with Application Site (highlighted in red)**



Principally the County Council Ecologist raised concerns in relation to the impacts of the development to the cLWS with there being particular concern regarding the grassland botanical

survey assessment criteria which determined the grassland as being in 'Poor' condition. On this basis further justification was required in relation to the impacts to the habitats present, particularly around the undervaluing of their condition and how the mitigation hierarchy had been followed.

It was also specified that the BNG metric calculations needed to be updated to reflect the revised landscape strategy; that further information was required in relation to the proposed off-setting on land within the eastern part of the Donington Park Service Area (DPSA) (being land outside of the application site but which also comprises part of the cLWS); and that the proposed habitat management measures were provided to give confidence such habitat creation was achievable.

An amended BNG condition assessment and amended BNG metric calculations have subsequently been supplied which have re-assessed the main grassland within the site and determined it to be in 'Moderate' condition which the applicant considers is justified based on the BNG metric condition assessment guidance and the detailed Botanical Survey undertaken at the optimal time of the year (Summer). The updated BNG metric identifies the difference in the strategic significance between the areas of the site within the cLWS (included as High Strategic Significance), and those areas which lie outside of the cLWS (which are included as either Medium or Low Strategic Significance dependent on the habitat type). It is also specified by the applicant that a precautionary approach has been taken throughout the BNG metric, including in calculating that only 80% of the site area would support grassland with the remaining 20% being lost with 'no value.'

The BNG metric calculations indicate that the overall result is a +1.34% gain in habitat units and +287.14% gain in hedgerow units.

It is proposed by the applicant that the grassland within the application site is to be committed to long-term management to maximise its biodiversity value and through such management it would be reasonable to target the grassland meeting a 'Good' condition. However, a precautionary approach has been adopted to include a 'Moderate' target condition which would account for any uncertainty and alleviate concerns that the grassland has been overvalued. The proposed grassland is also included as 'Medium distinctiveness Other Neutral Grassland' rather than any higher value grassland (such as 'Lowland Meadow') which would not likely be possible due to the nature of the proposed development.

In addition to the above, the retained ponds and woodland area would also be brought into long-term management to maximise their biodiversity value with the BNG metric calculations assessing such features as 'retained as existing only' and not being enhanced to a higher condition. The applicant is of the view that this would again represent a conservative approach and ensure that the expectations of the BNG metric are not unrealistic.

The applicant has also agreed that the part of the cLWS which lies to the north-east of the application site, within the confines of the DPSA, could be brought into long-term management in order to maintain its cLWS status with the BNG metric calculations also not accounting for other proposed biodiversity improvements including bird and bat boxes and deadwood hibernacula.

A 'Statement of Justification' for the proposed solar farm provided by the applicant acknowledges that the proposed east-west orientation of the solar arrays can reduce the amount of light that reaches the ground surface. However, it is considered that such an orientation can still provide ecological improvements (particularly underneath the panels) by utilising the following technical strategies:

- (1) *Use of bifacial solar panels:* Such panels can allow sunlight to pass through to the ground and support the growth of vegetation.
- (2) *Increasing panel spacing:* Widening the gaps between panel rows would allow more sunlight to reach the ground, improving conditions for vegetation growth and biodiversity.
- (3) *Raising panel height:* Elevating the panels would enhance sunlight penetration.

The applicant considers that such strategies can help balance the trade-offs between maximising energy production and minimising ecological impacts, however the ‘*Statement of Justification*’ recognises that further detailed analysis and modelling would be required to evaluate the feasibility and effectiveness of such strategies.

It is also stated by the applicant that there is substantial research showing the positives solar farm schemes have to biodiversity, including the benefits to pollinators and specifically Bumblebee and Honeybee populations, as well as the habitat niches and microclimates which are created through the variation in shade, variation in hydrology conditions and improvements in soil quality. In this respect the applicant is assessing the potential for a bee apiary to be installed on, or in close proximity to the application site, following dialogue with local beekeeping organisations.

In reviewing the amended information the main concern of the County Council Ecologist is the uncertainty regarding the establishment of other neutral grassland in a ‘*Moderate*’ condition beneath the solar panels given that it is highly unlikely (due to the limited height of the panel above the ground, the orientation of the panels and width of the solar arrays) that sufficient light would penetrate to the ground to ensure the grassland reached such a condition. It is also unclear to the County Council Ecologist how it has been calculated by the applicant that 80% of the site area would support grassland post-development, with the studies supplied by the applicant looking at impacts associated with single sided panels rather than two-sided panels. In addition, the studies review sites of no ecological value rather than those which are ecologically valued.

On this basis the County Council Ecologist considers that the percentage of the area which is likely to support grassland would need to be reconsidered with justification based on the arrangement of the solar arrays (i.e. east-west orientation and double sided panels). However, given the extent of the solar arrays it is the view of the County Council Ecologist that vegetation is unlikely to establish beneath them and therefore any mitigation measures could not be delivered.

The County Council Ecologist has also outlined that even if some vegetation did establish near the edges of the arrays, given their low height above ground level it had not been demonstrated how such vegetation would be managed. On this basis the County Council Ecologist has determined that such management details, including any management under the solar arrays, would be required before the application could be determined to ensure they are achievable and realistic.

It is also the view of the County Council Ecologist that a ‘net gain’ in biodiversity would not be delivered given that the BNG metric calculations, in relation to habitats, are dependent on the establishment of the grassland.

In the absence of such information the County Council Ecologist **objects** to the application.

### Ecology Conclusion

Part (2) of Policy En1 of the adopted Local Plan provides that “*Where a proposal for development would result in **significant harm** to one of the following and which cannot be avoided, or mitigated*

or compensated for, then **planning permission will be refused:**

- (d) Local Wildlife Sites (LWSs)...and **candidate Local Wildlife Sites (cLWSs)** which meet the Leicester, Leicestershire and Rutland LWS criteria; (**officer emphasis**)

It is the conclusion of the County Council Ecologist that ‘*significant harm*’ would arise to the cLWS which has not been mitigated or compensated for and therefore the proposed development would be contrary to criterion (d) of Part (2) of Policy En1.

Whilst criterion (g) of Part (2) of Policy En1 also refers to ‘*Irreplaceable habitats,*’ which can include species-rich neutral grassland, the County Council Ecologist has specified that the habitats present on the application site would not comprise ‘*irreplaceable habitats.*’

In addition to Part (2) of Policy En1 of the adopted Local Plan, the fact that significant harm would arise to a cLWS would also result in conflict with criterion (c) of Policy Cc1 of the adopted Local Plan as well as criterion (a) of Paragraph 193 of the NPPF which has similar wording to that of Part (2) of Policy En1.

There would also be conflict with Policy LW&D6 of the pre-submission LW&DNP, albeit the very limited weight afforded to the terms of this policy in any decision made would not justify its inclusion in any reason for refusal of the application.

The conflict with the aforementioned policies would be a factor weighing against the scheme in the overall planning balance which is undertaken in the ‘*Overall Planning Balance, Contribution to Sustainable Development and Conclusions*’ section of this report below.

Also of relevance in the overall planning balance will be the ‘*Consideration of Alternatives*’ section of this report above which has determined that the application site is the only appropriate location for the development, with such development being fully reversible following the cessation of the use. In this respect the length of time to recreate the habitats of the cLWS (if possible) following cessation of the use would be unlikely to be significant when accounting for the short time the habitats of the cLWS have taken to establish.

The Landscape and Visual Impact Assessment (LVIA) also states that since the cLWS assessment in August 2020 “*it is evident that the grassland now contains far more scrubby species...suggesting that without management the area is in succession.*” It is recognised by the County Council Ecologist that without management the application site would eventually become woodland, thereby resulting in the loss of its cLWS status, but from a habitat perspective this would be of a greater benefit than the ‘bare ground’ which would be created under the solar arrays (which is considered by the County Council Ecologist to be the habitat likely to be created given that the applicant has not demonstrated how ‘moderate’ condition grassland would be established).

Whilst acknowledging the view of the County Council Ecologist in relation to BNG, it is noted that the mandatory 10% would not be applicable for the reasons as outlined above. On this basis the terms of criterion (d) of both Paragraphs 187 and 193 would be relevant which only requires development to demonstrate ‘*net gains*’ of no determinative amount. Even if the +1.34% gain in habitat units is not delivered, and such a figure becomes negative based on the loss of the majority of the cLWS, the gain in hedgerow units (being +287.14%) is not disputed by the County Council Ecologist with the BNG metric calculations also not accounting for biodiversity improvements in and around the retained ponds (which would be subject to long-term management); the introduction of more appropriate landscaping infrastructure to replace that to be removed (as

discussed in the ‘*Landscaping*’ section of this report below); and the provision of bird and bat boxes and deadwood hibernacula. The applicant is also exploring the delivery of a bee apiary on the site.

In addition there would also be a benefit to the part of the cLWS outside of the application site being brought into long-term management, thereby ensuring it maintains its cLWS status, albeit this would be a marginal benefit when accounting for the extent of the cLWS to be lost.

On the basis that conditions could be imposed on any permission granted to secure the above, it is considered that a ‘net gain’ in biodiversity would be delivered as a result of the development and therefore there would not be conflict with criterion (d) of both Paragraphs 187 and 193 of the NPPF.

## Landscaping

Part (3) of Policy En1 of the adopted Local Plan outlines that new development will be expected to maintain landscape features (such as trees and hedgerows) for biodiversity, as well as for other green infrastructure and recreational uses.

Policy LW&D7 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan (LW&DNP) outlines that existing trees and hedgerows should be retained where possible and integrated into new development.

The application is accompanied by an Arboricultural Impact Assessment and Arboricultural Method Statement (ArIA and AMS), Arboricultural Survey (ArbS) and Arboricultural Appraisal (ArA). Such documents are compliant with BS 5837:2012 ‘*Trees in Relation to Design, Demolition and Construction – Recommendations*’.

### *Impact to Existing Trees*

Within the ArbS it is outlined that there are 16 group of trees (7 of which are rated Category B (*trees of moderate quality*) and 9 which are rated Category C (*trees of poor quality*)) and 27 individual trees (five of which are rated Category B). Such trees are predominantly on the application site, although certain trees lie to the immediate north of the site on other land associated with the Donington Park Service Area (DPSA).

It is subsequently outlined in the ArIA and AMS that a total of 17 individual trees would need to be removed (two of which would be rated Category B) along with 10 of the tree groups (two of which would be rated Category B). Tree removals would also be undertaken within four of the six retained tree groups (the works undertaken in tree groups rated Category B) to facilitate the proposed development. Tree screening would be retained to the eastern, southern, and western site boundaries. The northern boundary is already open given its integration with the DPSA.

The ArIA and AMS determines that the extent of the proposed tree removal will have a moderate impact on current and projected canopy cover across the application site but that impacts, visually, into the site would be low due to the continuous belt of trees retained to the eastern, southern, and western boundaries. Such tree groups to the site boundaries would have heights of 13 metres (eastern – one tree group), 6 metres (southern – one tree group), and 11, 16, and 15 metres (western – three tree groups).

As part of the consideration of a pre-application submission associated with the proposed development, the Council’s Tree Officer outlined that the trees present on the site are relatively

young and therefore would not be considered to be of individual arboricultural merit. However, the loss of the trees would impact negatively on local tree cover.

Whilst acknowledging the impact to the local tree cover, it is considered that the provision of replacement soft landscaping infrastructure as part of the proposed development, as discussed below, would adequately mitigate the impact arising given the young age of the trees. The trees to be removed are also not protected trees (nor would they warrant protection due to their age), with there being no restriction in place which could prevent the removal of such trees with or without the proposed development.

#### *Proposed Soft Landscaping*

A submitted landscape strategy identifies that new woodland planting would be provided in the south-eastern part of the site, with a new hedgerow also being accommodated to the eastern site boundary and part of the northern site boundary. New tree planting would also be accommodated within the site, along with wet and aquatic grassland being planted around the retained ponds and a wildflower seed mix being underplanted beneath the solar arrays.

In addition, the landscape strategy also identifies that existing soft landscaping infrastructure would be retained to the eastern, southern and western site boundaries, with the applicant also agreeing that the part of the candidate Local Wildlife Site (cLWS) outside of the application site could be brought into long-term management.

Conditions imposed on any permission granted would therefore secure a soft landscaping scheme, as well as a landscaping management plan (which would include the long-term management of the part of the cLWS outside of the application site).

#### *Proposed Hard Landscaping*

In terms of hard landscaping infrastructure the submitted landscape strategy identifies the provision of a vehicular access along with maintenance paths to the solar arrays and an informal footpath within the eastern part of the site. As no precise details of the surfacing materials have been provided, it is recommended that a hard landscaping condition be imposed on any permission granted.

#### *Landscaping Conclusion*

Given that the majority of the landscaping features would be maintained (and in particular those to the boundaries of the application site) and that the retained landscaping would be incorporated into the proposed development it is considered that, subject to conditions, the proposed development in relation to landscaping would be compliant with Part (3) of Policy En1 of the adopted Local Plan and Policy LW&D7 of the pre-submission LW&DNP.

#### **Residential Amenity**

Policy D2 of the adopted Local Plan (2021) outlines that development proposals will be supported where they do not have a significant adverse effect on the living conditions of existing and new residents. Criterion (a) of Policy Cc1 seeks to ensure that renewable energy development does not have an unacceptable impact on residential amenity taking into account noise, vibration and visual dominance. Paragraph 198 of the NPPF requires development to be appropriate for its location.

The nearest residential receptors would comprise those within Langley Close (around 955 metres to the south-west of the site), Old Hall Court (around 1.2 kilometres to the west) and no. 18 Grimes Gate (around 1.3 kilometres to the west).

*Physical Development Impacts*

The infrastructure to be installed on site comprises solar panels having maximum heights of 2.04 metres above ground level, transformer units with heights of 2.2 metres and battery storage container units which would have heights of a standard shipping container (around 2.6 metres in height).

When accounting for the separation distances involved, as well as the landscaping infrastructure retained to the site boundaries (as discussed in the ‘*Landscaping*’ section of this report above), it is considered that no adverse overbearing, overshadowing or overlooking impacts would arise to residential amenities as a result of the development.

*Other Residential Amenity Impacts*

The other aspect to consider in respect of residential amenity is any potential impacts arising from noise, dust and fumes which is as outlined in Part 2 of Policy D2 of the adopted Local Plan.

Paragraph 201 of the NPPF outlines that the focus of planning decisions “*should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.*”

Policy LW&D18 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan (LW&DNP) outlines that energy generation development, amongst other development forms, should be accompanied by a noise impact assessment, and that development which reduces local quality of life as result of changes to acoustic character will not be supported.

A Noise Assessment (NA) has been submitted in support of the application and this concludes that the sound level of the plant would be below the background sound level at the noise sensitive receptors in the area (which includes the closest residential receptors in Diseworth). On this basis the noise of the proposed plant would fall below the Lowest Observed Adverse Effect Level (LOAEL) and therefore the impacts to residential amenity would be low.

As part of the consideration of the application the Council’s Environmental Protection Team has been consulted and no objections have been raised.

In order to ensure that construction and decommissioning activity is undertaken at reasonable times a condition limiting the hours of construction and decommissioning would be imposed on any permission granted.

Whilst Policy LW&D19 of the pre-submission LW&DNP requires the provision of a Construction Method Statement (CMS) as part of major development it is outlined elsewhere in this report that very limited weight is to be afforded to the policies of the submission LW&DNP. On this basis there would be no justification to impose a condition on any permission granted requiring the submission of a CMS when separate legislation (such as the Control of Pollution Act 1974 (as amended)) can control issues arising from construction (and decommissioning) activity.

It is also the case that if any statutory nuisance issues were to arise as a result of the development



then the Council's Environmental Protection Team would be able to investigate such issues and take appropriate action, where required, under separate Environmental Protection Legislation.

In terms of glint and glare, the submitted Glint and Glare Study (GGS) has assessed the impacts to the nearest residential receptors in Diseworth (being those on Langley Close) and has concluded that no impact would arise given the separation distance involved and the retention of the landscape screening to the boundaries of the site which has an overall height greater than that of the solar arrays.

On this basis the impact of glint and glare from the solar arrays would not result in detriment to residential amenity.

The impact of visual dominance to residential receptors is undertaken in the '*Landscape and Visual Impact*' section of this report above and where it is concluded that no adverse impacts would arise given the screening of the solar arrays and separation distances.

Details of any external lighting to be installed on the site, including any to be used during the construction and decommissioning phases, has not been submitted as part of the application. On this basis a condition would be imposed on any permission granted requiring the approval of any external lighting scheme prior to its installation if required.

#### Residential Amenity Conclusion

Based on the above assessment it is considered that no adverse impacts to residential amenities would arise as a result of the development, subject to the imposition of relevant conditions, and as such the proposal would be considered compliant with Policy D2 and criterion (a) of Policy Cc1 of the adopted Local Plan, Policy LW&D18 of the pre-submission LW&DNP, and Paragraphs 198 and 201 of the NPPF.

#### **Highway Impacts**

Policy IF4 of the adopted Local Plan requires that development takes account of the impact upon the highway network and the environment and incorporates safe and accessible connections to the transport network to enable travel choice. Policy IF7 requires that development incorporates adequate parking provision.

The County Council Highways Authority (CHA) and National Highways (NH) have been consulted on the application, with the assessment of the CHA being based on guidance within the Leicestershire Highways Design Guide (LHDG).

#### *County Highways Authority (CHA)*

The CHA has outlined that the application site would be accessed via the internal road associated with the Donington Park Service Area (DPSA) which is within private ownership. Access to the DPSA from the adopted highway is via the south-western arm of the Finger Farm roundabout which connects the A42 with the A453 (Ashby Road).

Finger Farm roundabout, and its connecting arms, fall within the jurisdiction of National Highways (NH). Approximately 200 metres north-west of the site access, the A453 (Ashby Road) becomes part of the adopted highway under the jurisdiction of the CHA.

A Construction and Decommissioning Traffic Management Plan (CDTMP) has been submitted in

support of the application and this states that *“HGV construction traffic will route to the proposed site via the M1 Junction 23A off-slip (northbound) along the Strategic Road Network, and the A453 via Junction 24 of the M1 (southbound), Figures 4.1 & 4.2 shows the construction routes to the Moto Motorway Services. Access to and from the A50 and A42 can be readily achieved.”*

On the basis of the submitted routing plan, together with the daily trip generation of 41 vehicles, and acknowledging that trips to the site will be minimal after the 12 week construction period (being 3 trips per year for the operational phase), the CHA has determined that there would be no material impact on the adopted highway under the jurisdiction of the CHA and therefore they have no objections.

The only other matter raised by the CHA was that the submitted plans identify a track, which is within the applicant’s ownership, that leads from the DPSA across a field towards the A453 (Ashby Road) where the Hunters Way roundabout is located. It is advised by the CHA that there is no legal vehicular access from this track onto the A453 (Ashby Road). An informative would be imposed on any permission granted to make the applicant aware of this circumstance.

### *National Highways*

In terms of NH they have outlined that the designated route for all site traffic is via Junctions 23A and 24 of the M1.

Following a review of the submitted information, NH has outlined that there would be no more than 30 trips on the Strategic Road Network (SRN) during peak periods and therefore there would be no significant impact to the traffic on the SRN.

In terms of access, NH has noted that this would be via the existing access to the DPSA. Whilst Paragraph 92 of the Department for Transport (DfT) Circular 01/22 states: *“Access to other developments through a roadside facility or from its connection to the SRN is not permitted,”* NH has acknowledged that the proposed development is to supply electricity to the electric vehicle (EV) charging stations associated with the DPSA. Given the purpose and necessity of the development, the NH consider the access arrangements to be acceptable in this particular instance.

Overall, NH has no objections to the application.

### *Parking*

No concerns have been raised by the CHA or NH in relation to the parking of construction vehicles, with it being considered that sufficient parking exists within the site to accommodate the parking of construction vehicles and construction workers vehicles during the construction and decommissioning phases, as well as any vehicles used during the operational phase.

### *Highway Impacts Conclusion*

Paragraph 116 of the NPPF outlines that development should only be refused on highway grounds where *“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.”*

In the circumstances that there are no objections to the application from the CHA or NH, subject to the imposition of conditions, it is considered that the proposed development would be compliant

with Policies IF4 and IF7 of the adopted Local Plan as well as Paragraphs 112, 115, 116 and 117 of the NPPF.

### **Aviation Safety**

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

Notwithstanding the assessment of East Midlands Airport Safeguarding (EMAS) in relation to glint and glare, as assessed in the '*Glint and Glare – Aviation and Highway Safety*' section of this report above, their consultation response has also outlined the need for conditions and informatives to be imposed on any permission granted to address the following:

#### *Conditions*

- (a) External Lighting (including any used during the construction phase);
- (b) Birdstrike Avoidance;
- (c) Control of Electromagnetic Interference to Aviation Communications, Navigation, and Surveillance Infrastructure; and
- (d) Aviation Safety Construction Management Plan (ASCMP).

#### *Informatives*

- (a) Communication, Navigation, and Surveillance Systems (CNS);
- (b) Materials; and
- (c) Tall Equipment Permit.

It is noted that the terms of the ASCMP includes requirements to control food waste and provide measures to prevent the puddling or ponding of water on site. Principally such requirements are to prevent birds scavenging detritus and food waste and being attracted to water on the site. However, it is considered that such requirements are unreasonable when accounting for the nature of the development and that ponds (to be retained) already exist on the site, unenforceable given that it would be unknown if food waste on the site was associated with users of the Donington Park Service Area (DPSA) or employees associated with the solar farm, and unnecessary to make the development acceptable in planning terms. On this basis such requirements would not meet the tests for conditions as outlined at Paragraph 58 of the NPPF.

Notwithstanding this, there are existing covered bins associated with the DPSA and therefore it is probable that any food waste generated would be deposited in such bins.

#### *Aviation Safety Conclusion*

Subject to the imposition of the relevant conditions and informatives as part of any planning permission granted, the proposed development would be compliant with Policy Ec5 of the adopted Local Plan.

### **Flood Risk and Drainage**

Policy Cc2 of the adopted Local Plan requires the risk and impact of flooding from development to be minimised, with Policy Cc3 requiring surface water drainage to be managed by Sustainable Drainage Systems (SuDS) (where feasible).

Policy LW&D11 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan (LW&DNP) stipulates that new development should account for flood risk, and manage surface water sustainably with SuDS (unless inappropriate to do so).

### *Flood Risk*

On the basis of the Environment Agency (EA) flood risk map detailed on the Government website, the application site is wholly within Flood Zone 1, which is at the lowest risk of flooding.

It is also the case that the application site is predominantly at a very low risk of surface water flooding, although the southernmost existing pond on the site is at a high risk of surface water flooding with an associated low risk of surface water flooding around this pond. A further low risk surface water flood route exists within the south-western part of the site.

A flood risk assessment (FRA) has been submitted in support of the application and, notwithstanding the position in respect of fluvial and pluvial flood risk, the FRA concludes that the application site is unlikely to be at risk from tidal flooding, groundwater flooding or flooding from artificial sources (i.e. reservoirs and canals).

Paragraph 173 of the NPPF outlines that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in the future from any form of flooding. Paragraph 174 of the NPPF subsequently outlines that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. It is, however, outlined at Paragraph 175 of the NPPF that the sequential test would not be applicable where a site specific FRA demonstrates that no built development within the site boundary would be located on an area that would be at risk of flooding from any source.

The 'Flood Risk and Coastal Change' section of the NPPG specifies, at Paragraph 023 (Reference ID: 7-023-20220825), that the aim of the sequential test is to ensure areas at little or no risk of flooding from any source are developed in preference to areas at higher risk and this therefore means avoiding, as far as possible, development in current and future medium and high flood risk areas. Paragraph 024 (Reference ID: 7-024-20220825) further states that reasonably available sites in medium to high flood risk areas should only be considered where it is demonstrated that it is not possible to locate development in low flood risk areas.

In this particular instance the associated infrastructure of the solar farm (i.e. proposed access, transformers and battery storage container) would be located in an area at very low risk of flooding from any source (surface water) with only the solar panels in the south-western part of the site being partially in an area of low risk of flooding from any source (surface water). No built development is proposed in the area of the site where there is a high risk of flooding from any source (surface water).

### *Flood Risk Conclusion*

The development has been sequentially located to avoid areas at medium to high risk of flooding from any source and therefore is compliant with Policy Cc2 of the adopted Local Plan and Paragraphs 173, 174 and 175 of the NPPF.

### *Surface Water Drainage*

Surface water would be discharged to an on-site watercourse with the incorporation of SuDS being achieved by the use of an interception swale at the eastern boundary of the site. The

scheme has also been amended to accommodate for climate change in line with the recommendations of the Lead Local Flood Authority (LLFA).

The LLFA has no objections to the application subject to the imposition of conditions to allow infiltration testing to be undertaken to demonstrate that infiltration is possible as part of the surface water drainage scheme, and that a precise surface water drainage scheme, the management of surface water during the construction phase and a scheme for the future management and maintenance of the surface water drainage scheme are secured.

Notwithstanding the comments of the LLFA, National Highways (NH) also required the applicant to demonstrate that the proposed development would not increase flood risk to the Strategic Road Network (SRN) given that the eastern side of the development appeared to drain towards the SRN rather than directly to the watercourse to the south of the site. Following the receipt of further information NH has confirmed that they are satisfied with the site's drainage proposals.

### Surface Water Drainage Conclusion

Overall, and subject to the imposition of the recommended conditions of the LLFA on any permission granted, it is considered that the proposed development would not increase or exacerbate flood risk and as such would be compliant with Policies Cc2 and Cc3 of the adopted Local Plan, Policy LW&D11 of the pre-submission LW&DNP and Paragraphs 181 and 182 of the NPPF.

The incorporation of SuDS, and retention of the watercourses, also complies with the 'Design Codes: Flood Resilience (FL-RE)' of the 'Flood Resilience' category of the Long Whatton & Diseworth Design Code as referenced in Policy LW&D10 of the pre-submission LW&DNP.

### *Foul Drainage*

No foul drainage would be connected with the proposed development, given that it relates to the provision of a solar farm, and on this basis there would be no conflict with Paragraph 198 of the NPPF.

### **Impact on Safeguarded Minerals**

As part of their consultation response the County Council Minerals and Waste Planning Authority (LCCMWP) has outlined that the application site is within a Mineral Safeguarding Area (MSA) for sand and gravel.

On this basis the development would be subject to the requirements of Policy M11 of the Leicestershire Minerals and Waste Local Plan (LMWLP).

Policy M11 of the LMWLP lists five circumstances in which planning permission will be granted for development that is incompatible within a MSA and the two which would be applicable for this proposal would be:

- (iii) *the incompatible development is of a temporary nature and can be completed and the site restored to a condition that does not inhibit extraction within the timescale that the mineral is to be needed; or*
- (iv) *there is an overriding need for the incompatible development.*

The LCCMWP has determined that the lifespan of the development is 40 years before

decommissioning and full restoration and therefore would be compliant with criterion (iii) of Policy M11.

It is also considered that the Government have identified an urgent need for new electricity infrastructure to be provided and therefore renewable energy schemes should be brought forward as soon as possible. On this basis there would also be an overriding need for the incompatible development in line with criterion (iv) of Policy M11.

Overall, the LCCMWP has concluded that they have no objections to the application from a minerals perspective.

There are also no objections raised by the LCCMWP from a waste safeguarding perspective.

### Impact on Safeguarded Minerals Conclusion

On the above basis the proposed development would be compliant with Policy M11 of the adopted LMWLP and Paragraph 225 of the NPPF.

### **Geotechnical**

In their consultation response, National Highways (NH) outlined that whilst they considered that there would be no significant geotechnical concerns associated with the development, they requested confirmation of the minimum distance between the nearest photovoltaic (PV) structure and the crest of the A42 cutting as well as details of the perimeter fencing in the south-eastern corner of the site due to its proximity to the crest of the A42 cutting. Such details of the perimeter fencing were also required to include the off-set distance from the boundary, as well as a scaled cross-sectional drawing.

Following the receipt of further information, NH are content that there would no interface with their geotechnical assets along the eastern site boundary (A42 cutting) and have no objections to the application in this respect.

### **Energy Storage Fire Risk**

The proposed development includes an energy storage (battery area). There is a risk, like with most lithium based batteries, of fire though there has only ever been one case on a solar farm in the UK.

The NPPG, at Paragraph 034 (Reference ID: 5-034-20230814), within the 'Renewable and Low Carbon Energy' guidance states:

*“Where planning permission is being sought for development of battery energy storage systems of 1 MWh or over, and excluding where battery energy storage systems are associated with a residential dwelling, applicants are encouraged to engage with the relevant local fire and rescue service before submitting an application to the local planning authority. This is so matters relating to the siting and location of battery energy storage systems, in particular in the event of an incident, prevention of the impact of thermal runaway, and emergency services access can be considered before an application is made.*

*Applicants are also encouraged to consider guidance produced by the National Fire Chiefs Council when preparing the application.*

*The location of such sites are of particular interest to fire and rescue services; who will seek to obtain details of the design, and firefighting access and facilities at these sites in their register of site specific risks that they maintain for the purposes of Section 7 of the Fire and Rescue Services Act 2004.”*

Fire risk and safety associated with solar farms was examined in great detail in relation to the Cleve Hill Solar Park Development Consent Order (DCO) (ref: EN010085) which is of a significantly larger scale than that proposed as part of this application, and where battery storage was a substantial part of the scheme (whereas it is minor as part of these proposals).

The Secretary of State’s (SoS) conclusion on the above DCO was that the Examining Authority (ExA) *“took comfort from the legislation and guidance and the Battery Safety Management Plan which would be subject to consultation with relevant bodies and the ExA was, therefore confident that the risks could be managed and mitigated appropriately.”* On this basis the issue of battery safety is neither a new issue in relation to solar development, nor would it be a prescriptive issue since there are tested means of managing and mitigating the risks.

As part of the consideration of the application no representation has been received from Leicestershire Fire and Rescue Service.

Whilst it is considered that the above location would be a sufficient distance away from the nearest residential receptors, and would be suitably located to be served by a fire engine given its positioning in relation to the site access to the Donington Park Service Area (DPSA), in the absence of precise details a condition requiring the submission of a Battery Safety Management Plan (BSMP) would be imposed on any permission granted. This would then enable the BSMP to be appropriately considered by Leicestershire Fire and Rescue Service as part of a discharge of condition process.

## **Design**

Policy D1 of the Local Plan requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal.

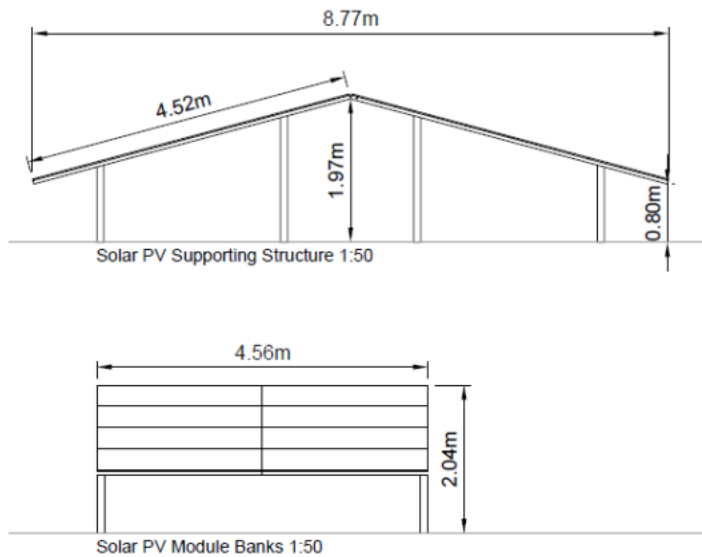
Policy LW&D10 of the pre-submission Long Whatton & Diseworth Neighbourhood Plan (LW&DNP) outlines that development should reflect the Long Whatton and Diseworth Design Code (LW&DDC) and that development which is not well designed will not be supported.

The submitted documents outline that the development would comprise the following components:

### *Solar Panels*

The solar panels would be configured in an east to west orientation in order to maximise the energy yield and would be mounted on ‘A’ frames with an overall length of 8.77 metres and an individual panel having a width of 4.56 metres. The apex of the ‘A’ frames would be 2.04 metres above ground level (AGL) with the lower edge being 0.8 metres above ground level. This is as shown in the image below.

## Solar Panel Image



Whilst a south facing orientation for the solar panels was considered this would severely reduce the power output from the proposed 7.15MW to 4.3MW, principally due to the large rows required between the panels and therefore would not be suitable in meeting the power generation required at Donington Park Service Area (DPSA).

### Access

The existing access to DPSA would be utilised to reach the application site from the Strategic Road Network (SRN) with a new vehicular access formed within the northern boundary of the application site (i.e. to the immediate south of the main building on the site) to enable the construction, and subsequent maintenance, of the solar farm.

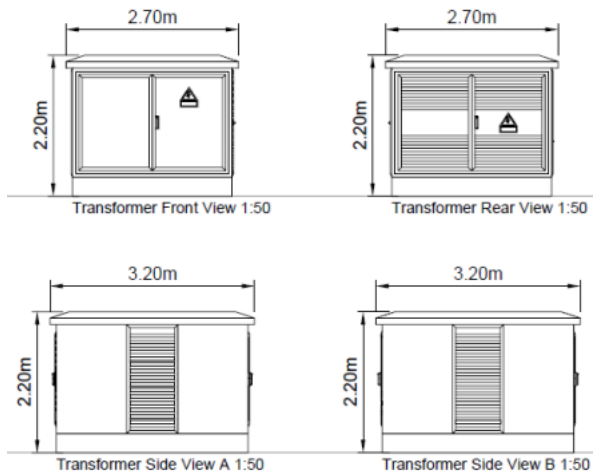
In addition maintenance paths would also be formed, along with an informal pedestrian footpath within the western part of the application site.

### Transformers and Battery Storage Containers

Two transformers would be located within the northern part of the application site to serve the solar farm with each individual transformer having dimensions of 2.7 metres in width by 3.2 metres in length and an overall height of 2.20 metres. This is as shown in the image below.



## Transformer Image



The transformers would be constructed from glass reinforced plastic (GRP) although no colour finish has been specified within the submitted documents and therefore this would be conditioned as part of any permission granted.

Two battery storage containers would also be located within the northern part of the application site with it being outlined that such battery storage containers would be the size of a standard shipping container (i.e. a height of around 2.6 metres). To ensure that the battery storage containers are of an appropriate design a condition would be imposed on any permission granted given the absence of any precise details.

### *Fencing and Security*

The submitted plans identify that a perimeter fence would be constructed around the solar farm but no precise details have been provided in connection with the overall height of such fencing or its appearance. It is likely that such fencing would be between 2 to 2.5 metres in height given its fundamental purpose will be to secure the solar farm.

Given the landscaping infrastructure to the site boundaries, such fencing would only be readily visible to users of DPSA and therefore would have no wider impact on the visual amenities of the landscape. Notwithstanding this, a condition would be imposed on any permission granted to secure precise details of the fencing (and any gates) to be installed.

The application as submitted does not propose the need for closed circuit television (CCTV) cameras to be installed.

### *Colours and Materials*

The proposed photovoltaic (PV) panels are designed to absorb the light, rather than reflect it, and with their dark colour finish they would appear recessive in the landscape. As is concluded above, conditions would be imposed on any permission granted to secure precise details and colour finishes to the battery storage containers and perimeter fencing along with the proposed colour finish to the transformers.

In approving such details it can be ensured that such materials of construction and colour finishes

are recessive to minimise the impact to the visual amenities of the landscape.

*Cabling*

All cables would be located underground.

*Design Conclusion*

Overall, it is considered that the approach to the design of the development would be consistent with that of a proposed solar farm and would be appropriate in ensuring there would be no adverse impacts to the visual amenities of the internal streetscape or wider rural environment. The retention and introduction of soft landscaping infrastructure would also screen the development in views from outside the DPSA.

On this basis the proposal would be compliant with Policy D1 of the adopted Local Plan and the Council’s adopted Good Design SPD as well as Policy LW&D10 of the pre-submission LW&DNP. There is also no conflict with the intentions of the Diseworth Village Design Statement.

It is considered that the ‘*Design Codes: Architecture Style and Materials (AM)*’ of the ‘*Urban Structure and Built Form*’ category of the LW&DDC provides no guidance on solar farm development and as such is not relevant.

**Other Matters**

*Assessment of objections in relation to other matters*

Objection	Officer Response
<p><b>The layout of the development does not account for any proposed employment development on the Freeport site and the relevant height of such development impacting the solar panels.</b></p>	<p>It is considered that it would be for any application which comes forward on the Freeport site to demonstrate the impact which may be created to the proposed solar farm with the applicant in a position to make a representation to such an application should they consider that an adverse impact may arise.</p> <p>Whilst an outline application for employment development is currently under consideration on land to the north-west of the site, under application reference 24/00727/OUTM, such development is to the north of Hyams Lane and therefore would be a sufficient distance from the application site.</p>
<p><b>It is understood that the area of the application site was developed as a wildlife and recreation area as part of the original approval of the service area and secured via condition and/or a Section 106 agreement.</b></p>	<p>The planning permission granted under application reference 9800376/MP for the motorway service area was not subject to any conditions, or a Section 106 agreement, which required the application site to be developed as a wildlife and recreation area.</p> <p>Condition 7 of the permission required a landscaping scheme to be approved and implemented, with condition 8</p>

<p><b>When Donington Park Service Area was built there was a commitment to leave the application site as a haven for wildlife.</b></p> <p><b>Did the planning permission granted under application reference 9800376/MP seek to retain the cLWS by condition/legal agreement?</b></p>	<p>only requiring any failures of planting within such a landscaping scheme to be replaced within a five year period following the implementation of the landscaping scheme.</p>
<p><b>The supporting documentation does not refer to the settlement of Diseworth (instead focusing on Kegworth and Castle Donington) and includes references to service stations elsewhere in the country. Such documents should therefore not be considered acceptable for assessing the application.</b></p> <p><b>Diseworth is not mentioned in the Planning Statement as the nearest settlement to the development.</b></p> <p><b>The supporting documentation does not refer to the settlement of Diseworth and therefore cannot be considered acceptable for assessing the application.</b></p>	<p>During the course of the application an amended planning statement has been submitted which has accounted for the impacts of the development being primarily associated with the settlement of Diseworth.</p>
<p><b>The engagement with the public has been inadequate and any responses provided have either been ignored or downplayed.</b></p>	<p>The NPPF, at Paragraph 41, <u>encourages</u> applicants' to engage with a Local Planning Authority prior to the submission of a planning application with it also being <u>encouraged</u> that applicants engage with the local community.</p> <p>On this basis it is not <u>necessary</u> to engage with the public prior to submitting a planning application.</p> <p>The planning application is assessed against relevant policies of the adopted Local Plan and NPPF. The submitted statement of community involvement is primarily the means by which the applicant outlines how they have engaged with the community and how such engagement</p>

	has perhaps influenced their approach to the application submission.
<p><b>The application site provides an area with amenity value to both users of the service station and those residents who use the route through the site as part of the only traffic free circular walking route from Diseworth. The lack of pedestrian connectivity from Diseworth also prevents residents from using the services available.</b></p> <p><b>The development will result in the loss of a circular walking route from Diseworth through the Donington Park Service Area, mitigation should be provided so that a route is maintained.</b></p>	<p>The application site comprises private land associated with Donington Park Service Area (DPSA) and therefore whilst the public has been afforded the right to pass through the site this has always been at the discretion of the land owner.</p> <p>Notwithstanding this, as part of the proposed development it is intended that an informal public footpath would be maintained adjacent to the western site boundary and therefore pedestrian connectivity to the services available (along with a walking route) would be maintained.</p>

**Overall Planning Balance, Contribution to Sustainable Development and Conclusions**

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2021) and the pre-submission Long Whatton & Diseworth Neighbourhood Plan (LWDNP) (2024). Whilst the application site is outside the defined Limits to Development in the adopted Local Plan, the proposed provision of renewable energy development is deemed acceptable under criterion (o). This would be subject to compliance with criteria (i) to (vi) of Policy S3 and for the reasons outlined above the proposed development is considered compliant with such criteria. On this basis the principle of the development is considered acceptable.

Policy Cc1 of the adopted Local Plan also supports the provision of renewable energy development subject to compliance with criteria (a) to (g). Whilst compliance with criteria (a) to (b) and (d) to (g) has been demonstrated, there would be conflict with criterion (c) given the significant harm to the candidate Local Wildlife Site (cLWS) and whereby the applicant has not demonstrated (to the satisfaction of the County Council Ecologist) that such harm would be mitigated against.

The significant harm arising to the cLWS also conflicts with criterion (d) of Part (2) of Policy En1 of the adopted Local Plan, as well as Policy LW&D6 of the pre-submission LW&DNP although the very limited weight to be afforded to this policy would not justify its inclusion in any refusal of the application.

In addition to the need to determine the application in accordance with the development plan, regard also needs to be had to other material consideration (and which would include the

requirements of other policies, such as those set out within the National Planning Policy Framework (NPPF) (2024)). In this respect it is noted that there is conflict with criterion (a) of Paragraph 193 of the NPPF, relating to the significant harm to a cLWS.

The harm arising in relation to such matters, whilst significant, would be outweighed by the overall benefits of the proposed development as outlined in the report above and below. Fire safety matters can also be met by condition.

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

*Economic Objective:*

This objective seeks to ensure that sufficient land of the right type is available in the right places and at the right time to support growth, innovation and improved productivity, and that the provision of infrastructure is identified and coordinated. It is accepted that, as per most forms of development, the scheme would have some economic benefits including the benefits to the local economy during the construction and decommissioning stages of the proposed solar farm, as well as limited employment opportunities during the operational phase. The generation of energy from a renewable source to power the electric vehicle (EV) charging points at the Donington Park Service Area (DPSA) may also serve to reduce the tariff prices to consumers.

*Social Objective:*

The economic benefits associated with the proposed development would, by virtue of the social effects of the jobs created on those employed in association with the construction and operation of the development, also be expected to provide some social benefits. The NPPF identifies, in particular, in respect of the social objective, the need to foster a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities health, social and cultural wellbeing.

In terms of the social objective's stated aim of fostering a well-designed and safe environment, it is considered that the development would be designed and arranged in a manner which would not impact adversely on the visual amenities of the rural environment whilst also providing new landscaping habitats and biodiversity improvements around the existing ponds which would be retained even after the decommissioning of the solar farm. Whilst such landscaping habitats to be created would be balanced against those lost, it is considered that such landscaping mitigation would maintain the character of the landscape.

A reduction in carbon dioxide emissions (CO<sub>2</sub>) as a result of the development would also support the communities health, with the maintenance of an informal pathway through the application site enabling residents access to the services available at the DPSA which would also contribute towards their health and social wellbeing.

*Environmental Objective:*

It is considered that solar farms are one of the cheapest forms of electricity generation worldwide and can be built quickly. This, coupled with constant reductions in the cost of materials and improvements in the efficiency of panels, means that solar is now viable in some cases to deploy subsidy free and at little or no extra cost to the consumer.

The UK Government has declared a climate emergency and set out a statutory target of achieving

net zero emissions by 2050, and this is a material consideration. Increasingly, the need for a move away from fossil fuels and towards renewable sources of energy production is supported for reasons of energy security and reduced greenhouse gas emissions. This position only continues to be strengthened by government publications and guidance.

It is also the case that NWLDC declared a climate emergency in June 2019 committing to a target of the District being carbon neutral by 2050. The proposal would make a favourable contribution to this target.

The ability of the scheme to offer 7.15 megawatts (MW) of power generation resulting in emission savings of 1,325 tonnes of CO<sub>2</sub> annually or 53,000 tonnes of CO<sub>2</sub> over the operational lifetime of the solar farm weigh very heavily in favour of the development. The benefits of renewable energy also raise substantial benefits in favour of the development.

Such benefits are recognised in Policies of the adopted Local Plan and the NPPF in accordance with the Climate Change Act of 2008. It is also clearly identified in Section 14 of the NPPF, where it seeks to increase the use and supply of renewable and low-cost energy and maximise the potential for suitable renewable development, that the delivery of suitable renewable energy products is fundamental to facilitate the country's transition to a low carbon future in a changing climate.

The solar farm could also not be located elsewhere given that its primary purpose is to supply renewable energy to the EV charging points at the DPSA, with alternatives for the location of the solar farm (including upon structures over the car park) also being discounted for the reasons as discussed within the report above. On this basis the applicant has demonstrated that a rational approach was taken to site selection lending support for the selected site.

It is also considered that the site is generally well chosen given that the visual impact would be low (when mitigated by proposed conditions) and that no harm would arise to the significance of the setting of any heritage assets. Nor would the proposal result in the loss of Best and Most Versatile (BMV) agricultural land, albeit such land is not readily used for agricultural purposes given that it lies within the boundaries of the DPSA.

Whilst acknowledging the above, and as set out in the report above, the development of the site would result in significant harm to the part of the cLWS within the boundary of the application site and whereby the applicant has not suitably demonstrated that such significant harm could be mitigated against. On this basis there would be conflict with criterion (d) of Part (2) of Policy En1 and criterion (c) of Policy Cc1 of the adopted Local Plan, as well as criterion (a) of Paragraph 193 of the NPPF. Although the scheme would include a number of benefits in terms of habitats (including improved landscaping infrastructure; the improvement of biodiversity around the retained ponds; the delivery of bat and bird boxes, deadwood hibernacula and a (potential) bee apiary; and the bringing into long-term management of the part of the cLWS outside of the application site), the loss of the majority of the cLWS would be a material consideration weighing against the proposal in terms of the environmental objective. Whilst the impacts to the cLWS have not been adequately demonstrated by the applicant to be mitigated against, the other mitigation measures (as indicated above) as part of the proposed development would seek to off-set this conflict.

Having regard to the three objectives of sustainable development, therefore, and having regard to the conclusions in respect of various technical issues set out within this report, it is accepted that the contribution to economic growth associated with the proposed development, coupled with the support to the health and social wellbeing of residents, would ensure that the scheme would

sit well in terms of the economic and social objectives. Insofar as the environmental objective is concerned, it is considered that whilst the proposed development would impact adversely on the majority of the cLWS, the impacts in this respect would be significantly outweighed by the substantial benefit associated with the delivery of a renewable energy scheme. Therefore the proposal would represent sustainable development overall.

It is therefore concluded that, notwithstanding conflict with criterion (d) of Part (2) of Policy En1 and criterion (c) of Policy Cc1 of the adopted Local Plan, as well as criterion (a) of Paragraph 193 of the NPPF, the proposed development would comply with the provisions of the development plan as a whole, and would benefit from the presumption in favour of sustainable development. Overall, there are no material consideration which indicate the determination of this application other than in accordance with the development plan. Approval is therefore recommended.

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

Report Item No  
A2

2 Frearson Road Hugglescote Coalville Leicestershire LE67  
2DU

Application Reference  
24/01503/FUL

Grid Reference (E) 441740  
Grid Reference (N) 313067

Date Registered:  
28 November 2024  
Consultation Expiry:  
10 February 2025  
8 Week Date:  
23 January 2025  
Extension of Time:  
None Agreed

Applicant:  
Ms Anisha Karolina

Case Officer:  
Sarah Booth

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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

The application is brought to the Planning Committee at the request of Councillor Eynon as it is her opinion that the proposal would result in highway safety concerns particularly with regard to vehicular access, traffic, a bend in the road, visibility and parking, also that the development is a business and design and safety should be of a higher standard and 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. Retention of existing parking spaces.

## MAIN REPORT

### 1. Proposals and Background

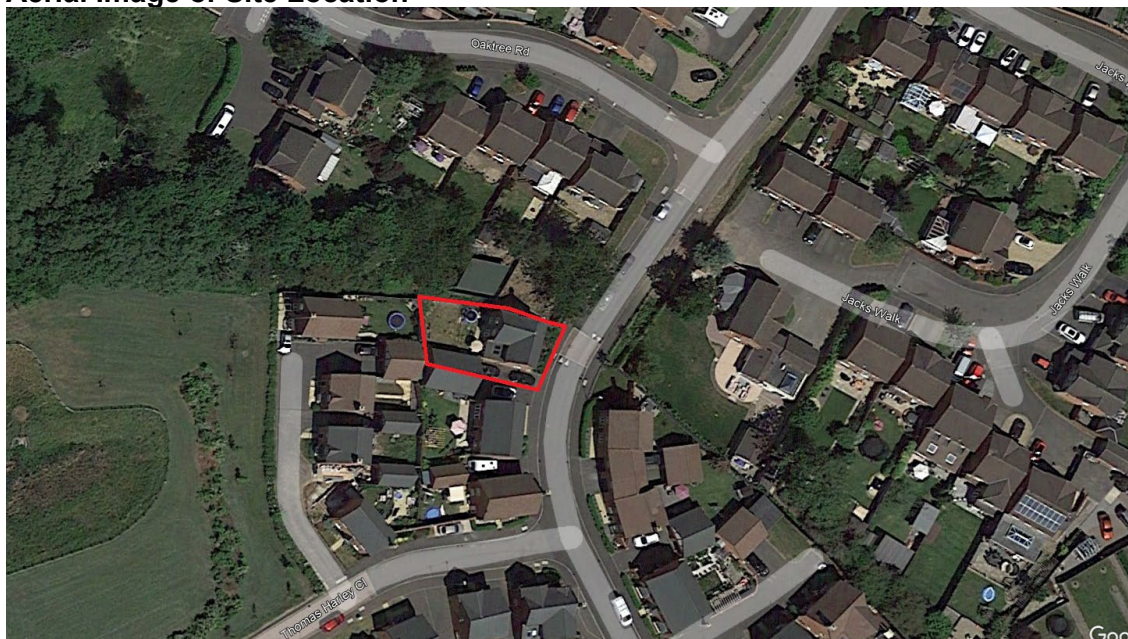
***The mandatory requirement for 10% Biodiversity Net Gain (BNG) for small sites as required by the Environment Act came into force on 2 April 2024. This application is exempt due to the development being de minimis in scale and there being no loss of existing habitat and thus the delivery of the 10%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

The application seeks full planning permission for the change of use of an existing dwelling house at 2 Frearson Road (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



#### Aerial Image of Site Location

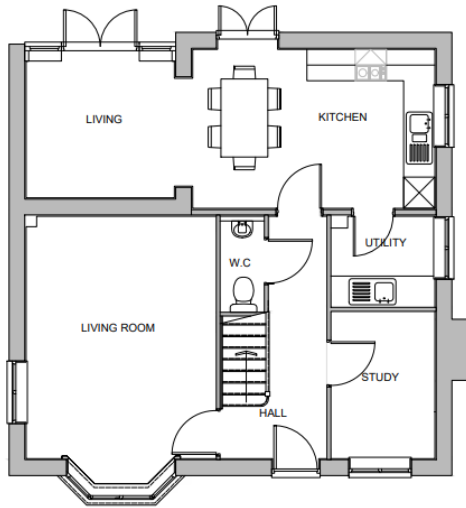


Site photos

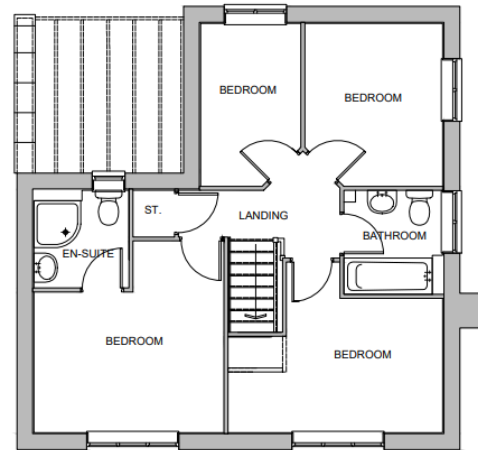


The application site consists of a two-storey detached dwelling. The existing floor plans shows 4 upstairs bedrooms and this would remain unchanged. There are no external alterations to the property proposed in this application.

**Existing floor Plans**

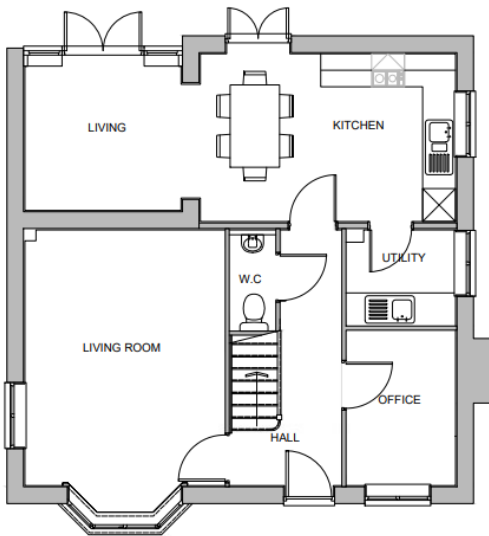


GROUND FLOOR PLAN

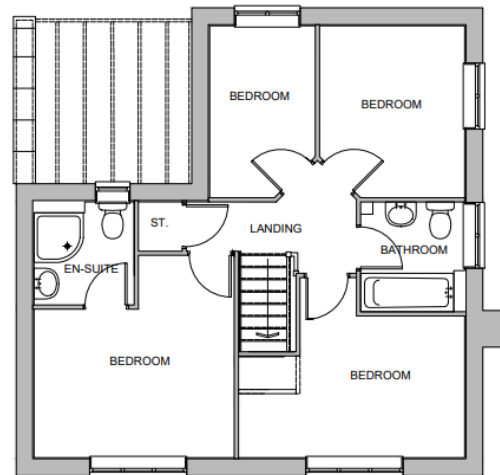


FIRST FLOOR PLAN

**Proposed Floor Plans**



GROUND FLOOR PLAN



FIRST FLOOR PLAN

This site is situated within the settlement boundary of Hugglescote. The site is located within the Limits to Development, as defined by the Policy Map to the adopted Local Plan and site should also be considered under the Hugglescote Neighbourhood Plan.

The proposed care home would be occupied by a maximum of 3 children aged between 11 - 18 years old. The agent initially advised that there would be 2 care staff present for the majority of the time, except for the staff handover time which the agent advised would take place between 2-4pm daily. At that time 4 carers may be on site whilst the handover takes place. The originally submitted details also advised that there will be no more than 2 carers working through the night.

The agent has now submitted updated information which has advised that whilst there would be 2 care staff present for the majority of the time, a manager would also be on site between the hours of 9:00am - 5:00pm. As such there would be 3 members of staff on site for the majority of the day. The agent has also now advised that the staff handover time would take place between 7:00 - 7:30am daily and during this time there would be a maximum of 4 members of staff on site whilst the handover takes place.

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 County Highways Authority, Environmental Protection, Parish Council and neighbours have been reconsulted on this updated information and their updated responses have been considered in this report.

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

### **Relevant Planning History**

There is no relevant planning history at the property.

## **2. Publicity**

15 Neighbours have been notified.  
Site Notice displayed 12 December 2024.

## **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.

**Hugglescote And Donington Le Heath Parish Council** – Objects to the application on the following grounds:

*Whilst the council acknowledge the need for care homes, Members have concerns about the type, location and effect on the neighbouring properties and residents and disagrees with both the developer's application and the Highways Authority's comments that parking arrangements are acceptable and offer minimal impact.*

*Could the applicant identify where "The Common" is in relation to the comment a bus stop is located at The Common in Hugglescote as the nearest bus stop is further than a 10 minute walk.*

*Members are of the opinion that the District Council should, instead, be working with the applicant to secure more appropriate accommodation in a suitable location.*

*The Parish Council have been contacted by many residents objecting to this planning application and as a Council we are supporting residents with theirs and our objections.*

### **No objections from:**

NWLDC Environmental Protection

County Highway Authority

**Third Party Representations**

45 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>	No nearby facilities / open space for children
	Unsuitable location for this development
	No bus stops on the estate / inadequate public transport
<b>Highway Impacts</b>	Car parking / insufficient spaces on site
	Parked cars on the road block visibility
	Problems parking in the road near a bend
	More parking spaces are required for this use than a dwelling to accommodate staff, change overs and visitors
	There have already been traffic incidents locally
	Traffic / congestion
	The site is located near a dangerous bend in the road Estate roads are narrow and congested
	Pedestrian safety
	Parking in the street can block emergency services
	There is only one entrance to the estate
<b>Residential Amenity</b>	Impacts to neighbour's children who have health problems
	Concerns that staff / visitors of the site will walk on neighbours drive to exit their cars
	Overlooking of neighbouring property due to side

	window / invasion of privacy
	Increase in noise / disturbance
	The estate is a quiet area, concerns over impacts on this Impact on quality of life
<b>Crime / Safety Concerns</b>	Anti-social behaviour / crime
	Fear of crime
	No details of the company managing the home and whether they have experience / competencies
	Concerns over vandalism
<b>Other Matters</b>	Original house builders for the estate promised there wouldn't be any social housing
	Impact on community dynamics
	Devaluation of property prices
	All residents are liable for upkeeping the estate through management company and this proposal could result in charges for the whole estate.
	Further pressure from development on struggling local NHS resources / doctors / hospitals
	Local schools are already overpopulated
	The covenant of the property states that a business cannot be run from the property
	The estate management company are not aware of these changes

**A petition has also been created which as of the date of this committee report has 96 signatures. The concerns raised by the petition are:**

- Highway safety
- Parking
- Anti-social behaviour
- 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

##### **Adopted Hugglescote and Donington le Heath Neighbourhood Plan (2021)**

The Hugglescote and Donington le Heath Neighbourhood Plan forms part of the development plan and the following policies of the Neighbourhood Plan are relevant to the determination of the application:

G1 - Limits to Development  
 G3 - Design  
 H4 - Brownfield Sites  
 ENV2 Protection of Sites of Environmental Significance  
 ENV6 - Biodiversity and Habitat Connectivity  
 T2 - Residential and Public Parking

##### **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) and the Hugglescote and Donington le Heath Neighbourhood Plan (2021).

The site is located within the Limits to Development, as defined by the adopted Local Plan, in the settlement of Hugglescote. Policy S2 of the adopted Local Plan identifies Hugglescote as forming part of the Coalville Urban Area, which is 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.

The Hugglescote and Donington le Heath Neighbourhood Plan, adopted in November 2021, also forms part of the statutory development plan. This plan outlines the community's vision and objectives for guiding development in a sustainable manner. Policy G1 sets out that development proposals within the Limits to Development will be supported, provided they comply with other relevant policies and deliver high-quality design that respects the local context. As this site is located within the Limits to Development, the proposal accords with the principle of development requirements of the Neighbourhood Plan.

In addition, the National Planning Policy Framework (NPPF, 2023) 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 proposal seeks to change the existing use of the residential dwelling to a children's care home for no more than 3 children at 2 Frearson Road. No external changes are proposed.

Neighbours have raised concerns that the development is located far away from a bus stop thereby making the location unsustainable. The nearest bus stops appear to be located on Central Road in Hugglescote which is 1300m from the application site. This is over the recommended 800m recommended maximum walking distance. Notwithstanding this, this is an existing situation that the current occupants of the site would also experience whilst the property is occupied as a dwelling. It is considered that the proposed C2 use on this minor scale would be similar in nature to a C3 dwelling use and therefore the lack of nearby sustainable transport would be the same impact for both existing and proposed uses. It is not considered that this would be a reason that would justify a refusal of the planning application.

In addition to the above, there are shops within walking distance of the site. Whilst access to public transport is not ideal in this location, the site is still within limits to development as per policy S2 of the adopted Local Plan and as such the site is considered to be sustainable in planning policy terms. As such it is not considered that there would be justifiable reason to refuse the application on this basis.

Residents have also highlighted that there are restrictions on the property deeds which state that business uses would not be acceptable on this estate. Covenants and deeds are a civil matter



### **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.

The Hugglescote and Donington le Heath Neighbourhood Plan (2021) also supports the safeguarding of residential amenity through Policy G3: Design, which requires new developments to respect the privacy, outlook, and general living conditions of existing and future occupants.

This application seeks permission for a change of use from a dwelling to a small care home for 3 children aged between 11 - 18 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.

The originally submitted information stated that staff will be supervising the home 24 hours a day, with 2 caregivers being present at any one time, apart from during the handover time period which was proposed to occur between 2-4pm (where 4 carers may be present during that time), and that there will be no more than 2 carers working through the night.

The agent has now submitted updated information to state that, whilst there would be 2 care staff present for the majority of the time, there would also be a manager on site between the hours of 9:00am - 5:00pm on a daily basis. As such there would be a maximum of 3 members of staff present during the day. Furthermore, the new information advises that the staff handover time would take place between 7:00 - 7:30am daily and during this time there would be a maximum of 4 members of staff on site whilst the handover takes place.

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

The most immediate neighbouring properties to the application site are No. 4 Frearson Road to the south and No' 8 and 10 Thomas Harley Close to the west (rear) of the site. Land to the north of the site consists of a landscaping strip separating the property from neighbouring dwellings to the north. There is also No. 1 Frearson Road and No.8 Jacks Walk opposite the site (to the east) which are separated from the application site by the intervening road.

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.

The adjacent neighbour has raised concerns that the proposal would result in an invasion of privacy and overlooking of No.4 Frearson Road because they have a ground floor window on their side elevation that faces the application site. The neighbour has stated that members of staff / visitors who park on the drive would be able to look into their window.

**Site photo – Driveways**

Whilst this may not be ideal, this is an existing situation and any current occupants of the No.2 Frearson Road would already have the opportunity to look through this window. It is not considered that the proposed development would intensify the use of the site to a scale that would be substantially different from the existing use. Given the above it is not considered that this development would exacerbate the existing situation to a harmful degree.

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 updated proposal for up to 3 members of staff being present on site.

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." The Council's Environmental Protection Team have been reconsulted on the amended information provided by the applicant, which confirms that there would be a maximum of 3 members of staff on site (with exception of hand overtimes when it would be 4). The Council's Environmental Protection Officer has confirmed that they have no objections to the increased staff numbers in this application and they also have no objections to the hand over time taking place between 7:00am – 7:30am daily.

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 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.

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.

One of the adjacent neighbours has also raised concerns that staff or visitors of the site will need to walk on the neighbours drive to exit their cars. Access on to neighbouring properties would be a civil matter for the two parties to resolve.

As such, it is considered the proposal would not result in unacceptable neighbour amenity impacts in terms of noise and disturbance over this existing C3 use to warrant a refusal of planning permission on such grounds. On this basis it is not considered that the proposal would be detrimental to the quality of life of neighbour properties or the wider community.

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.

Overall, subject to an appropriately worded condition to ensure the use of the site would operate within the parameters of the submitted application, it is considered that the proposal would not be detrimental to the amenities of the occupiers of the neighbouring residential dwellings and therefore the proposal would accord with Policy D2 of the adopted Local Plan and the Council's Good Design SPD.

Taking the above into account, the proposed development complies with Policy D2 of the North West Leicestershire Local Plan, the NWLDC Design SPG, and Policy G3 of the Hugglescote and Donington le Heath Neighbourhood 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.

The Hugglescote and Donington le Heath Neighbourhood Plan also contains relevant policies, particularly Policy T2 and G3, which supports sustainable travel and encourages the provision of sufficient parking, safe walking routes, and access to public transport. This policy aligns with the Local Plan's emphasis on promoting sustainable transport solutions and reducing reliance on

private vehicles.

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

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

Neighbours have commented that there have been some reports of traffic incidents in the local area. The CHA note that two Personal Injury Collisions (PICs) have been recorded within 500 metres in either direction of the site access. One was classified as 'serious' in severity which occurred in August 2020, and one was classified as 'slight' in severity which occurred in June 2024. The CHA has considered the circumstances of the above PICs and given that no recurring pattern or cluster has been identified, the CHA is therefore satisfied that the development proposal would not exacerbate the likelihood of further such incidents occurring.

Residents have raised concerns that the existing parking spaces on site are tandem spaces that 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 site is located near a bend in the road and they state that when cars park in this location it blocks visibility for other road users and pedestrians. Residents also have concerns regarding impacts to existing traffic and congestion.

The submitted details show that the existing parking provision, consisting of two tandem spaces and a garage. Whilst the originally submitted information stated that there would be 2 members of staff on site for the majority of the time, they have provided new information that confirms there would also be a manager present on site between the hours of 9:00am – 5:00pm. As such 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 been made aware of this new information and they have advised that this proposal for a maximum of 3 members of staff (except for handover periods) would not result in a severer impact on highway safety. The CHA has also stated that notwithstanding the increase in staffing, the parking available remains in line with guidance set out in the Leicestershire Highway Design Guide (LHDG). As such the CHA do not consider that a reason for refusal could be justified on this basis.

The originally submitted information advised that the handover time would take place between the hours of 2:00pm - 4:00pm daily. New information has now been provided by the agent that confirms that the handover time will take place between 7:00am -7:30am.

The CHA note that four staff members will be present during the changeover period, it is also taken into account that due to the tandem spaces there may be times when cars are parked in the street. The CHA have taken account of residents highways safety concerns. However, the CHA have advise that given the availability of on-street parking, the site-specific location and that the changeover will occur outside of peak hours the CHA is satisfied this will not cause an unacceptable impact on highway safety. It is recommended to condition that at least 2 parking spaces remain available on site in perpetuity to ensure the existing parking is retained.

One of the adjacent neighbours has raised concerns that staff or visitors of the site will need to walk on the neighbours drive to exit their cars. The neighbour has also mentioned that if a new boundary fence was to be erected between the driveways then it would not be possible for anyone parking on the site to exit their vehicle, which would make the parking spaces unusable. This has been discussed with the CHA who have advised that as this situation could arise on site now it

would be an existing problem with the current parking arrangements. Therefore, this would not be a justifiable reason to refuse the current application.

With regard to any unauthorised use of the neighbour's driveway this would be a civil matter between the neighbours and the site owner.

Some 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 County Highway Authority have powers to consider whether yellow lines should be implemented.

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. As such it could not be justified that the application could be refused on highway safety grounds.

Neighbours' concerns have been raised with the CHA who advise that they have no objections to these matters. The CHA has advised that they do not consider this development to result in any severe highway safety impacts as per paragraph 116 of the NPPF (2024).

Taking the above into account the proposal is not considered to result in an unacceptable impact on highway safety or the wider highway network. This would therefore comply with Policies IF4 and IF7 of the North West Leicestershire Local Plan, Policy T2 of the Hugglescote and Donington le Heath Neighbourhood Plan, 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, Policy ENV2 of the Hugglescote and Donington le Heath Neighbourhood Plan, the aims of Paragraph 187 and 193 of the NPPF (2024), the Planning Practice Guidance.

### **Safety and Fear of Crime**

Numerous residents have objected to the application on the grounds of safety, antisocial behaviour, vandalism and fear of crime potentially occurring due to the proposed residents 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 its potential impact on residential amenity and the safety and well-being of surrounding residents, pets and the existing children within the locality.



Whilst it has been held that fear of crime is a material consideration, 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 criminal/anti-social behaviour by residents. Despite the potential emotional and behavioural needs of the children, there is no evidence to demonstrate that a small and managed children's care home as proposed would give rise to anti-social behaviour or criminal activity and it is considered that limited weight can be attached to this issue in the determination of the application.

In addition to the above, individuals such as those who would occupy the proposed care home could potentially already reside in any typical residential dwelling and it is therefore considered that the proposal is not likely to result in any additional anti-social behaviour 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.

The NPPF (2024) 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.

### **Equality Implications**

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 any of these 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.

It is important to highlight that 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.

### **Other Matters**

Neighbours have stated that the original house builders for the estate promised there wouldn't be any social housing. There are no planning policies that prevent social housing in this area. Furthermore, this development would be classed as a care facility which would not fall under social housing and therefore this matter is not relevant. Any concerns regarding the original

commitment given by the house builders would also be a civil matter between residents and the house builder.

During the course of the application, concerns were raised in relation to the operators of the care home and whether they would manage the site well. There are no policies at local or at national level that require planning decisions to consider the competencies of the site owners, they would be accountable under separate legalisation and professional bodies such as Ofsted that regulate the standard of care. In addition, the applicant has provided a detailed document that outlines how the children will be supported by the care staff.

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 upkeeping 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.

Concerns have been raised regarding impacts on local schools and NHS resources. The existing property is a four bedroom dwelling in which there could potentially be several children living there or people with health needs. Taking into account the existing and proposed uses of the site, and the minor scale of development, it is not considered that this development would be substantially different from the existing dwelling use. As such it could not be reasonably justified that this proposal in particular would result in any detrimental impacts on schools or the NHS beyond the use of the existing dwelling.

### **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) and the Hugglescote and Donington le Heath Neighbourhood 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 and Policy G1 of the Neighbourhood 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. The proposal is considered to be acceptable in terms of highway safety. The proposed change of use is not considered to result in significantly detrimental impacts on neighbouring amenity. 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, the Hugglescote and Donington le Heath Neighbourhood Plan, and the NPPF (2024).

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

**Erection of 1 no. self build dwelling (outline - access and layout only)**

**Report Item No  
A3**

**Land Adjoining 20 Worthington Lane Breedon On The Hill**

**Application Reference  
24/00574/OUT**

**Grid Reference (E) 440616  
Grid Reference (N) 322650**

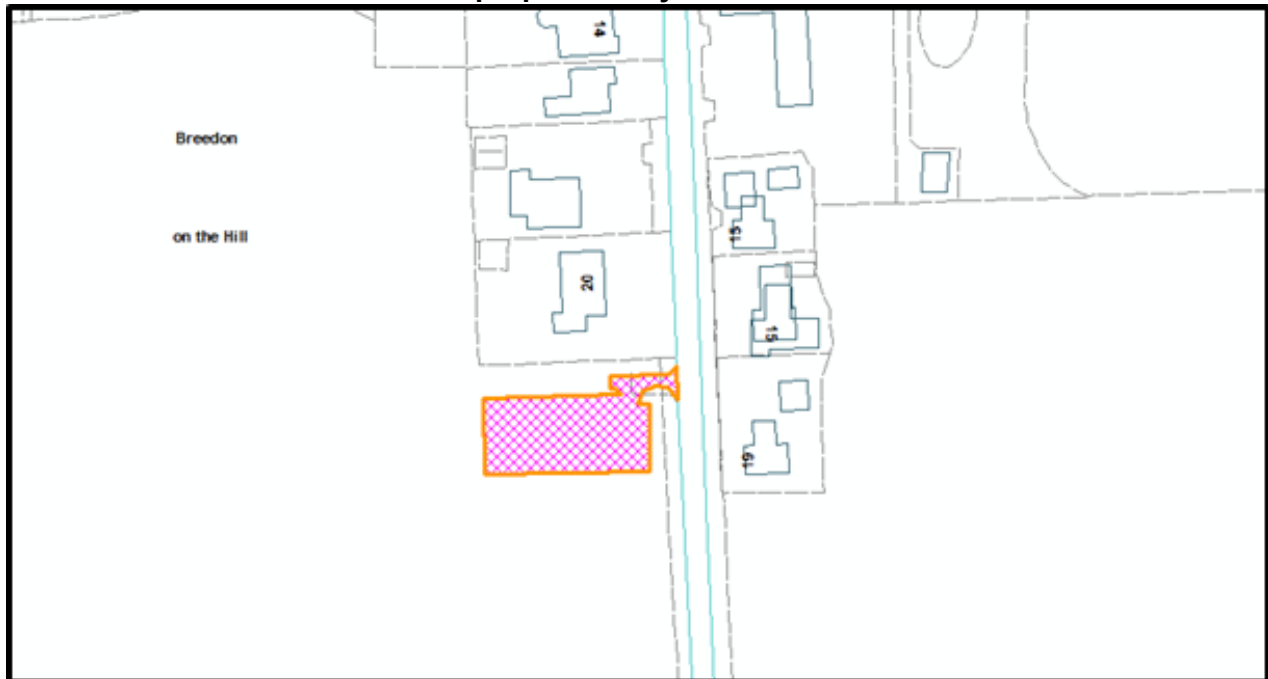
**Date Registered:  
3 May 2024  
Consultation Expiry:  
10 March 2025  
8 Week Date:  
31 March 2025  
Extension of Time:  
31 March 2025**

**Applicant:  
Mr Henderson**

**Case Officer:  
Karina Duncan**

**Recommendation:**

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



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

The application is brought to 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 a s106 legal agreement and the following condition(s):**

- 1 Outline standard time limit (3 years for reserved matters and 2 years to implement following approval of last reserved matter).
- 2 Details of the submission of the reserved matters of scale, appearance and landscaping.
- 3 Approved plans.
- 4 First reserved matters application to be accompanied by details of the finished floor and ground levels.
- 5 Self Build Design - All subsequent reserved matters applications for the dwelling shall contain detailed evidence of how and when the purchaser has had primary input into the design of the dwelling.
- 6 Implementation of vehicular visibility splays, turning, parking and appropriate surfacing to required dimensions and in accordance with submitted plans, prior to occupation.
- 7 Scheme of bin storage and collection point prior to occupation to be submitted, approved and implemented.
- 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 to and approved.
- 9 Scheme of tree and hedge protection measures for retained trees and hedges to be provided prior to the commencement of development to be submitted with reserved matters seeking approval of landscaping.
- 10 Biodiversity enhancement measures (swift, bat and bee bricks & native species planting) and a timetable for implementation to be submitted and approved prior to first occupation.
- 11 No external lighting to be installed, unless in accordance with details first submitted and approved.
- 12 Grampian planning condition to secure details of an alternative agricultural turning provision within land edged in blue. Approved alternative agricultural turning area to be provided in full prior to any development associated with the approved dwelling taking place.
- 13 Removal of permitted development rights (Classes A, AA, B, E and F) of the General Permitted Development Order 2015 being no extensions, outbuildings or hard surfaces without the express consent of the Local Planning Authority having first been obtained in writing.

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission is sought for the erection of 1 no. self-build dwelling (outline - access and layout only) at land adjoining 20 Worthington Lane Breedon on The Hill.

This application seeks permission for access and layout only, with all other matters reserved for consideration at a later stage/s.

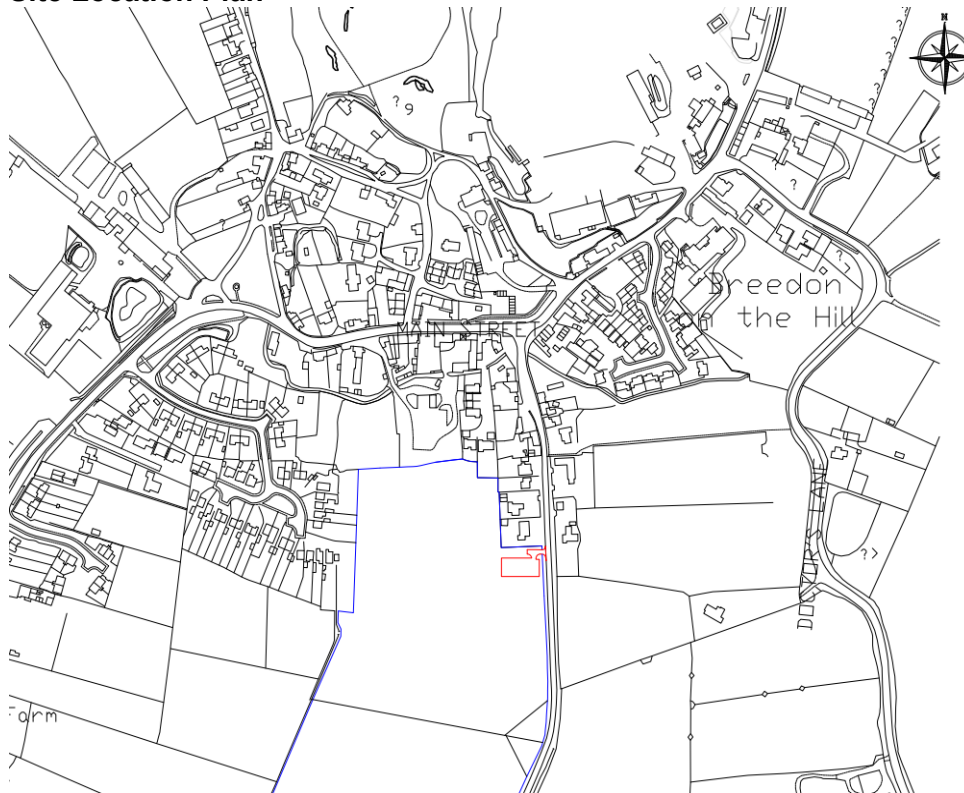
The site is located immediately south of the settlement of Breedon on the Hill and an existing dwelling known as 20 Worthington Lane. The access would utilise an existing agricultural access to the north eastern corner of the site which has been constructed onto Worthington Lane following the granting of planning permission in 2018. The access would also serve the surrounding agricultural land which is edged in blue on the submitted site location plan.

An amended site plan has been submitted during the course of the application which amends the proposed layout of the dwelling and increases the size of the rear garden area. A re-consultation has been undertaken with the Parish Council and neighbouring properties.

The applicant has submitted a draft Unilateral Undertaking to support the application which seeks to secure the dwelling as a self-build dwellinghouse.

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

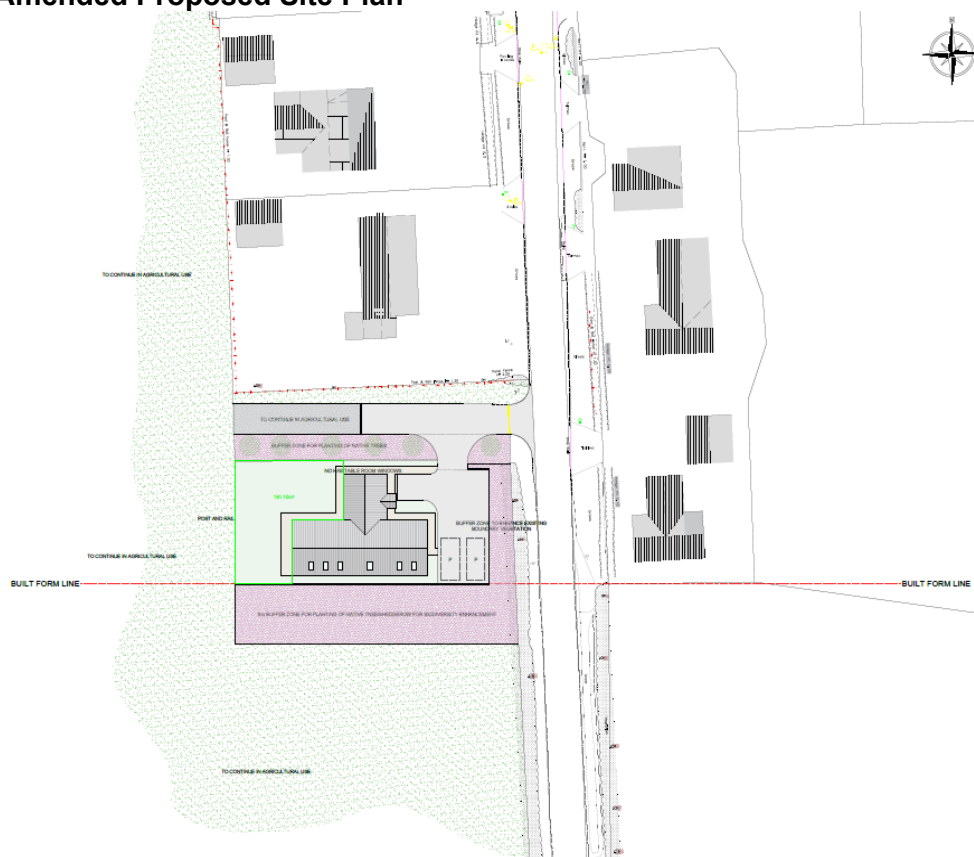
#### Site Location Plan



**Aerial Image of Site Location**



**Amended Proposed Site Plan**



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

- 17/01342/FUL - New agricultural access – Approved - 06.07.2018.
- 16/00360/OUTM - Erection of 27 dwellings (Outline application - all matters reserved except for part access) – Refused 16.11.2016.

The above application REF: 16/00360/OUTM was refused for the following two reasons:

1. Policy S3 of the adopted Local Plan and Policy S3 of the submitted Local Plan provide a presumption against non-essential residential development outside the Limits to Development with Paragraph 17 of the NPPF indicating that planning should recognise the intrinsic character and beauty of the countryside. Policy S2 of the submitted Local Plan also identifies that whilst Breedon on the Hill is a 'sustainable village' any residential growth which is to be permitted should take place within the Limits to Development. The proposed development being on a greenfield site would adversely affect and diminish the present open character of the site and represent unwarranted and overbearing development in the rural environment which should be protected for its own sake. The development would fail to protect or enhance the natural environment and therefore the proposal would be contrary to the environmental strand of sustainability enshrined within the NPPF, as well as Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.
2. Paragraph 32 of the NPPF outlines, amongst other things, that development should only be prevented or refused on transport grounds where the residual cumulative impact of the development are severe. Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan identify that development will be permitted only where its highway design and layout make adequate provision for vehicular access, circulation, and servicing arrangements. It is considered that the proposed access into the site would not provide a sufficient level of visibility to enable vehicles to safely exit the site given the speed of traffic on Worthington Lane and the topography of the highway to the south. The difference in land levels between the site and the highway would also result in the provision of an access which would have a gradient that would not enable vehicles to safely enter or exit the site at an appropriate speed. In these circumstances to permit the development would be contrary to Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan.

The above refusal was subject to an appeal decision (ref: APP/G2435/W/17/3167167) which was dismissed by the Planning Inspectorate on 14.07.2017.

The Inspector concluded and advised that *“combined, the weight afforded to the noted benefits would not outweigh the harm identified in relation to the first main issue [whether the proposed site would be a suitable location for housing having regard to development plan, national planning policy and its effect on the character and appearance of the surrounding area]. Moreover, the impact of the proposal on the character and appearance of the surrounding area would result in environmental harm. Consequently the proposal would not simultaneously deliver the environment, social and economic dimensions required to be considered sustainable development by the Framework.”*

## 2. Publicity

9 neighbours were initially notified on the 28<sup>th</sup> May 2024, with 14 neighbours notified on amended plans on the 5<sup>th</sup> December 2024.

A site notice was displayed on the 30<sup>th</sup> May 2024.

A press notice was published in the Derby Evening Telegraph on 5<sup>th</sup> June 2024.

## 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.

An amended Proposed Site Plan has been submitted during the course of the application. A re-consultation has been undertaken with the Parish Council and neighbouring properties. Any further consultation responses received by the Local Planning Authority will be reported to members on the committee update sheet.

### Objections from:

**Breedon on the Hill Parish Council** objects to the application on the following summarised grounds:

- i. The proposal is contrary to Policy S3 of the adopted Local Plan;
- ii. The proposal would adversely and disproportionately affect the character of the approach to the village down Worthington Lane as stated in the 2017 appeal decision.
- iii. The proposal would use the same access as a previous planning application which was previously refused at appeal (16/00360/OUTM);
- iv. The main reasons for dismissal of the appeal against the refusal of planning permission 16/00360/OUTM still apply to the present outline application and is in fact strengthened by the fact that the proposed development sits further to the South of adjacent dwellings on Worthington Lane than was the case in 2016.
- v. The planning permission (17/01342/FUL) for an access purely for the purpose of agricultural access does not confer the right to use the same access for a residential access.
- vi. The current application uses the same identified turning head area for the access arrangements for the proposed dwelling, meaning the original planning conditions imposed upon 17/01342/FUL can no longer be met.
- vii. The Parish Council have undertaken measurements of the achievable visibility splay looking North which was measured at 16m and looking South 38m. Both measurements do not meet the requirements laid down by the relevant specification with the roadside conditions as they currently exist.
- viii. The Parish Council consider that the 85<sup>th</sup> percentile traffic speeds at the proposed access point far exceed 30mph and that this should be tested by an up-to-date traffic speed survey.
- ix. There are no pedestrian footpaths on either side of the road for some distance North of the proposed access, towards the Village.
- x. The Parish Council has submitted its Neighbourhood Plan to NWLDC, which includes provision to meet its Local Housing Requirement for the Parish in full.
- xi. Allowing development outside the updated Limits to Development conflicts with the Neighbourhood Plan and as such is likely to significantly and demonstrably outweigh the



benefits as previously indicated by the dismissed appeal (APP/G2435/W/17/3167167) which concluded that the benefits of development would not outweigh the harm to the rural and verdant character of Worthington Lane and the setting of the village. The same applies to the current application.

**No Objections from:**

North West Leicestershire District Council Environmental Protection Team  
 Leicestershire County Council Lead Local Flood Authority  
 Leicestershire County Council Archaeology

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

Leicestershire County Council Highway Authority  
 Leicestershire County Council Ecologist

**Third Party Representations**

18 representations have been received objecting to the application with the comments raised summarised as follows:

Grounds of Objections	Description of Impact
<b>Preliminary Matters</b>	The land survey carried out extends far beyond the confines of the site boundary.
<b>Principle of Development and Sustainability</b>	<p>Planning permission previously was turned down, even after final appeal, and nothing has changed since then, so this application should be emphatically rejected. All future housing requirements are met and laid out for scrutiny in the Neighbourhood Plan.</p> <p>This greenfield agricultural site is outside of the permitted development options for Breedon on the Hill and does not accord with the Local Plan.</p> <p>This build is not needed, benefits no resident in the village and will cause unnecessary future disruption to a small community's infrastructure.</p> <p>As the Council are able to demonstrate a five year supply of deliverable housing sites, the provisions of paragraph 11(d)(ii) of the National Planning Policy Framework are not applicable.</p>

	<p>Impact on ‘assets’ (in the context of paragraph 11(d) of the NPPF) that include the protection of the countryside as referenced in policy S3 along with the other points give those clear reasons for refusing this development.</p>
	<p>Despite the Council's shortfall of plots for self-build dwellings in the District, the proposal still fails to comply with all of the criteria within Local Plan Policy S3, and this cannot be used as a valid planning reason to justify building in this countryside location.</p>
	<p>Concern that this application is a ploy to turn the whole field into a self-build monstrosity.</p>
<b>Highway Safety Impacts</b>	<p>The applicant is unable to control the required land to meet the visibility splays necessitated by the highway authority’s specification in both directions. Whilst a plan has been included that apparently shows the highway boundary, it is clear from Leicestershire County Council’s notes on this plan that this is nothing more than indicative.</p>
	<p>The access is unsafe owing to impacts from glare of the sun, reliance on maintenance of roadside vegetation, the speed of the road, and inadequate visibility splays.</p>
	<p>The need for verge maintenance will fall solely to the highway authority who currently do not and have no need to carry out verge maintenance at this location. The proposal would result in vegetation removal, including part of the sloping bank inside the highway boundary where the roots of trees are likely to be affected, altering the rural nature of the area.</p>
	<p>The turning area conditioned under the agricultural access planning permission is obstructed by the proposed building layout. The agricultural access</p>

	<p>would therefore be unable to operate whilst according with the planning permission originally granted.</p>
	<p>The visibility splay drawings cannot be relied upon and do not show the very poor line of site from the proposed entrance.</p>
	<p>The current access (which was given permission after it was built) never met its obligations by putting up a gate. The intended use was for farm vehicles that require a turning point, not to access a property.</p>
	<p>No TRO exists, and the speed limit therefore relies on the blanket coverage of a 30-mph speed limit being in place across Breedon on the Hill.</p>
	<p>A speed survey should be carried out to ascertain the 85<sup>th</sup> percentiles speed of the road.</p>
	<p>There is no existing pavement along this stretch of Worthington Lane to allow pedestrians safe passage to walk to the village.</p>
	<p>The proposal would fail to meet the requirements of Local Plan Policy IF4 and paragraph 114 of the Framework which combined seek to ensure that development provides a safe and suitable access.</p>
	<p>An additional access point would have to be provided above the existing one, which would place it very close to the brow of the hill, and considering that the speed limit at that point is 60 miles per hour, would not be a safe, viable option.</p>
<p><b>Visual Impacts and Impacts on the Countryside</b></p>	<p>Beyond the site there are no more properties until some farm buildings are found on the southern side of the A42 towards the village of Worthington.</p>

	<p>The proposal would extend development into the countryside.</p>
	<p>The construction of a new dwelling in this countryside location would harm the rural and verdant character along Worthington Lane and also have a detrimental effect on the character and appearance of the surrounding area. Consequently, the proposal would not meet the requirements of Local Plan Policy S3, and paragraph 135 of the Framework. Combined, these policies seek to protect the intrinsic character and beauty of the countryside which could be irreversibly harmed by this application.</p>
	<p>The proposal would impact on the entry view into the village.</p>
	<p>The new structure will be incongruous with the existing architectural style, potentially diminishing the visual appeal of the community</p>
<b>Ecology and Biodiversity</b>	<p>The ecological value of the site cannot be determined based on how many times the landowner decides to rotate crops or plough the field. Natural England should be consulted.</p>
	<p>The site forms part of a much larger site area and therefore would not benefit from the biodiversity net gain exemption for self-build schemes.</p>
	<p>The proposed development site is home to local wildlife and green spaces that contribute to the ecological balance of the area. The construction and subsequent habitation will disrupt these habitats and contribute to environmental degradation.</p>
<b>Flood Risk and Drainage</b>	<p>There is no mention of the land drainage issues,</p>

	<p>which during heavy rain causes flooding into Worthington Lane from the run off water travelling down the steep slope on the field past several houses.</p>
	<p>Due to other house building water runs off of the field differently causing water logging and flooding in the garden. Further properties on this field will cause more issues and problems for residents.</p>
	<p>There is no access for a drain as all surrounding land is privately owned.</p>
	<p>The water volumes have increased running down the lane since the building of the agricultural drive into this field.</p>
<b>Residential Amenity</b>	<p>The proposed dwelling will overlook a property, leading to a significant loss of privacy. The close proximity and elevated structure of the new building will allow direct views into living spaces and a garden.</p>
	<p>The construction process and the addition of a dwelling will result in noise and disturbance to an otherwise peaceful neighbourhood and will affect quality of life.</p>
	<p>The proposal will result in a loss of sunlight, overlooking / loss of privacy &amp; overshadowing / loss of outlook.</p>
<b>Non-material planning considerations</b>	<p>The proposal would have an adverse effect on property values.</p>

**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 He1 - Conservation and enhancement of North West Leicestershire’s historic environment;  
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.

### **Submission Breedon on the Hill Neighbourhood Plan**

The examination into the Breedon on the Hill Neighbourhood Plan has now concluded. The examiner issued her report on 4 December 2024 and concludes that, subject to certain modifications, the plan meets the Basic Conditions and should proceed to referendum. The Council concluded that the examiner’s recommendations were appropriate. This modified version of the Plan (‘the referendum version’) will be the subject of a referendum and it is anticipated that this will be held in Spring 2025.

The weight to be attached by the decision maker to the referendum version of the plan should be

in accordance with the approach set out in Paragraph 49 of the NPPF, having regard to the stage now reached towards adoption, the extent to which there are unresolved objections to the policies relevant to the determination of this application, and the degree to which the emerging policies are consistent with the NPPF. National Planning Practice Guidance confirms that “a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application”. In view of the stage the plan has reached and the Examiner’s findings, it is considered that considerable weight can be attributed to its policies.

The following policies of the Neighbourhood Plan are relevant to the determination of the application:

- Policy BotH2: Protecting the landscape and Locally Important Views
- Policy BotH5: Ecology and Biodiversity
- Policy BotH6: Trees and Hedgerows
- Policy BotH7: Water Management
- Policy BotH12: Design
- Policy BotH14: Housing Requirement
- Policy BotH15: Breedon on the Hill- Windfall Housing Development
- Policy BotH20: Rural Housing

**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)

**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) and the referendum version of the Breedon on the Hill Neighbourhood Plan.

It is important to address the planning history on the site which relates to the Council’s refusal of planning application 16/00360/OUTM for the erection of 27 dwellings (Outline application - all matters reserved except for part access). This refusal was subject to an appeal which was dismissed by the Planning Inspectorate which represents a material consideration in the assessment of this application. However, it should be noted that there are fundamental differences between this proposal and the application previously dismissed at appeal. This application relates to a much smaller site area and is for one self-build dwelling, as opposed to the 27 dwellings which would have been made up of 19 open market dwellings and 8 affordable units. Furthermore, this application is to be assessed against an updated development plan, and the updated National Planning Policy Framework (2024). Whilst certain elements of the Planning Inspectorate’s appeal decision may still be applicable to the assessment of this application, the conclusions made in the assessment of that appeal decision cannot be fully adopted by the Local Planning Authority and applied in the assessment of this application.

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.

Policy Both14 (Housing Requirement) of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020-2040) states that the housing requirement for Breedon on the Hill Neighbourhood Area for the period 2020 to 2040 will be met through the development of committed sites including the former Breedon Priory Garden Centre (refs: 18/02198/FULM and 20/01920/FUL), through the allocation of Land north of Southworth Road, Breedon the Hill for the development of approximately 13 dwellings in accordance with Policy Both16, through windfall development in accordance with Policies Both15, Both17 and Both21, and through the allocation of Brook Farm, Moor Lane, Tonge for the development of approximately 10 dwellings in accordance with Policy Both18.

The site is located within land falling outside the defined Limits to Development, designated as countryside within the adopted Local Plan and the referendum version of the Neighbourhood Plan. On sites falling outside the defined Limits to Development, residential development is not a form of development that is permissible by Policy S3 of the North West Leicestershire Local Plan (2021), save for limited exceptions as specified in the policy (e.g. re-use or adaptation of an existing building or the redevelopment of previously developed land). The proposal does not fall within any of these exceptions.

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

Whilst in this case the proposal is not supported by criteria (a) to (s) of Policy S3 of the Local Plan (2021), the Policy goes on to state that development in accordance with criteria (a) to (s) would be supported, subject to satisfying criteria i-vi. For completeness, an assessment of the application against criteria (a) to (s) 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 not be safeguarded or enhanced. Therefore, the proposal fails 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 site immediately abuts the settlement boundary of Breedon on the Hill and would extend no further south into areas of open countryside when compared to the building line formed by the



existing residential development to the eastern side of Worthington Lane. The development would be positioned a significant distance from the closest neighbouring settlement. 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 to the south of 20 Worthington Lane, would exacerbate existing ribbon development along the western side of Worthington Lane. The proposal therefore fails to accord with criterion (iii) of Policy S3.

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

Although the proposal would result in the construction of a dwelling on undeveloped agricultural land, given that the extent of the application site would project no further to the south than the built form to the east of Worthington Lane, and it immediately adjoined by residential properties to the north and east, it is considered that the development would be well integrated with existing residential development. 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*

The site is within walking and cycling distance to the village centre and public transport links (buses). Whilst there is no public footpath available to the western side of Worthington Lane for around 100 metres north of the site access, this is the case for the existing neighbouring residents and the Local Planning Authority in the assessment of planning application ref: 16/00360/OUTM did not look to refuse the application for 27 dwellings on this ground, and the Council's decision notice for the application makes no reference to this issue. Furthermore, the Planning Inspector in the appeal decision did not raise a concern in relation to this matter, stating that "*as the site is within walking and cycling distance to the village centre and public transport links, environmental benefits would arise by reducing dependency on private vehicular transport.*"

In terms of sustainable transport which would be available for future occupiers, Bus number 125 serves Breedon on the Hill. Bus service 125 (Castle Donington - Leicester) runs through Breedon on the Hill to Leicester via a number settlements and towns twice per day Monday – Saturday. The bus times are extremely limited at approximately 10:00am and 14:00pm. The buses from Breedon on the Hill to Castle Donington (via Tonge and Isley Walton) also only run twice a day with buses at around 10:00am and 13:30pm Monday – Saturday. There are no other bus services serving Breedon on the Hill and there are no buses on Sundays. There is also no other form of sustainable transport available from Breedon on the Hill.

Breedon on the Hill itself, however, is defined as a 'Sustainable Village' in the Local Plan and contains a shop and post office, a number of public houses, and a primary school, which would enable future occupiers to meet some of their day to day needs. The majority of the facilities and services within the village would be within walking and cycling distance from the application site.

Overall, on balance, the proposal is considered to be accessible by a range of sustainable

transport and no conflict is considered to arise with criterion (vi) of Policy S3.

Furthermore, the site also falls outside of the Limits to Development identified on Map 17 of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020 – 2040). New residential development is not supported by Policy BotH15 (Windfall Housing Development) of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020 – 2040) which states that housing development proposals will be supported within the Limits to Development identified on Map 17. The development would also not be supported under Policy BotH20 of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020 – 2040) which sets out forms of housing development under criteria A - E which will be supported outside the Breedon on the Hill Limits to Development. Self-build residential developments are not a form of development listed in A – E.

*Conclusion - Principle of Development*

The site is located outside of the Limits to Development set out in both the North West Leicestershire Local Plan (2021) and the referendum version of the Breedon on the Hill Neighbourhood Plan (2020 – 2040). The proposal is also fundamentally at odds with the settlement hierarchy and strategic housing aims of Policy S2 of the adopted Local Plan and would also be contrary to Policy S3, as it is not a form of development supported in the countryside. The application would also conflict with criteria (i) and (iii) of the second set of criteria to Policy S3. Furthermore, the proposal is not a form of development supported by Policies BotH14 or BotH15 of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020 – 2040).

On this basis, the proposal is not in accordance with the spatial policies set out within the adopted North West Leicestershire Local Plan (2021), or the referendum version of the Breedon on the Hill Neighbourhood Plan (2020 – 2040).

**Self-Build and Custom Housing**

It is recognised that self-build and custom housebuilding is a key element of the government's agenda to increase the supply of housing, both market and affordable and gives more people the opportunity to build their own homes as set out in Paragraph 63 of the NPPF.

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

The District Council has a duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), to give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the area of North West Leicestershire arising in each base period. This District Council's Self-Build Register was established in April 2016. As of 18 February 2025 there are 168 individuals on the list. For the area of North West Leicestershire, this demand equates to providing a specific number of permissions for plots.

A	B	C	D	E	F
Base Period	Registrations in base period	Plots required to meet	Permissions granted in base	Cumulative permissions at end of	Oversupply (+) or shortfall (-)

		demand by end of base period	period (dwellings)	base period (dwellings)	(E minus C)
1 April 2016 to 30 October 2016	6	0	1	1	+1
31 October 2016 to 30th October 2017	10	0	1	2	+2
31 October 2017 to 30 October 2018	8	0	2	4	+4
31 October 2018 to 30 October 2019	14	6	30	34	+28
31 October 2019 to 30 October 2020	20	16	0	34	+18
31 October 2020 to 30 October 2021	14	24	0	34	+10
31 October 2021 to 30 October 2022	20	38	0	34	-4
31 October 2022 to 30 October 2023	34	58	3	37	-21
31 October 2023 to 30 October 2024	37	72	17	54	-18
31 October 2024 to 30 October 2025	To be confirmed	92	7*	61*	-31*

\* As of 18 February 2025

The demand is split into different base periods running from 31 October to 30 October (column A above). At the end of each base period, local planning authorities have three years in which to grant planning permission for an equivalent number of plots of land. This is known as the 'duty to grant planning permission' under the Self-build and Custom Housebuilding Act (the Act).

Changes to the Act made by the Levelling-Up and Regeneration Act 2023 make clear that any unmet demand (or shortfall) must be carried over to the following base periods.

#### *31 October 2023 to 30 October 2024*

There was a cumulative demand for 72 self-build and custom housebuilding plots (column C) to be provided by the end of the last base period (30 October 2024).

At that same date, cumulative planning permissions had been granted for a total of 54 plots

(column E), meaning there was an unmet demand, or shortfall, of 18 plots at the end of that base period. This unmet demand is to be carried over into the latest base period.

*31 October 2024 to 30 October 2025*

During the current base period (31 October 2024 to 30 October 2025), there is a cumulative demand for 92 plots, which is based on all those who signed up to the register between 1 April 2016 and 30 October 2022.

Planning permission for a further 7 plots has been granted so far during this base period, so cumulative planning permissions had been granted for a total of 61 plots. (A further 4 plots have resolutions to permit but as the permissions have not yet been issued, they cannot be added to the supply at present). Therefore, at the current time there is an unmet demand, or shortfall, of 31 plots. This represents a significant unmet need.

Therefore, it is acknowledged that this proposal for one dwelling (subject to a legal agreement to secure the self-build dwelling) would contribute to addressing the existing and future shortfall and this is a material consideration in the determination of the application to be given moderate weight in favour of the proposal. This ensures a consistent approach with recent appeal decisions received by the Local Planning Authority.

The adopted Local Plan, and indeed the Referendum version of the Breedon on the Hill Neighbourhood Plan (2020 – 2040), are silent on the matter of self-build housing, and in these circumstances, Paragraph 11 of the NPPF would apply which states that 'plans and decisions should apply a presumption in favour of sustainable development'.

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

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

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."*

Footnote 7 of the NPPF makes it clear that the policies referred to in Paragraph 11 are those in the Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in Paragraph 194) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75); and areas at risk of flooding or coastal change. In this case, the proposal would not affect a designated heritage asset, and therefore only Paragraph 11(d)(ii) is engaged in this case.

It should be noted that the referendum version of the Breedon on the Hill Neighbourhood Plan has not been made and adopted and therefore it does not form part of the development plan. On this basis, the provisions set out in Paragraph 14 of the NPPF are not applicable in the assessment of this application.

The conclusion and planning balance section of this report considers whether the adverse impacts of approving the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (Paragraph 11(d)(ii)).

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

### **Loss of Agricultural Land**

In terms of environmental sustainability, the proposal would result in the loss of agricultural land. Furthermore, consideration has been given to 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 0.06 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 less than 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) (the SPD) 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)). Criterion (iii) of Policy S3 requires developments to not create or exacerbate ribbon development.

Policy BotH2 (Protecting the Landscape and Locally Important Views) of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020-2040) states that development should be located and designed in a way that is sensitive to the open landscape and natural features that characterise the Neighbourhood Area. It further states that proposals will not be supported if potential impacts on landscape cannot be adequately mitigated through design and landscaping.

Policy BotH12 (Design) states that to support the creation of high quality, beautiful and sustainable buildings and places, development should reflect the Breedon on the Hill Design Code (Appendix 2). It goes on to state that development that is not well designed will not be supported, especially where it fails to reflect the Breedon on the Hill Design Code and government and local guidance on design.

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, particularly on the approach to the village when travelling from the south.

The application seeks approval of layout, however, as scale and appearance (in addition to landscaping), are reserved for approval at the reserved matters stages, the detailed design of the scheme would be a matter to assess at the reserved matters stage/s.

In terms of the proposed layout, whilst the proposed footprint of the dwelling is large, properties along Worthington Lane vary significantly in their footprints and densities and the scheme in this regard would not be out of character with the pattern and density of development established by properties in the immediate area. Following amendments made to the application, the rear garden of the dwelling would now be at least equal to the footprint of the property, which meets the minimum required standard outlined in Paragraph 11.31 of the Council's Good design for North West Leicestershire SPD. A planning condition is recommended to be imposed to remove permitted development rights to ensure that no further extensions to the dwelling, or the construction of outbuildings, could take place without the express consent from the Local Planning Authority having first been obtained, in order to preserve the amenities of future occupiers.

The site is raised in comparison to the level of the highway, much like the land to the eastern side of Worthington Lane. Any scheme submitted at the reserved matters stage would need to ensure that the dwelling would not be unacceptable in terms of its design, massing and scale, having regard to the site levels, and the scale and design of other dwellings in the immediate area, in addition to the site's location at the edge of the settlement.

In any case, the erection of a dwelling on this site would result in a level of harm to the landscape and the character and appearance of the countryside by virtue of the development of an undeveloped greenfield site in the countryside. The principle of development section of this report has already identified that the proposal would exacerbate existing ribbon development along the western side of Worthington Lane, extending built form further south into open undeveloped areas of land, although the scheme would not extend any further to the south than existing built development to the eastern side of Worthington Lane (No.19). On this basis, the scheme would not protect the intrinsic character and beauty of the countryside as required by the NPPF and the North West Leicestershire Local Plan (2021).

The Inspector for the previously dismissed appeal stated that *“Worthington Lane is abutted by short grass verges and established tall vegetation to its sides on the approach to Breedon on the Hill from the south. These attributes give Worthington Lane an attractive verdant and rural character on the approach to the village. The 30mph sign adjacent to the proposed site access marks a transition from the countryside to the village which opens up by virtue of properties with well-maintained front gardens and driveways. This contrast in character from countryside to the village is noticeable when viewed from vantage points along this section of Worthington Lane and contributes positively to the setting of the village.”* This is a character summary which is supported by the Local Planning Authority, however, the previously dismissed appeal scheme required significant visibility splays (of over 100 metres, 35 metres greater than the splays required by this proposal). To the south along Worthington Lane, the visibility splay would have necessitated the extensive reduction and removal of roadside vegetation, however, this proposal requires visibility splays of 65 metres (which is no greater than the existing visibility splays required by the existing agricultural access into the site) which would include grass verges and would not require the removal of roadside trees or vegetation based on the submitted visibility splay plan.

The Inspector went on to conclude that the proposed access road and the length of the visibility splay would result in significant harm to the verdant and rural character and setting of the village provided by this section of Worthington Lane. However, a material difference between the previously proposed development and this scheme is that the proposal would now utilise an existing access and is capable of being developed without requiring the removal of trees and vegetation along the eastern boundary of the site.

Overall, the proposal would result in a level of harm to the landscape and the character and appearance of the countryside by virtue of the development of an undeveloped greenfield site and through the exacerbation of existing ribbon development into open countryside. The proposal would result in the permanent loss of countryside and the urbanisation of the site. Therefore, conflict has been identified with Policy D1 and criteria (i) and (iii) of Policy S3 of the adopted Local Plan (2021).

### **Neighbour Amenity**

Policy D2 of the Local Plan (2021) requires that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents within the development and close to it. Paragraph 198 of the NPPF 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.

A number of objections have been received on grounds of loss of sunlight, overlooking, loss of privacy and overshadowing and loss of outlook. However, it should be noted that no detailed plans and elevation have been provided given the application is in outline form with only access and layout sought for approval. Therefore, it is not possible to assess the full impacts upon neighbours at this stage, however, detailed consideration of overlooking, overshadowing and oppressive outlook impacts would be dealt with at reserved matters stage/s when the scale and appearance of the dwelling are submitted.

The site is slightly separated from the existing dwelling, No.20 Worthington Lane, by the existing access route into the site. It is considered that the proposed layout of the site would be acceptable and the site could be developed without resulting in significant detriment to the occupiers of No.20, and any other surrounding occupiers, including dwellings to the east, from direct overlooking,

overshadowing and oppressive outlook, and significant noise, disturbance and odour.

Despite neighbour concerns, 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, the proposal would comply with Policy D2 of the Local Plan, the Council's Good Design SPD and the relevant paragraphs of the NPPF.

### **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.

The Parish Council have objected to the proposal on various grounds, including those relating to highway safety. Concerns have been raised, including those relating to the use of an existing agricultural access and its turning requirements, the validity of the speed survey and the accuracy of the vehicular visibility splays. A number of neighbour objections have also raised concerns in relation to safety, visibility splays, land ownership required to deliver the visibility splays, inaccuracies in the visibility splay drawings, the removal of a turning area for agricultural vehicles, in addition to other highway safety issues.

The proposal would utilise an existing agricultural access leading from Worthington Lane in the north-west of the site which was granted planning permission in 2018 (application ref: 17/01342/FUL). The County Highway Authority (CHA) have been consulted on the application and originally requested that the applicant provide a speed survey and use this to demonstrate visibility in the horizontal and vertical planes. The requested speed survey has been submitted by the applicant which shows 85th percentile speeds of 39.1mph northbound and 37.5mph southbound. The CHA has reviewed the submitted Visibility Splay Plan and are satisfied the demonstrated visibility splays are in line with Table DG4 of the Leicestershire Highway Design Guide (LHDG). The CHA is also satisfied the visibility splays are contained within land owned by the highway authority, or the applicant's ownership boundaries.

The site is also capable of providing suitable on site turning and parking.

It should be noted that the existing agricultural vehicular access permitted an access on the basis that 2.4 metre x 65 metre visibility splays would be achieved in both directions (as shown on the Agricultural Access Worthington Lane, Breedon Rev. E drawing which was approved by the Local



Planning Authority). This application also shows the same visibility splays would be achieved in both the northern and southern directions. This proposal therefore requires no increased visibility over and above that of the existing agricultural vehicular access which is already in operation.

On the basis that the CHA is satisfied with regard to the speed survey undertaken, the visibility splays achievable in both directions, in addition to land ownership issues, there is no reason for the Local Planning Authority to resist this planning application on highway safety grounds and members are advised to have regard to Paragraph 116 of the NPPF which clearly 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. The CHA have not advised that there would be an unacceptable impact on highway safety or that the residual cumulative impacts on the road network would be severe.

The proposal would remove the ability for the landowner to utilise the originally permitted agricultural vehicle turning space as part of the permission granted under application ref: 17/01342/FUL which was for a new agricultural access. Much of this turning head would be utilised for access to the dwelling, with the proposed layout showing that the turning area would be replaced by the driveway to the dwelling. A Grampian planning condition is therefore recommended to be imposed upon any permission granted to secure details of an alternative agricultural turning provision within the land edged in blue. This condition would be worded to include the relevant triggers in terms of the submission of the details to the Local Planning Authority for approval, as well as the timeframe for providing the approved turning area which would be prior to any works relating to the new dwelling taking place. Such a condition is considered to be reasonable and necessary in the interests of highway safety.

An objection has been received on grounds that verge maintenance will fall solely to the Highway Authority who currently do not have a need to carry out verge maintenance at this location. It should be noted the existing 65 metre visibility splay already requires roadside vegetation maintenance in this location. A further objection raises concern that the proposal would result in the removal of part of the sloping bank inside the highway boundary where the roots of trees are likely to be affected, altering the rural nature of the area. The application does not propose the removal of part of the sloping bank and therefore the roots of trees would not be affected by any highway related works.

An objection has been received on grounds that there is no existing pavement along this stretch of Worthington Lane to allow pedestrians safe passage to walk to the village. Whilst this is the case, this is an existing arrangement for many of the existing properties along Worthington Lane for around a 100 metre stretch from the site access point. As set out in the principle of development section of this report, above, the Local Planning Authority would not look to resist the application on this basis.

On the above basis, the application is considered to be acceptable when having regard to highway safety and parking and would accord with Policies IF4 and IF7 of the Local Plan (2021) and Paragraph 115 of the NPPF, subject to the imposition of planning conditions to secure suitable visibility splays, turning, parking and appropriate surfacing, in addition to an alternative agricultural vehicle turning facility within land edged in blue.

### **Ecology, Landscaping and Biodiversity Net Gain**

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

Policy BotH5 (Ecology and Biodiversity) of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020-2040) states that development should conserve, restore and enhance the network of local ecological features and habitats which include Local Wildlife Sites (including historical sites), Geology Sites and Wildlife Corridors.

### *Ecology Impacts*

The site features open agricultural land bordered by trees and hedgerow to the eastern boundary. The County Council's Ecologist has been consulted on the application and has advised that the Preliminary Ecological Appraisal (PEA) report submitted to support the application is satisfactory. The assessment identified that the proposed development site is of low ecological value and that no further surveys are required prior to the determination of the application.

Recommendations have been made relating to the provision of biodiversity enhancements (swift, bat and bee bricks and native species planting) within the proposed scheme and these are recommended to be secured through the imposition of a planning condition. Any external lighting can also be controlled through the use of a planning condition.

Whilst the site plan shows an 8 metre wide buffer zone for planting of native trees and hedgerows for biodiversity enhancement, this buffer zone falls outside of the red line boundary of the site and therefore is not deliverable as part of this planning application. Furthermore, landscaping is a matter to be determined at the reserved matters stage and appropriate planting to screen the development from the surrounding countryside should be proposed within the red line boundary at the reserved matters stage with appropriate conditions imposed to secure its implementation and retention.

Whilst an objection has been received advising that Natural England be consulted on this application, the application does not meet the consultation trigger for Natural England to be consulted at the County Council's Ecologist has fully reviewed the proposal.

### *Impacts upon Trees and Hedgerows*

Policy En1 of the Local Plan (2021) states 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.

Policy BotH6 (Trees and Hedgerows) of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020-2040) states that existing trees and hedgerows should be retained where possible and integrated into new developments. It further states that development that damages or results in the loss or deterioration of ancient trees, hedgerows or trees of good arboricultural and amenity value will not be supported. It goes on to state that proposals should be designed to retain ancient trees, hedgerows or trees of arboricultural and amenity value and that proposals should be accompanied by a tree survey that establishes the health and longevity of any affected trees and hedgerows, indicating replanting where appropriate.

A number of objections have been received relating to the requirement for a number of trees and hedgerows adjacent to the highway edges to be removed to facilitate the proposed visibility splays. The visibility splays shown on the submitted plans would require the trimming back and maintenance of roadside vegetation, however, removals would not be necessary, despite the concerns raised.

Whilst an Arboricultural Impact Assessment has not been submitted to support this application, the Local Planning Authority are satisfied that the site can be developed whilst ensuring existing trees and hedgerows to the east of the site can be retained, and that no unacceptable impacts upon Root Protection Areas would arise. The reserved matters application would need to demonstrate that a suitable landscaping proposed would be achieved, and that the development, particularly the proposed driveway area to the front of the site, would not affect the long term health of existing trees to the east of the site through the submission of further arboricultural and detailed landscaping details (which may require a no dig method of construction for example).

Owing to the proposed layout and its proximity to trees and hedgerows to the east of the site which are considered to contribute positively to the character of the area, it is considered to remove householder permitted development rights (including Class F – hard surfaces incidental to the enjoyment of a dwellinghouse) through the imposition of a planning condition in order to protect the long term health of trees and hedges to the east of the site.

### *Biodiversity Net Gain*

Policy Both5 (Ecology and Biodiversity) of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020-2040) states that new development will be expected to provide a net gain in biodiversity consistent with any national policy prevailing at the time that a planning application is determined.

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 3<sup>rd</sup> May 2024 and therefore is a development which is required to demonstrate that at least the statutory minimum 10% net gain will be achieved. However, there are statutory exemptions, transitional arrangements and requirements relating to irreplaceable habitat which mean that the biodiversity gain condition does not always apply.

In this case, the application is for a self-build and custom build development which consists of one dwelling and would be carried out on a site which has an area no larger than 0.5 hectares, and consists exclusively of a dwelling which is for self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015.

An objection has been received on the basis that the biodiversity net gain exemption should not be triggered as the applicant owns a much larger area of land in excess of 0.5 hectares. It should be noted that the exemption applies to the application site area, and does not extend to additional areas of land owned by the applicant which fall outside of the red line boundary. On the above basis, the proposal is considered to be exempt, and the Biodiversity Gain Condition is not required to be imposed or approved before development is begun.

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

As such, subject to a condition which would secure a biodiversity enhancements and a condition to control external lighting, the application is considered to be acceptable when having regard to arboricultural impacts, ecology and biodiversity. The proposal would result in no unacceptable conflict with Policy Both6 of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020-2040). Subject to conditions, 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, Policy Both5 of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020-2040), and the relevant sections of the NPPF. It is considered that the proposals would

comply with the provisions of 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.

Policy BotH7 (Water Management) of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020-2040) states that development sites should be designed to manage surface water sustainably and utilise resources sustainably during use. It goes on to state that SuDS should be utilised unless demonstrated to be inappropriate and that schemes should incorporate water efficient design and technology.

A number of objections have been received on grounds of flooding impacts, and that the development would result in the exacerbation of existing surface water flooding issues. Objections have also been received on grounds of a lack of detail in relation to the proposed method of surface water drainage.

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 existing site is a greenfield site. The Lead Local Flood Authority has been consulted on the application and have raised no objection, referring the Local Planning Authority to 'standing advice'. In this case, there are no fluvial or pluvial flood risk concerns in relation to this proposal. The application proposes the use of a soakaway to dispose of surface water which is considered to be acceptable, and a condition is recommended to be imposed requiring that the proposal utilises a sustainable drainage system or that an alternative scheme of surface water discharge (including evidence to demonstrate that the means of drainage via soakaway is not deemed to be suitable for the site) has first been submitted to and approved in writing by the Local Planning Authority.

Overall, subject to the imposition of a planning condition to secure a suitable surface water drainage scheme, 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) and Policy BotH7 of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020-2040).

### **Archaeology**

Criterion (4) of Policy He1 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 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 could be provided within 25 metres of the public highway, where bins would need to be left for collection as the Council's waste collection vehicles would not be able to enter the site. The Building Regulations requirement for bins to be stored no more than 25 metres from a bin collection point would therefore not be exceeded in this case. However, this is separate legislation and there is no requirement in the Local Plan (2021) or Good Design SPD to meet this requirement.

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 paced on collection day. This could be accommodated without adversely impacting on visual and residential amenities, trees or highway safety. A planning condition is recommended to 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, as set out in both the North West Leicestershire Local Plan (2021) and the referendum version of the Breedon on the Hill Neighbourhood Plan. The proposal is fundamentally at odds with the settlement hierarchy and strategic housing aims of Policy S2 of the adopted Local Plan and would also be contrary to Policy S3, as it is not a form of development supported in the countryside under Policy S3. The application would also conflict with criteria (i) and (iii) of the second set of criteria to Policy S3 of the North West Leicestershire Local Plan (2021). Furthermore, the proposal is not a form of development supported by Policies Both14 or Both15 of the referendum version of the Breedon on the Hill Neighbourhood Plan (2020 – 2040).

On this basis, the proposal is not in accordance with the spatial policies set out within the adopted North West Leicestershire Local Plan (2021), or the referendum version of the Breedon on the Hill Neighbourhood Plan (2020 – 2040).

However, the adopted Local Plan, and indeed the Referendum version of the Breedon on the Hill Neighbourhood Plan (2020 – 2040), are silent on the matter of self-build housing and in these circumstances, Paragraph 11(d)(ii) of the NPPF would apply.

In this case, the proposal would result in a degree of harm to the landscape and character of the area owing to the development and permanent loss of agricultural land and the exacerbation of existing ribbon development. However, the development relates to the provision of one dwelling, and owing to its close relationship to existing residential development to the north, the positioning of the building line of the development to the east which would not be breached, in addition to the lack of vegetation removal, the harm would be limited in this case. Furthermore, amended plans have been received to ensure that the rear garden area would be at least equal to the footprint of the proposed dwelling. This harm is therefore afforded limited weight against the granting of planning permission in the planning balance.

The application would also result in the loss of agricultural land, which is potentially Best and Most Versatile agricultural land, which would be a harm which weighs against the proposal in the planning balance. This harm would attract limited weight against granting planning permission owing to the small size of the site.

There are no technical concerns arising from the proposal. The absence of harm in relation to ecology, arboricultural impacts, neighbour amenity, highway safety, flood risk and drainage can

only be considered neutral factors in the planning balance.

In terms of benefits, the proposed development would contribute towards the supply of self-build plots when there is an identified shortfall and the Local Planning Authority is failing in its statutory duty to provide enough self-build plots in order to meet demand. It is recognised that self-build and custom housebuilding is a key element of the government's agenda to increase the supply of housing, both market and affordable and gives more people the opportunity to build their own homes. However, it is important to note that there is nothing set out in legislation or guidance (or the Council's Local Plan) that advises that proposals for self and custom build applications should be treated any differently to applications for housing in general.

It is therefore suggested that proposals for self and custom build properties will also be expected to comply with general housing policies in the Local Plan, for example, settlement hierarchy and the expectation that new housing development be located within the defined Limits to Development or in some instances areas that are sustainable and close to the Limits to Development. In this case, the site is located adjacent to the Limits to Development of Breedon on the Hill, which is defined as a Sustainable Village, and the proposal is considered to be accessible by a range of sustainable transport with future occupiers able to meet some of their day to needs through the services and facilities provided within the village itself which would be within walking and cycling distance from the site.

This location is more acceptable when compared to remote locations in the countryside where there would be more adverse environmental and social sustainability impacts. In this case the proposal would not constitute an 'isolated' dwelling, and it would be close to other dwellings and some services. The site is therefore considered to be socially sustainable having regard to the provisions set out within the NPPF. The provision of a self-build plot in a sustainable location is therefore considered to attract significant weight in favour of granting planning permission.

The proposal would support local services and facilities 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.

The proposal would also secure some biodiversity enhancements which is afforded limited weight in favour of the proposal.

Overall, having assessed the proposal in full against the policies set out within the NPPF, in particular those related to directing development to sustainable locations and securing well-designed places, and after carrying out a planning balance, it is considered that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits arising from the proposal when assessed against the policies in the NPPF taken as a whole. On this basis, it is recommended that outline planning permission be granted, subject to a S106 legal agreement to secure the dwelling as a self-build dwelling, and subject to the imposition of suitably worded planning conditions.

Members are advised that the applicant has submitted a draft Unilateral Undertaking to support the application which would secure the dwelling as a self-build development.

**Erection of three detached dwellings and three double garages (one attached and two detached) with associated access, landscaping and drainage  
Land At Drum And Monkey Lane Packington Leicestershire**

**Report Item No  
A4**

**Application Reference  
24/01294/FUL**

**Grid Reference (E) 436410  
Grid Reference (N) 314785**

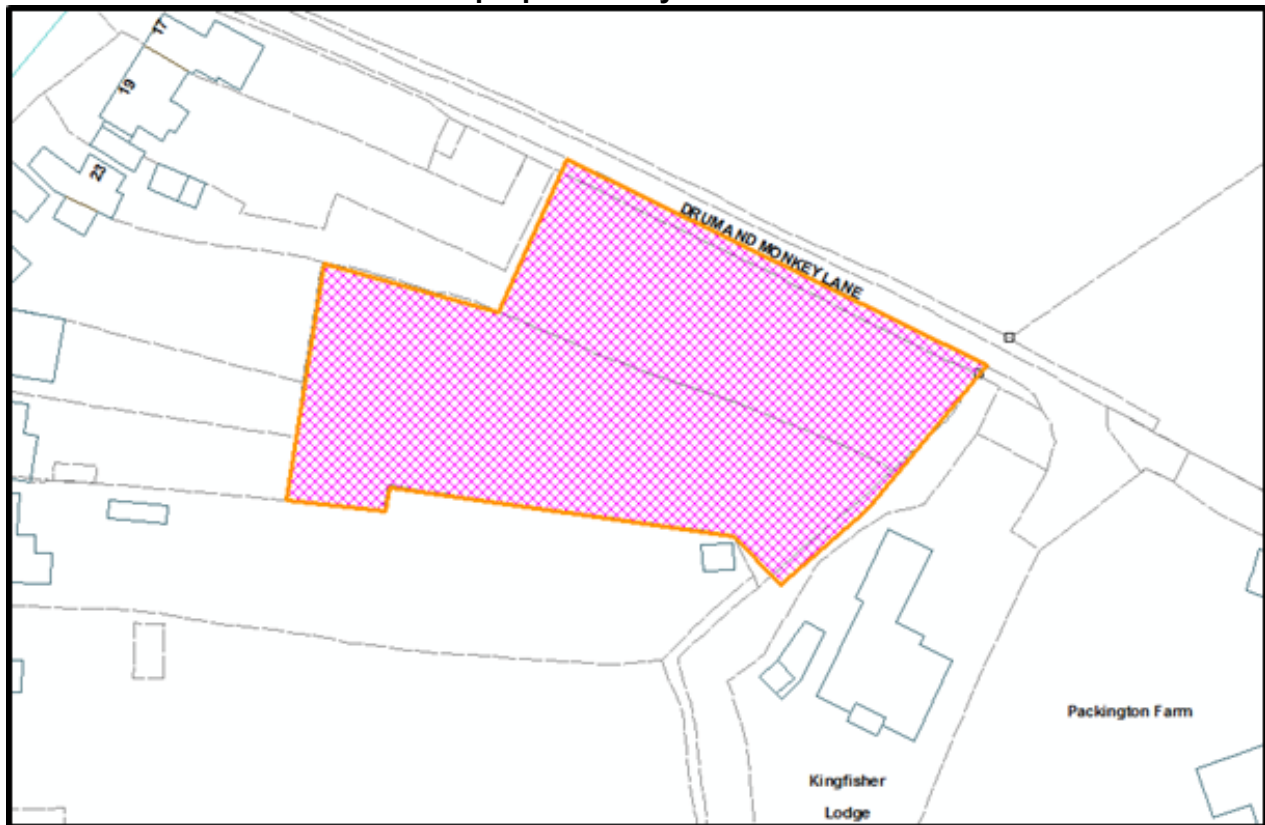
**Date Registered:  
7 November 2024  
Consultation Expiry:  
26 February 2025  
8 Week Date:  
2 January 2025  
Extension of Time:  
None Agreed**

**Applicant:  
Mr N Rushton**

**Case Officer:  
Sarah Booth**

**Recommendation:  
PERMIT subject to S106 Agreement**

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



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## 1. Proposals and Background

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

The application is brought to the Planning Committee as Councillor Rushton is the landowner.

### **RECOMMENDATION - PERMIT, subject to the following conditions and the signing of a Section 106 Agreement to deliver the following:**

1 – contribution under the River Mease Developer Contribution Scheme

#### **Conditions**

1. Standard time limit of three years for implementation
2. Approved plans
3. Construction hours between 0800 and 1800 hours on weekdays, and 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays
4. Construction management plan and method statement for protection of the adjacent watercourse and trees and hedgerows during construction and details of construction traffic management including wheel cleansing facilities and vehicle parking and turning facilities
5. Scheme of supervision for tree/hedgerow protection measures and works within the no-dig construction areas and protective fencing areas during construction
6. No occupation or use of the development until scheme of supervision under condition 5 submitted to and approved by the LPA
7. No development to commence on site until trees/hedgerows protection measures during construction
8. Works within areas of no-dig construction undertaken in accordance with submitted method statement and areas of ground protection
9. Construction method statement for any works within tree/hedgerow protection areas
10. Management plan for the protected tree
11. Construction management plan for the public footpath
12. Measures to mitigate against residual risks from groundwater during construction and details of groundwater resistance/resilient building techniques
13. Management of surface water drainage during construction
14. Details of surface water drainage scheme
15. Scheme for management and maintenance of surface water drainage scheme
16. Scheme for management and maintenance of foul water drainage scheme
17. Details of existing and finished ground and finished floor levels
18. Materials and details – as per details provided
19. Bin storage to be provided prior to occupation
20. Any external lighting to the access drive, turning and parking areas to be agreed
21. Soft landscaping scheme and timetable for implementation and future replacement for landscaping
22. Hard landscaping scheme and timetable for implementation
23. Amendments to the south eastern boundary fence to Plot 3
24. Other boundary treatments within the site in accordance with submitted plan
25. Biodiversity enhancements (bat and bird boxes and hedgehog holes)
26. Restriction on external light spill to hedgerows
27. Site accesses and visibility splays provided before occupation
28. Pedestrian visibility splays to be provided before occupation



29. Surfacing of access drive before occupation
30. Closure of existing access onto Drum & Monkey Lane before occupation
31. Parking spaces to be provided before occupation
32. Signage to vehicular access to advise no vehicular access to front of Plot 3, no turning space beyond the access and to use on-site parking/turning for Plot 3
33. Pedestrian footpath link to Plot 3 provided before occupation
34. Scheme for safety measures for users of the public footpath
35. Removal of permitted development rights for extensions to dwellings
36. Restrictions on new windows/openings
37. Obscure glazing/non-opening elements to some windows
38. Removal of permitted development rights for hard surfaces
39. Removal of permitted development rights for boundary treatments
40. Removal of permitted development rights for new access onto Drum & Monkey Lane
41. Restriction of extent of residential curtilage to Plots 2 and 3
42. Biodiversity Gain Plan to be prepared in accordance with submitted BNG information and approved Biodiversity Gain Plan to be implemented.

***Note to Applicant***

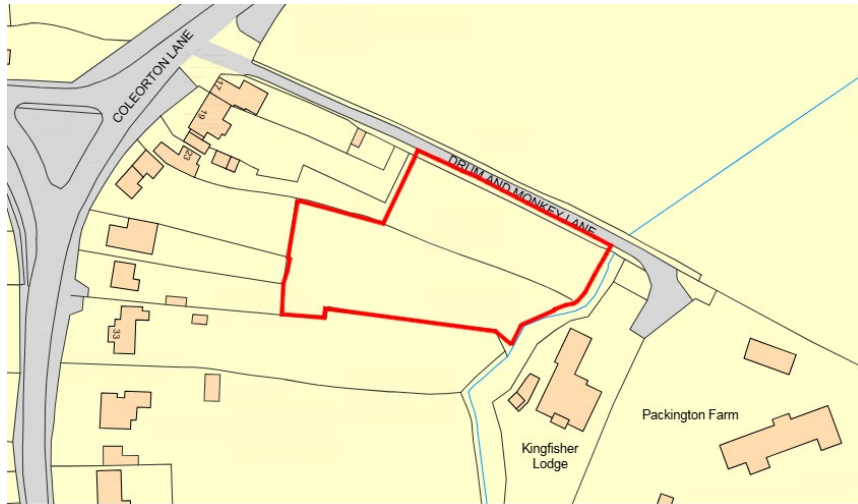
Mandatory National BNG condition to submit Biodiversity Gain Plan before development commences

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of three detached dwellings and three double garages (one attached and two detached) with associated access, landscaping and drainage at land at Drum and Monkey Lane, Packington.

#### Site Location Plan



#### Aerial View of the Site



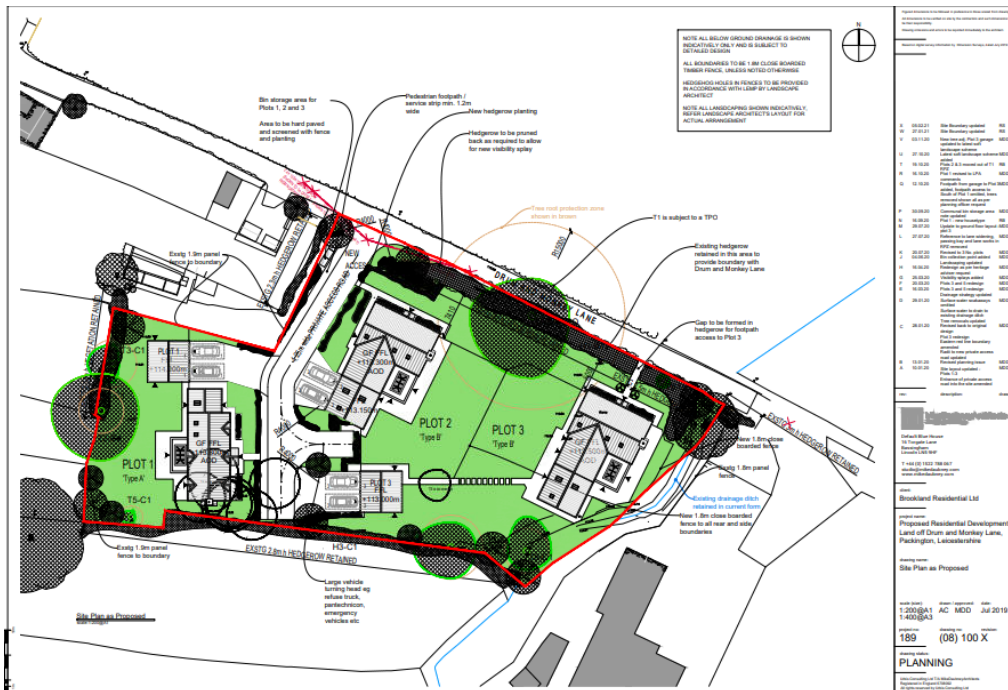
The proposal is almost identical to a scheme for three dwellings and garages on the site that was resolved to be permitted at Planning Committee on 3 November 2020, with the permission being issued on 31 March 2021 (19/02102/FUL). The only differences on the current scheme are that the garden to Plot 3 has been reduced on its eastern side and so is further away from the

watercourse, and the red line boundary therefore follows the amended south eastern edge to the garden.

Current Application Layout



2019 Application Layout



The site lies on the southern side of Drum and Monkey Lane and is adjoined by dwellings and gardens to the south and west, with open fields lying to the north on the opposite side of the lane. A watercourse adjoins the site to the east, with dwellings and gardens beyond. It is understood that the site previously formed part of the gardens to No. 23 and 31 Normanton Road.

The site is currently grassed with a mature ash tree on the northern boundary, which is protected by Tree Preservation Order T481. The protected ash tree and most of the frontage hedgerow would be retained, along with the hedgerow on the southern boundary and trees in the south eastern corner and close to the western boundary. Trees are proposed to be removed close to the southern and western boundaries and in the north eastern corner. A hedgerow that ran through the centre of the site has been removed, and other trees and vegetation within the site have been removed. There are also other trees and vegetation on adjacent land, including within the gardens to the west of the site. The land slopes down by approximately two metres from west to east towards the watercourse and very gradually from north to south.

### Site Photos



The dwellings are proposed to connect to a private pumping station on the site which would discharge to a rising main running through the garden to No. 31 Normanton Road, which would connect into No. 31's foul drainage system and then the adopted mains sewer system.

One of the dwellings (Plot 1) would be located at the western end of the site, with the other two (Plots 2 and 3) fronting onto Drum and Monkey Lane. Detached double garages are proposed to Plots 1 and 3, with an attached garage to Plot 2.

Drum and Monkey Lane is an unadopted road, and leads off the public highway in a south easterly direction where Normanton Road and Coleorton Lane meet. Public footpath O64 runs along Drum and Monkey Lane. Currently the lane serves two dwellings that have been built on the former poultry farm site, and permission also exists for another dwelling there. Vehicular access is also available from the lane to the site and to the rear gardens/parking areas to Nos. 17 and 19 Normanton Road.

The existing access onto the lane would be closed and a new access would be formed at the western end of the northern boundary, serving all three dwellings. A new pedestrian access to serve Plot 3 would also be formed at the eastern end of the northern boundary. A turning area is proposed close to the southern boundary.

Following officer and consultee comments, amended plans and information have been submitted to address matters relating to flood risk, highway safety, bin collection arrangements and biodiversity net gain.

The precise dimensions of the proposal are available to view on the Council's website.

The site lies within the Limits to Development as identified in the adopted North West Leicestershire Local Plan (2021). Packington House on Spring Lane lies around 230 metres to the south east and No. 9-11 Normanton Road lies around 90 metres to the north west, which are both Grade 2 listed buildings. The Packington Conservation Area lies to the west of the site and runs along part of its western boundaries. Nos. 17, 19, 23 and 25/27 Normanton Road are identified in the Packington Conservation Area Appraisal as unlisted buildings of interest.

The site lies within Flood Zone 1. The eastern parts of the site lie within an area at low risk of surface water flooding. Parts of Drum and Monkey Lane lie within areas at low to high risk of surface water flooding. The site also lies within the catchment area of the River Mease Special Area of Conservation and the adjacent watercourse is a tributary of the Gilwiskaw Brook, which in turn is a tributary of the River Mease.

*Other Planning History:*

An outline application for the erection of a single storey detached dwelling and detached garage on the northern part of the site (19/01063/OUT) was withdrawn in July 2019. Other planning history relates to extensions to No. 23 Normanton Road and for works to two ash trees that were erroneously submitted, as the trees are not in the Conservation Area.

## **2. Publicity**

15 Neighbours have been notified.

Site Notice displayed 15 November 2024.

Press Notice published Leicester Mercury 20 November 2024.

### 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 on the Council's website.

#### Statutory Consultees

**Packington Parish Council** - Objects to the application on the following grounds (which included photos):

"Packington Parish Council urge North West Leicestershire District Council not to grant this planning application due to the many issues it will create for the village of Packington.

Since the previous planning application was submitted, flooding is a significant issue in Packington, and we have seen an increase in the depth and the destruction it has caused year on year, which will only increase due to climate change becoming more damaging to the village. The land at the bottom of Drum and Monkey Lane relies on the Gilwiskaw Brook to drain the surrounding area surface water run-off, including run-off from the proposed development land. However, with increased rainfall, the brook often becomes overwhelmed and breaks its banks. The surrounding fields are often waterlogged with significant surface water. The ditches in the area that run into Spring Lane and the adjacent new development has caused flooding. The land may lie within a low flood risk area; however, the reality is that it does flood and has impacted many houses in the area by flooding, not only the roads but properties on Spring Lane, Drum and Monkey Lane, Normanton Road and down to Mill Street and Babelake Street.

The Parish Council also have great concern for road and pedestrian safety if this application was to be granted. The exit to Drum and Monkey Lane is onto Coleorton Lane, a fast bend with vehicles leaving a 60mph zone and entering a 30mph zone. Vehicles are slow to reduce their speed which has warranted the installation of a vehicle activated speed sign. This section of road is listed in the Leicestershire Road Safety Partnership as a 'community concern site'.

North West Leicestershire District previously rejected a planning application to build 3 dwellings on land opposite the Drum and Monkey Lane junction due to access and road safety issues. The same safety concerns should be applied to this application.

There is also a concern with visibility at the junction of Drum and Monkey Lane due to parked vehicles at the top of the lane and foliage which is consistently overgrown. The parked cars are from dog walkers and hikers accessing the public footpath located there. Weekends are particularly an issue. There will regularly be over 10 cars parked here. There have been two accidents at this junction in the last year. The surge in traffic to and from the proposed development will increase the likelihood of further accidents and safety generally.

Along with visibility concerns, there are also concerns for pedestrian and driver safety using Drum and Monkey Lane. The lane has a very well used public footpath but in places the lane is only 2.9 metres wide making it very difficult for vehicles to move freely if there are also pedestrians on the road. Due to this reason, the development fails to comply with 4 out of the 5 requisites in clause 110 of the National Planning Policy Framework.

The development fails as it doesn't consider the needs of those users with disabilities using Drum and Monkey Lane. It fails on creating a safe place that minimises the scope for conflict between

pedestrians, cyclists and vehicles. It fails to give first priority to pedestrian and cycle movements and there is significant danger and hazard to the safety of pedestrians, cyclists and disabled users who use the public footpath. The development doesn't allow for the efficient delivery of goods and access by service and emergence vehicles. Large vehicles cannot deliver to the proposed site without blocking the lane completely.

NWLDC have previously rejected planning applications on Spring Lane, which is considerably wider than Drum and Monkey Lane, due to conflicts between pedestrians and vehicles. Spring Lane is also an adopted road and has many passing opportunities for vehicles and pedestrians due to the presence of grassed verges. It is classed as a County Highway and, unlike Drum and Monkey Lane which is unadopted (with no verges) and has a well-used public footpath.

There is no dedicated footpath for pedestrians along Drum and Monkey Lane and no passing opportunities. The increase in traffic a 5 bedroom home (potentially 7 bedroom if loft space conversion is permitted) and the build of the live planning permission for a further 4 bedroom home on the former Poultry Farm site, would cause a real safety concern for pedestrians and would also increase upon the requirement that NWLDC placed upon a previous planning application, stating that the new development could not increase traffic volumes on the Lane above those from the previous Poultry Farm development which was demolished to make way for the new current housing site.

There is simply not the adequate space for the majority of large vehicles that would need to visit the proposed site to deliver goods to turn at the end of the land. There is neither the space nor availability. The turning head at the top of the lane is private land and the developers would not be permitted to use this as such. This would therefore mean that large vehicles would have to reverse down Drum and Monkey Lane which would be very hazardous for pedestrians and other vehicle users of the Lane.

The junction onto Drum and Monkey Lane would also be deemed inadequate as it does not meet the visibility splays in the LCC Highways Design Guide. We also believe the visibility splay quoted in the planning application to be inaccurate stating there is 36 metres of sighted distance. This would only be possible if 33 metres of hedgerow were removed. This does not conserve, restore or enhance the biodiversity of the district as stated in the Local Plan. This application should therefore not be supported.

The planning application also states that there will be a bin store located at the entrance to the development. As NWLDC do not allow refuse vehicles to travel on unadopted roads to collect household waste or recycling, they would be expected to move their refuse bins to the collection point at the end of the Lane. These properties will not be serviced by refuse vehicles. This would therefore increase the number of bins waiting at the bell mouth area on Coleorton Lane for collection, to between 7 and 70 bins (there are often up to 10 bins and boxes per dwelling per fortnight for recycling).

The proposed development does not have prescriptive right of way on Drum and Monkey Lane. The prescriptive rights have only been noted by Land Registry which is as much as they can do. Therefore, there is likely to be a right of way issue if this development was granted. Packington Parish Council urge you to refuse this application."

**NWLDC Conservation Officer** - has referred to his previous comments relating to application 19/02102/FUL, where he raised concerns in respect of the layout and design of the schemes.

**Refers to Standing Advice:**

LLFA

**No objections subject to conditions:**

County Highway Authority  
LCC Ecology  
County Archaeologist

**No objections from:**

NWLDC Environmental Protection  
LCC Minerals And Waste Planning  
Police Architectural Liaison Officer

**No Comments received from:**

NWLDC Tree Officer  
NWLDC Building Control  
NWLDC Waste Service  
Severn Trent Water

If any comments are received, they will be reported on the Update Sheet.

**Third Party Representations**

11 letters of representation have been received (some of which include photographs and videos) from five different addresses from third parties. The letters of representation all raise objections with the comments summarised as follows:



Grounds of Objections	Description of Impact
Design and layout	Third storey not in keeping with locality <b>PLANNING APPLICATIONS- SECTION A</b>
	Out of scale
	Blight on the village
	Waste receptacles will all have to be left at the junction with Coleorton Lane/Normanton Lane because the NWLDC waste collection vehicles do not access Drum and Monkey Lane.
Residential Amenity	Loss of privacy in house and garden/impact on visual amenity
	Should not be considered as in-fill
	Additional bins at the entrance to Drum and monkey Lane will result in loss of amenity for nearest neighbour
	Proposed signs will affect residential amenity
Highway safety	Single track/one car width only
	Poor access, the narrowness of Drum and Monkey Lane
	Unacceptable increase in traffic is a danger to public safety
	Vehicles and pedestrian safety
	Exit onto Coleorton Lane is of concern due to speed of traffic and visibility
	Medium and heavy goods vehicles will have to reverse out of the lane due to the narrowness
	Potential for additional on street parking causing a hazard due to the size of the dwellings and amount of onsite parking proposed f
	Drum and Monkey Lane is not the required width for access by fire tenders
	Visibility at junction is below standard required
	Questions validity of proposed safety signage and its effectiveness
	Additional refuse collection from the junction of Drum and Monkey Lane will be a hazard to road safety
	Proposed signs will make the lane even narrower
Previous refusal by LCC to build three dwellings on land	

PLANNING APPLICATIONS- SECTION A

	opposite Drum & Monkey Lane due to access and road safety issues and safety concerns associated with that proposal should apply
	Swept path analysis is incorrect
Impact on Public Footpath 064	Issues raised by residents in respect of the safety of users of Drum & Monkey Lane have not been addressed by the County Highway Authority
	Public footpath is well used
	No footpath
	Concern for the safety of users of the public footpath/fails to meet the requirements of the NPPF
Pollution	Issues raised by residents in respect of the safety of users of Drum & Monkey Lane have not been addressed by the County Highway Authority
	Noise pollution and activity
Flooding	Vehicle emissions pollution
	Change in circumstances since previous application, flooding being a regular occurrence (footage provided)
	Concerns regarding flooding issues in Packington being exacerbated by this development
	Increase in flood risk in the vicinity of this site
	Dwellings proposed in area of historic flooding which will be liable to flooding
	The development would increase run off into the brook (photographic evidence provided)
	Flood risk information submitted is out of date
River Mease SAC/SSSI	Inappropriate development close to brook
Ecological Impacts	Questions why this scheme is not considering alternative to mains sewer connection in order to protect the SAC/SSSI.
	Adverse Impact on wildlife
	Ancient hedgerow bordering the lane should be protected
Other Matters	Adverse impact on character of National Forest

	Design and Access, Heritage Statements, Flood Risk Assessment and Arboriculture Report are out of date
	Significant amount of development in Packington in last 10 years, further development not required
	Previous application has prompted other similar applications in the vicinity and sets a precedent for more similar applications in the future
	Access to utilities
	The developer does not have a right of way along Drum and Monkey Lane
	Comment still awaiting response regarding current developer (Councillor Rushton) involvement in previous application
	Questions impartiality of LCC and NWLDC as Councillor Rushton is applicant

#### 4. Relevant Planning Policy

##### National Planning Policy Framework – December 2024

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

- Paragraphs 7, 8, 9 and 10 (Achieving sustainable development)
- Paragraphs 11 and 12 (Presumption in favour of sustainable development)
- Paragraphs 39, 48 and 49 (Decision-making)
- Paragraphs 56, 57 and 58 (Planning conditions and obligations)
- Paragraphs 61, 65, 73, 75, 78 and 83 (Delivering a sufficient supply of homes)
- Paragraphs 96 and 105 (Promoting healthy and safe communities)
- Paragraphs 109, 110, 115, 116 and 117 (Promoting sustainable transport)
- Paragraphs 124, 125, 129 and 130 (Making effective use of land)
- Paragraphs 131, 135, 136, 137, 139 and 140 (Achieving well-designed places)
- Paragraphs 161, 163, 164, 166, 170, 173, 174, 175, 177, 178, 179, 181 and 182 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraphs 187, 192, 193, 195, 196, 197 and 198 (Conserving and enhancing the natural environment)
- Paragraphs 202, 205, 207, 208, 210, 212, 213, 214, 215, 216, 218, 219 and 220 (Conserving and enhancing the historic 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 this application:

Policy S1 - Future Housing and Economic Development Needs  
Policy S2 - Settlement Hierarchy  
Policy D1 - Design of New Development  
Policy D2 - Amenity  
Policy IF4 - Transport Infrastructure and New Development  
Policy IF7 - Parking Provision and New Development  
Policy En1 - Nature Conservation  
Policy En2 - River Mease Special Area of Conservation  
Policy En3 - The National Forest  
Policy 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

**Adopted Leicestershire Minerals and Waste Local Plan (September 2019)**

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

Policy M11: Safeguarding of Mineral Resources  
Policy M12: Safeguarding of Existing Mineral Sites and Associated Minerals Infrastructure  
Policy W9: Safeguarding Waste Management Facilities

**Other Guidance**

National Planning Practice Guidance  
The Community Infrastructure Levy Regulations 2010  
The Conservation of Habitats and Species Regulations 2017  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)  
River Mease Water Quality Management Plan - August 2011  
The River Mease Developer Contributions Scheme (DCS)  
Natural England - Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites – March 2022  
Good Design for North West Leicestershire SPD - April 2017  
National Design Guide  
Leicestershire Highways Design Guide (Leicestershire County Council)  
Packington Conservation Area Study and Appraisal - September 2001  
DEFRA Rights of Way Circular (1/09) - October 2009  
National Forest Strategy 2014-2024

**5. Assessment**

**Principle of the Development**

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, comprises the adopted North West Leicestershire Local Plan (2021) and the adopted Leicestershire Minerals and Waste Local Plan (2019).

The application site lies within the defined Limits to Development within the Local Plan. Policy S2 advises that in villages such as Packington a limited amount of growth will take place within

the Limits to Development.

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 is Policy S2 as it relates to the provision and distribution of new development, including housing. The Council can demonstrate a five-year housing land supply and it is considered that Local Plan Policy S2 is effective, not out of date and carries significant weight.

In terms of social sustainability Packington provides a range of day to day facilities, e.g. a primary school, shop, church, village hall, café, public house and play area/recreation ground, along with bus stops served by a limited hourly bus service. These services/facilities are within 800 metres to one km (preferred maximum walking distance) of the site.

Whilst there is no footway or lighting along Drum and Monkey Lane and it is single track, it has a low traffic flow and is a public right of way. Footways and lighting are available from Normanton Road, some 65 metres away, and onwards into the village. As such there are some opportunities to walk to the village from the site along a route which is already in use by pedestrians. The centre of Ashby-de-la-Zouch is also located approximately 2.5km from the site, where a wider range of services can be found, and which is considered to be accessible on foot or by cycling. Therefore, it is considered that occupiers of the dwellings would not necessarily be dependent on the private car. Taking all of these matters into account it is considered that the site is socially sustainable in terms of access to services/facilities.

Given the scale of the development, and when taking into account other sites that have been granted planning permission since 2014 or are currently proposed in the village (totalling 50+ dwellings), it is considered that the proposal would not result in unsustainable demands on local services and facilities. Whilst the site may not be served by mains gas, electricity or water no evidence has been submitted to demonstrate that these services could not be installed. There are also parts of the District without mains gas where gas/oil tanks are used. The proposal would also have limited economic benefits which would include local construction jobs and helping to maintain local services in the area.

The NPPF encourages the effective use of land in meeting the need for homes, and as much use as possible of previously developed land. It is understood that the site was previously part of the established rear gardens to existing dwellings. Garden land in built up areas is excluded from the definition of previously developed land set out in the NPPF. It is not clear from the available evidence whether the site was previously garden land but it has now been separated from the adjacent dwellings. It is also not considered that the site formed part of the curtilages to nearby dwellings. Regardless of its status the site is greenfield.

The proposal would result in loss of greenfield land. However the site is in a location where occupiers of the dwellings would not necessarily be dependent on the private car, the proposal would not result in unsustainable demands on local services and facilities, would comply with the settlement hierarchy and strategic housing aims set out under Policy S2, and would have limited economic benefits, which all weigh positively in the balance. It is therefore considered that the proposal is acceptable in principle.

## **Design and Visual Impact**

The need for good design in new residential development is outlined in Policy D1, the Council's

Good Design SPD, the National Design Guide and Paragraphs 131 and 135 of the NPPF. Policy En3 requires development in the National Forest to be appropriate to its Forest setting.

The proposal results in a density of around 10 dwellings per hectare. The Local Plan does not contain a policy setting specific densities. This density is considered appropriate having regard to the character of the area and the site's location on the edge of the village.

The NPPF sets out that the case should be considered for the use of policies to resist inappropriate development of residential gardens. The Local Plan does not include such a policy. However an assessment of the impact on the character and visual amenities of the locality is set out below.

This part of the village is characterised by dwellings that front onto Normanton Road, although some recent housing developments in the locality do not have road frontages, including the dwellings on the former poultry farm to the east (which replaced the poultry farm buildings), and a site further south along Normanton Road which fronts onto a private road. Two applications for the erection of one and two dwellings on the rear garden to No. 35 Normanton Road (which lies to the south of the site) and so would have no road frontages, have recently been refused, including on the grounds of adverse impact on the character and visual amenities of the area. The nearest dwellings on Normanton Road are densely developed and set back slightly from the road with long gardens, creating a linear plot pattern extending back, and the dwellings on the former poultry farm site are large in size and on spacious sites. The site is considered to make a positive contribution to the character and visual amenities of the locality due to its undeveloped nature at the edge of the village.

The scheme does not completely reflect the existing linear plot pattern in the area. However the narrower plots are located to the west of the site on Normanton Road, with the existing plot pattern on the site and further to the south being more diluted as the parcels of land, whilst still linear, are wider than those to the west.

The scheme would not be out of keeping with the character of the area as whilst one dwelling would have no road frontage, the other two would front onto Drum and Monkey Lane, which whilst not public highway, is a public right of way. The dwellings would also be set back from the lane. The scheme would also result in a much less dense form of development compared to the nearest dwellings on Normanton Road and would provide a transition from this denser area to the more spacious former poultry farm site.

Plot 1 and the garages would not be overly prominent in views from Drum and Monkey Lane or from Coleorton Lane to the north, as they would be set well back and screened by existing vegetation. Plots 2 and 3 would be more visible in these views, but would also be set back, and the frontage hedgerow and the protected ash tree would provide some screening. In addition, the dwellings would be seen alongside existing dwellings to the east and west.

It is considered that the site could accommodate all of the necessary requirements (private gardens, bin storage, parking/turning space) without being too cramped or resulting in over-development. 1.8 metre high close boarded fencing is proposed along some of the boundaries to the plots, but is not proposed along the site boundaries other than such fencing already in place on part of the western boundaries. A soft landscaping scheme was approved under the discharge of conditions on the 2019 application.

The swept path analysis for fire engines and waste collection vehicles shows that there may be some adverse impacts on the hedgerow that runs along the northern side of Drum and Monkey

Lane, if such vehicles turn at the access to the site. However, the Council's waste collection vehicles do not use Drum and Monkey Lane and it is unlikely that larger vehicles such as fire engines and delivery and removal lorries would frequently turn in this area. Turning space would also be provided within the site which is of a suitable size to be used by larger vehicles. As such the potential for adverse impacts on this hedgerow is considered to be infrequent and any adverse impacts would be minimal.

The three dwellings would be linear in form and incorporate traditional features and subservient elements. Plot 1 would be smaller in scale with its rooms partly in the roofspace. Plots 2 and 3 would be larger and have three floors of accommodation, although the second floors would be within the roofspace. The garages would be single storey and of a simple design. There are also large dwellings nearby, including on the former poultry farm site, and there is also a mix in the scale, height and design of nearby dwellings.

**Plot 1**



**Plot 2**



**Plot 3**



Plot 2 would be dual aspect which provides surveillance to Drum & Monkey Lane and the driveway and parking spaces. Whilst Plot 3's garage and parking spaces are located some distance from the dwelling, surveillance would be provided from the front of Plot 1. The view along the driveway would terminate with a partial view of the front of Plot 1 and the hedgerow that forms the southern boundary.

For the reasons set out in the 'Bin Storage and Collection' section of this report, it is considered that the bin collection point would not adversely impact on the character and visual amenities of the locality. Leicestershire Police have not made any comments in respect of the scheme layout



and design.

Therefore, on balance it is considered that the proposal would not be significantly harmful to the character and visual amenities of the public right of way, Drum and Monkey Lane, Coleorton Lane and the wider locality to justify a reason for refusal under Policies D1 and En3 of the Local Plan and the Council's Good Design SPD.

### **Bin Storage and Collection**

A bin storage area within the site would be located adjacent to the end of the long gardens to Nos. 17, 19 and 23 Normanton Road and over 45 metres from the dwellings.

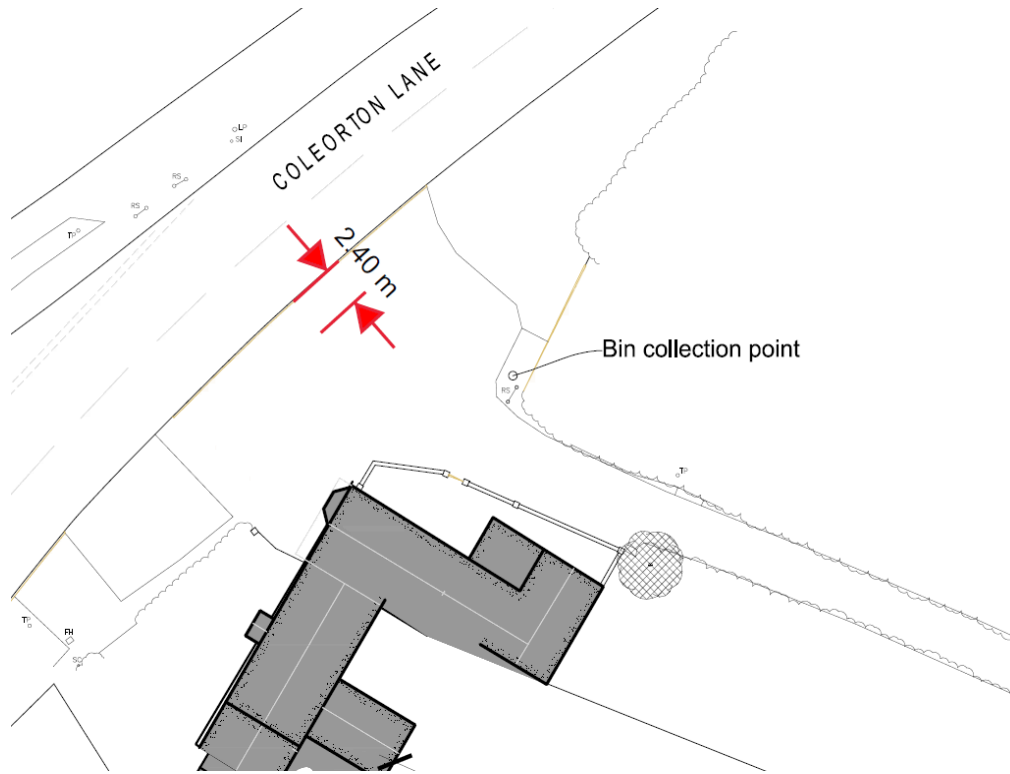
The original layout plan showed a bin collection area to be located within the site. Whilst no comments have been received from the Council's Waste Services team, they did comment on the 2019 application. In respect of that application, they advised that the Council's waste collection vehicles do not use Drum and Monkey Lane as it is not constructed to an adoptable standard, and therefore waste and recycling receptacles could not be left for emptying within the site. As part of the 2019 application, the agent initially suggested that a private waste collection service would be used but the Waste Services team advised that this would not be a viable solution as the residents of the proposed dwellings may not want to pay for such a service in the future. The Council also has a statutory responsibility under the Environmental Protection Act 1990 to collect domestic waste and the Council is also in receipt of an element of Council Tax to provide this service.

The County Highway Authority (CHA) has also advised in respect of the current application that the swept path analysis for a waste collection vehicle show that the lane would not be suitable for use by a waste collection vehicle.

Therefore in respect of the 2019 application, the Waste Services team requested that a bin collection area be provided close to the public highway on the northern side of Drum and Monkey Lane. However it was subsequently confirmed that this is where bins are stored by the occupier of No. 17 Normanton Road. The Waste Services team therefore advised that a bin collection area would need to be provided on an area of hardsurfacing on Coleorton Lane, to the immediate north of Drum and Monkey Lane at its western end.

The bin collection area requested by the Waste Services team lies within the public highway. Whilst the CHA advised in respect of the 2019 application that bin collection areas should not be within the public highway, in this case, considering the site specific circumstances, the CHA has no objections to receptacles being left at the western end of the lane, provided this does not form a formal bin collection area and receptacles are not permanently kept at this location. A formal bin collection area could therefore not be requested and so amended plans have been submitted that show a bin collection point in the same location as on the 2019 application, which could not be secured by condition given the CHA's comments set out above regarding the public highway.

### **Location of Bin Collection Point and visibility splay set back**



**Photos of Bin Collection Point**





In addition, receptacles should only be left in this area for collection and not on a permanent basis, and the Council's Environmental Protection team have powers under the Environmental Protection Act 1990 to require the removal of bins and such receptacles from within the public highway and from bin collection points regardless of any conditions imposed on a planning permission. The Waste Services team also previously requested that a sign be installed at the bin collection point to advise that receptacles must be removed within 24 hours of having been emptied.

In this case the dwellings would be at least 70 metres from the bin collection point. Whilst the Building Regulations require receptacles to be stored no more than 25 metres from where they are collected, which would be exceeded in this case, this is separate legislation and there is no requirement in the Local Plan and Good Design SPD to meet these requirements in such a situation. The proposed bin collection arrangements would be similar to those for residents of the two dwellings on the former poultry farm site, who it is understood leave their receptacles for collection in a similar location. The bin collection point would be closer to the site than to these dwellings. There would also be a fairly level route from the site to the bin collection point (i.e. no steep gradients) which is hardsurfaced.

Six dwellings (three on the site and three on the former poultry farm site) could leave their receptacles for emptying at the bin collection point.

Receptacles left at the bin collection point would be prominent as it is an open area at the entrance to the village and the public right of way, and no enclosures can be erected for screening as the bin collection point would be within the public highway. The bin collection point would be 6.5 metres from No. 17, which has windows in its side elevation and a side conservatory. No. 17 is on the opposite side of Drum and Monkey Lane and receptacles are already left here for emptying by the two dwellings on the former poultry farm site. The Council's Environmental Protection team have not made any specific comments on the bin collection point but did so in respect of the 2019 application, when they requested that a condition be imposed requiring the bin collection point to only contain waste and recycling receptacles on bin collection day and for them to be removed within 24 hours. However such a condition could not be imposed due to the bin collection point being within the public highway.

As receptacles should only be left in this area for collection and not on a permanent basis, this would reduce the impacts on the character and visual amenities of the area, residential amenities

and highway safety and the risk from arson. The Council also has separate powers under the Environmental Protection Act 1990 to deal with noise and odour.

Whilst the bin collection point may be used for parking by existing residents and users of the public footpath, this is not controlled by existing planning permissions nor is it a formal parking area provided by the CHA. As receptacles should not be left at the bin collection point on a permanent basis, there should still be space for cars to be parked in this area most of the time and on the adjacent area of grass as per the existing situation. These parked cars are also already likely to impact on the visibility available at the junction of the lane with the public highway. The CHA has not raised any concerns in respect of impacts on highway safety. The current arrangements for waste collection vehicles to stop either within the road or by pulling off the road would continue. Receptacles left for emptying at the bin collection point would be unlikely to block access to the adjacent field as bins should not be left there permanently, the gate is at least four metres wide and cars are already parked in this area.

It is therefore considered that there is not any policy justification to warrant a refusal of permission in respect of bin collection and storage. A note to applicant could be imposed advising that residents would need to leave their bins/receptacles for collection at the bin collection point and to remove them within 24 hours of collection.

### **Historic Environment**

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects the setting of a listed building, or the character and appearance of a Conservation Area, to have special regard to the desirability of preserving the building's setting and to the desirability of preserving or enhancing the character or appearance of that area. Reference should also be made to paragraphs 210, 212, 213, 214 and 215 of the NPPF.

In terms of heritage assets, Packington House on Spring Lane lies around 230 metres to the south east and No. 9-11 Normanton Road lies around 90 metres to the north west, which are both Grade 2 listed buildings. The Packington Conservation Area lies to the west of the site and runs along part of its western boundaries. Nos. 17, 19, 23 and 25/27 Normanton Road are identified in the Packington Conservation Area Appraisal as unlisted buildings of interest.

Part of Packington House's significance is its age, dating from the late 18th and early 19th centuries, that its scale, design and original features have retained its country house appearance and that it still retains its historic relationship with the village as an outlying dwelling within the rural landscape. Part of the significance of No. 9-11 is that it is a good example of an 18th century cottage located within a part of the Conservation Area which forms the entrance to the core of the village. The significance of the nearest part of the Conservation Area comes from it forming the entrance to the historic core of the village, and the dwellings at the northern end of Normanton Road, which are unlisted buildings of interest, being part of the first expansion of development beyond the historic core in the late 19th century. The site also contributes to the setting of the Conservation Area in views from Coleorton Lane southwards across open fields and along Drum and Monkey Lane in both directions.

Significant weight is given to preserving the setting of the Grade 2 listed buildings and Conservation Area.

The Conservation Officer has referred to the comments made in respect of the previous application (19/01202/FUL), where he did not raise any concerns in respect of impacts on the setting of the listed buildings. The dwellings would not be visible within the setting of No. 9-11

Normanton Road. The setting of Packington House is somewhat compromised to the immediate north by the presence of a modern two-storey dwelling but its rural setting survives predominantly to the south and south east, but also to some extent to the west and south west. However the dwellings on the former poultry farm now form part of the foreground/backdrop to Packington House in particular when viewed from the public footpath and from the listed building itself, which screen Packington House in views of the site. There does not appear to be any direct functional/historic relationship between the site and the listed buildings.

The Conservation Officer had concerns in respect of the 2019 scheme regarding Plot 1 forming tandem development which would not reflect local character, and requested that Plot 1 and the driveway were omitted, as well as also requesting some changes to the windows to Plot 1 if retained.

In respect of the 2019 scheme, the changes to Plot 1's windows were made, although Plot 1 and the driveway remained part of the proposal, and this is the same on the current application. Whilst Plot 1 does not reflect the narrow linear plot pattern in the adjacent Conservation Area, this plot pattern is diluted on the site and further to the south as these parcels of land, whilst still linear, are wider than those in the Conservation Area. Plot 1, its garage and the driveway would be closest to the rear gardens in the Conservation Area. They would not be overly prominent in views from within or of the Conservation Area as they would be set well back within the site, with some screening provided by vegetation on the site boundary and within the gardens themselves, as well as by the dwellings on Normanton Road and the mature ash tree and frontage hedgerow. Even if Plot 1 was removed, the driveway would be required to serve Plots 2 and 3.

Plots 2 and 3 would be more visible in views of the Conservation Area. However the Conservation Officer did not raise any concerns in respect of Plots 2 and 3 on the 2019 scheme, which are identical on the current application. These dwellings would be set back at least eight metres from the lane, some screening would be provided by the ash tree and frontage hedgerow, and the dwellings would be seen alongside existing dwellings to the east and west, and so would not be overly prominent.

The Conservation Officer did not raise any objections to the bin collection point on the 2019 scheme. It would not form a significant part of the setting to Packington House given the distance away and intervening screening from trees and existing dwellings. The bin collection point would be seen in the setting of No. 9/11 and the Conservation Area. However as bins should not be left there permanently, that other bins are already left at this point by other properties, no structures or surfacing would be installed, and that there are already other domestic features in this area, e.g. parked cars, it is considered that bins left for emptying at the bin collection point would not adversely affect the setting of the listed buildings and the Conservation Area.

Whilst the trees on the site are not in the Conservation Area, they do form part of its setting. The protected ash tree and most of the frontage hedgerow would be retained, along with the southern hedgerow and trees in the south eastern corner and close to the western boundary. Trees are proposed to be removed in the north and south eastern corner and close to the southern and western boundaries. No works are proposed to any of the nearby trees that are within the Conservation Area. As discussed in more detail below in the 'Trees and Hedgerows' section of this report, whilst the Council's Tree Officer has not commented on the current application, he did not raise any objections to the loss of trees within the site on the 2019 application, which are not considered to make a significant contribution to the setting of the Conservation Area given their size and location and the intervening screening by other trees. Therefore it is considered that the loss of some trees from within the site would not result in harm to the setting of the Conservation Area.

The County Archaeologist advises that the site lies within the historic settlement core of Packington, and therefore as the proposal involves works that could impact on archaeological remains, requests the imposition of a condition requiring a staged programme of archaeological work, including trial trenching, to be undertaken post-determination.

Therefore it is considered that the proposal would not adversely affect the setting of the listed buildings or the Conservation Area, and would not harm the designated and undesignated heritage assets. As such the proposal complies with the NPPF and Policy HE1 of the Local Plan.

**Residential Amenities**

The proposal is likely to result in an increase in vehicles using Drum and Monkey Lane which runs adjacent to No. 17 Normanton Road and rear gardens. However some traffic already uses the lane to access the two dwellings on the former poultry farm site. In addition, the situation would not be dissimilar to a development on a corner site with a side road running close to dwellings and their rear gardens, which was considered to be a yardstick for an acceptable standard in an appeal decision at Ashby de la Zouch (07/00624/OUT). As such the addition of extra traffic on the lane is unlikely to result in significant levels of noise and disturbance to existing residents or significant impacts on their health and wellbeing.

Whilst peace and tranquility in the area may in part be due to the site being empty, it is not unusual to find housing adjacent to other areas of housing, and new housing is unlikely to generate significantly detrimental levels of noise and disturbance. The Environmental Protection team has not raised any objections or concerns in relation to noise or disturbance.

For the reasons set out in the 'Bin Storage and Collection' section of this report, it is considered that the bin collection point would not adversely impact on residential amenities.

**Layout Plan including distances to existing dwellings**



**Plot 1**

The two storey and 1.5/single storey elements to Plot 1 would be at least 45 metres and 43 metres respectively from Nos. 17 to 33 Normanton Road which significantly exceed the back to back

distance set out in the Council's Good Design SPD. The garage would be at least 35 metres away.

The SPD sets out a 10 metre distance between new dwellings and existing gardens. This distance would be exceeded from all parts of the dwelling in relation to the gardens to Nos. 17-31, other than in respect of the 1.5 storey element in relation to No. 23's garden (eight metres away), and the single and two storey elements in relation to No. 33's garden (six metres and two metres away respectively).

However the garden to No. 23 is around 50 metres long and there would be no side first floor windows facing this garden. The rooflight in the rear of the 1.5 storey element would be set at a higher level than the first floor rear windows.

The garden to No. 33 is at least 90 metres long, and Plot 1 would be at least 17 metres from the part of the garden more closely associated with No. 33 (which is at least 30 metres long). No windows are proposed in the side elevation facing the garden.

The garage would be at least 10 metres from most of the gardens and whilst it would be within two metres and six metres respectively to the gardens to Nos. 23 and 25/27, both properties have long gardens and the garage would be single storey with no openings above ground floor level.

#### *Plot 2*

Plot 2 would be 60 metres from Nos. 17, 19 and 23, 11 metres from No. 23's garden (which is at least 50 metres long), and at least 13 metres from the gardens to Nos. 17 and 19 which are at least 40 metres long. The first floor windows in the side of Plot 2 could also be obscure glazed with restricted openings (if serving non-habitable rooms) and the rooflights would be positioned higher than the first floor windows.

Plot 2 also faces towards the garden to No. 33 and would be at least 17 metres away, with the first floor window in its rear elevation serving a dressing room, which could be obscure glazed.

#### *Plot 3*

Plot 3 also faces towards No. 33's garden and would be 12.4 metres from the end part of this long garden. The first floor rear window and nearest rooflight could be obscure glazed. Whilst Plot 3's garage would be 3.5 metres from No. 33's garden, it would be single storey with no openings above at ground floor level and would be 43 metres from the part of the garden closest to No. 33.

The northern elevation of Kingfisher Lodge (the closest dwelling on the former poultry farm site) has a first floor opening and balcony in its northern elevation. The lower part of Plot 3's rear projection would be 10 metres from these elements and its eastern roofslope would contain one high level rooflight serving a bedroom. The rear two storey element to Plot 3 would be 11.5 metres away and its first floor landing window could be obscure glazed with restricted opening. Plot 3's main rear elevation would be 13.5 metres away, with a rear bedroom window being 15 metres from the balcony, and two rear rooflights serving rooms in the roofspace with no specified purpose, which could also therefore be obscure glazed with restricted opening.

The lower rear element to Plot 3 would be at least 16 metres from the nearest windows in the western elevation to Kingfisher Lodge, and the two storey elements would be at least 20 metres away. There would not be a direct back to back or back to side relationship between Plot 3 and Kingfisher Lodge. Whilst Plot 3 would be 6.5 metres from the side garden area to Kingfisher Lodge, the main part of its garden is to the south of the dwelling.

### *Conclusion*

As such it is considered that a reason for refusal on the basis of direct overlooking/loss of privacy, overshadowing/loss of light and creation of an oppressive environment to occupiers of Nos. 23 and 33 Normanton Road and Kingfisher Lodge could not be justified. The proposal would also not adversely affect the amenities of occupiers of other nearby dwellings from noise and disturbance, odour, overlooking/loss of privacy, overshadowing/loss of light or creation of an oppressive outlook, and as such would comply with Policy D2 of the Local Plan.

### **Highway Safety**

Concerns have been raised by Packington Parish Council and local residents regarding highway safety as set out in the 'Representations' section of this report.

It is acknowledged that Plots 2 and 3 could have seven bedrooms each (as whilst the plans show these two dwellings to have five bedrooms each, both dwellings have two additional rooms shown within the roofspace which could be used as bedrooms), with Plot 1 having four bedrooms. The CHA considered the trip generation associated with the proposal as part of the 2019 application and advised that typically a dwelling is anticipated to generate approximately six vehicular trips per day, so therefore three dwellings are likely to result in approximately 18 trips per day.

The CHA visited Drum and Monkey Lane on 25 November 2024 and advises that it considers there have been no material changes to the lane since the 2019 application was considered and determined.

Regarding the use of Drum and Monkey Lane, the CHA advises that its width falls below the minimum requirement of the Leicestershire Highway Design Guide (LHDG) in regard to private access drives (a minimum width of 4.25m for an access serving two to five dwellings and 4.8m for a private access serving six or more dwellings for the first five metres behind the highway boundary). However given the existing use of the lane, its horizontal alignment which affords good forward visibility, and the 15 metre set back of the start of the lane from Normanton Road/Coleorton Lane the CHA would not find this unacceptable.

The CHA also advised in respect of the 2019 application that in assessing the access from Normanton Road/Coleorton Lane onto Drum and Monkey Lane, consideration was given to forward visibility for vehicles entering the lane from the public highway, the length of Drum and Monkey Lane that cannot accommodate two-way movements between the highway and site access, the likely level of vehicular movements on the lane and the likely impact on Normanton Road/Coleorton Lane. Along with the extant two-way vehicular movements on the lane, and the scale of development, the CHA's conclusion was that the use of Drum and Monkey Lane would not have a severe impact on the highway network, and therefore a reason for refusal on this basis could not be substantiated.

There are also no proposals to widen Drum and Monkey Lane at its junction with Normanton Road/Coleorton Lane. The CHA has also not raised any objections in relation to visibility at this junction. The CHA advises that there has been three recorded of personal injury collisions (PICs) in the last five years within 500m of the site, which were all considered 'slight' in severity. The CHA has reviewed the circumstances of each PIC and does not consider that the proposal would exacerbate the likelihood of further such incidents occurring.

The CHA has not raised any objections to the vehicular access into the site, which would meet access width requirements in the LHDG.



In respect of the visibility splays proposed at this access, they are less than those required in the LHDG for roads with speeds of 21mph to 25mph (33 metres for light vehicles and 36 metres for HGVs) and 16mph to 20mph (23 metres for light vehicles and 25m for HGVs).

In respect of this matter the CHA advised in respect of the 2019 application that *"To the west of the access, a visibility splay of 2.4m x 13.5m is shown, and drawn to a point one metre offset from the northern carriageway edge. Given that Drum and Monkey Lane is approximately three metres in width in this location and that therefore vehicular speeds will be low, this is acceptable. To the east, a visibility splay of 2.4m x 17m is shown to a point one metre offset from the nearside carriageway edge is shown, which is also acceptable in this instance."*

In order to assess the suitability of the above visibility splays, a calculation of the Stopping Sight Distance (SSD) in accordance with the standards set out in the Manual for Streets (MfS) was carried out by the CHA in respect of the 2019 application, who confirmed that the 2019 application was acceptable in this regard.

The pedestrian access to Plot 3 leads from the front of the dwelling onto the lane. It is not unusual in some places to have front doors or accesses used by pedestrians that exit directly onto a street with no footway, and there are examples elsewhere in the village, e.g. on Mill Street, where traffic speeds may be similar to those along the lane or perhaps higher. In addition the CHA has raised no objections and has requested a condition requiring the provision of pedestrian visibility splays on either side of this access.

The parking and turning space for Plot 3 would be sited to the rear of the dwelling. The CHA has not raised any concerns that some vehicles, e.g. delivery vans and lorries, could travel to the front of Plot 3, park on the lane and block access for other vehicles and pedestrians, and then have to reverse back to the site access to turn. The CHA previously noted that a pedestrian link between Plot 3's parking and turning space and Plot 3 itself is on the plans, in order to discourage parking on Drum and Monkey Lane. A condition could also be imposed requiring provision of signage at the site access to advise that there is no vehicular access to the front of Plot 3 and to use the parking/turning space available within the site. The CHA advised in respect of the 2019 application that it could not take into account the potential for blocking of vehicles wishing to access the dwellings on the former poultry farm site as the lane is an unadopted road, and Plot 3 is over 100 metres from the public highway. Impacts on users of the public footpath is considered separately below in the 'Public Footpath section of this report.

The CHA has not raised any objections in respect of the position, design and amount of the parking and turning space. The CHA has no objections to the bin collection point and for the reasons set out in the 'Bin Storage and Collection' section of this report, it is considered that the bin collection point would not adversely impact on highway safety.

Reference is made by the Parish Council and residents to a refusal by the CHA of a previous application to build three dwellings on land opposite the junction of Drum & Monkey Lane due to access and road safety issues and those safety concerns should also apply to this case. The only application for three dwellings in Packington that has been refused since 2001 is an application on Spring Lane (15/01064/OUT). That application was not refused on highway safety grounds, and whilst a subsequent appeal was dismissed, this was also not for highway safety reasons.

The advice in paragraph 116 of the NPPF is that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

The CHA therefore advises 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. Therefore a reason for refusal on the basis of a severe impact on highway safety or the road network under Policies IF4 and IF7 of the Local Plan and paragraphs 114, 115 and 116 of the NPPF could not be justified in this case.

### **Public Footpath**

Public footpath O64 runs along Drum and Monkey Lane and then continues through the former poultry farm site and on to Spring Lane where it links in with other parts of the public rights of way network and routes to the Diamond Jubilee Woodland and National Forest woodlands. No part of the development would encroach upon its route, and its route is not proposed to change.

The CHA has not raised any objections in respect of an increase in traffic on the lane impacting on users of the public footpath. As noted above in the 'Highway Safety' section, the CHA has not raised any objections in respect of vehicles visiting Plot 3 block the lane and having to reverse along part of the lane, therefore impacting on users of the public footpath. There would be a pedestrian link between Plot 3's parking and turning space and Plot 3 itself, in order to discourage parking on Drum and Monkey Lane. As noted above, a condition could also be imposed requiring provision of signage at the site access relating to access to Plot 3. The CHA also has powers to deal with the blocking or obstructing of public rights of way.

Reference has been made by the Parish Council and residents to two planning decisions relating to three dwellings on a nearby site on Spring Lane (97/0061 and 15/01064/OUT) being refused due to the potential for conflicts between vehicles and pedestrians, as Spring Lane is also narrow and has no footway. The 1997 application was refused in part due to conflicts between pedestrians and vehicles on Spring Lane, and a subsequent appeal was dismissed on the grounds of harm to the character and appearance of the locality and the difficulty of resisting other similar proposals which would have a detrimental impact. The Inspector stated '*I am not convinced that the additional traffic that would be generated by the proposal would pose such a risk to highway safety as to warrant rejection on that account alone.*' The 2015 application was refused only on the grounds of being outside the Limits to Development and significant harm to the character and rural appearance of the locality. The CHA did not raise any objections to the 2015 application in respect of conflict between vehicles and non-car users, and this matter was not raised by the Inspector when considering the subsequent appeal.

It is considered that the amended proposal would not adversely impact on the enjoyment and recreational value of users of the public footpath, in particular as the changes on the site would be short term as pedestrians pass along the lane adjacent to the site and no works are now proposed to the lane itself.

The CHA has not raised any concerns in respect of the health and safety of users of the public footpath. It is not unusual for public footpaths to pass close to dwellings or along routes also used by vehicular traffic. However as construction traffic may use Drum and Monkey Lane it is considered reasonable to impose a condition requiring submission of a management plan to ensure that the footpath is safe and available for users of the footpath during construction. The CHA has also requested a condition to protect users of the footpath; a similar condition was imposed on the previous permission.

With regards to any damage caused to Drum and Monkey Lane, the CHA is responsible for maintaining the lane to public right of way standards. Therefore in the event that there was any damage to this standard, if there was sufficient evidence as to who was responsible then the CHA

would pursue them, but if not then the CHA would be required to repair to the standard. Any additional damage over and above what is required for this standard would be a civil matter and for the landowner to determine the most appropriate course of action.

Given the above circumstances it is considered that a reason for refusal on the basis of significant harm to users of the public footpath could not be justified in this case.

### **Trees and Hedgerows**

The protected ash tree and most of the frontage hedgerow would be retained, along with the southern hedgerow and trees in the south eastern corner and close to the western boundary. Trees are proposed to be removed close to the southern and western boundaries and in the north eastern corner. No works are proposed to any of the trees on adjacent land.

The Council's Tree Officer has not commented on the current application. However the Tree Officer commented on the 2019 application which is identical to this application in respect of the position of the dwellings and site layout and the trees and hedgerows proposed to be removed and retained. In respect of the 2019 application, the Tree Officer originally considered that the protected ash tree was a veteran tree and therefore should have a root protection area (RPA) of 18 metres, which is the required RPA for such a tree of this size. However the applicant's arboricultural advisor disagreed that the tree was a veteran tree, and considered that a 15 metre RPA based on the guidance in BS5837:2012 would be appropriate. Parts of Plots 2 and 3 would be within the 18 metre RPA although they would be outside the 15 metre RPA shown on the plans. The Tree Officer is not able to confirm that the tree is a veteran. Therefore as it was not fully conclusive in respect of the 2019 application that the ash is a veteran tree it was considered at the time that it would be unreasonable to insist on Plots 2 and 3 being outside the 18m RPA, and this is still considered to be the case.

### **Protected Ash Tree**



The Tree Officer advised in respect of the 2019 application that the paths to Plots 2 and 3 could be within the RPA provided they are constructed in accordance with the submitted construction method statement. Conditions could also be imposed to secure the tree protection plan and the construction method statement, and to require submission of an arboricultural supervision plan, construction management plan and tree management plan to include an annual inspection of the tree's branches.

Impacts on the frontage hedgerow are considered in more detail in the 'Ecology and Protected Species' section below. However most of this hedgerow would be retained, as would the hedgerows on the western and southern boundaries, and the Tree Officer did not raise any objections to this on the 2019 application. The path/paving that extended around Plot 1 close to the southern hedgerow has been removed. Whilst Plot 1 would be within two metres of this hedgerow and the driveway would be within one metre, the Tree Officer did not raise any objections to this on the 2019 application. Protective fencing would be erected to these hedgerows during construction.

The potential for impacts on the hedgerow that runs along the northern side of Drum and Monkey Lane from large vehicles turning onto the lane has been considered earlier in the 'Design and Visual Impact' section, where it was concluded that the potential for adverse impacts on this hedgerow to be infrequent and any adverse impacts would be minimal.

Most of the trees and vegetation close to the watercourse have already been removed, along with the hedgerow that ran through the centre of the site. None of these were protected by a Tree Preservation Order nor by the Hedgerow Regulations and therefore whilst it is regrettable that they have been removed, the Council does not have any powers to prevent this from taking place or enforce against it.

The Tree Officer did not raise any objections to the loss of other trees within the site in respect of the 2019 application. Several mature trees would also be retained, and additional tree and hedgerow planting is proposed. A soft landscaping scheme would be secured by condition.

Given the considerations set out above in respect of the protected ash tree, and whilst it is preferable that existing soft landscaping is retained and enhanced, particularly when a development is located in the National Forest, it is considered that the loss of the soft landscaping in this instance should not act as a constraint on the development, particularly given that its lack of protection could lead to it being removed at any time. Several trees, including the protected ash tree, and the majority of the remaining hedgerows would be retained. As such it is considered that a reason for refusal under Policy En1 of the Local Plan could not be justified in this case.

## **Ecology, Biodiversity Net Gain and Protected Species**

### *Habitats and Important Features*

The County Ecologist initially objected on the basis that not enough information had been submitted to ensure the extent of the impacts had been fully assessed, and so further information has been submitted.

The County Ecologist has not raised any objections to the loss of the species-poor semi-improved grassland and scrub that covers the site.

The County Ecologist advises that the hedgerow on the site's northern boundary is a candidate for Local Wildlife Status, as is the protected ash tree.

Impact on the ash tree has been considered above in the 'Trees and Hedgerows' section, and the County Ecologist has not raised any objections in respect of ecological impacts on this tree.

The County Ecologist raised an objection to the impact on the northern hedgerow on the boundary with the lane, on the basis that it should not form part of the gardens. The majority of the northern hedgerow would be retained. The visibility splays to the vehicular access would not require removal of any of the frontage hedgerow nor any of the hedgerow further west along Drum and Monkey Lane. The CHA has requested two metre by two metre pedestrian visibility splays to the pedestrian access to Plot 3 to which the County Ecologist has no objections. Following advice to the County Ecologist that the dwellings would be at least five metres from this hedgerow and that the 2019 application had been subject to a condition defining the curtilage of the dwellings and excluding the area between the hedgerow and the dwellings (which could be re-imposed), the objection has been removed.

The County Ecologist also objected to the proximity of Plot 3 and its garden to the adjacent watercourse and requested a buffer between them. The distance between the watercourse and Plot 3 is the same as on the plans approved under the previous permission for this site. The garden to Plot 3 is now not as close to the watercourse in some places, as the red line boundary is slightly different along the south eastern boundary on the current scheme. The County Ecologist didn't raise any concerns regarding the relationship between Plot 3 and its garden and the watercourse on the previous permission. Parts of the garden to Plot 3 closest to the watercourse from were also excluded from being within Plot 3's curtilage on the previous permission, which could also be re-imposed. On this basis the County Ecologist has also removed its objection in respect of this matter.

Concerns were previously raised by residents that development should be at least three metres from the southern hedgerows as per the government document 'Biodiversity and Hedgerows: Government's Strategy for England's Wildlife and Ecosystems'. The County Ecologist could not find this reference, but advised that a buffer of five metres between hedgerows and development is normally sought for important hedgerows or those that form boundaries adjacent to open countryside or natural/informal open space. However this standard is not usually applied to hedgerows that form boundaries to gardens (such as the southern hedgerow) as they are not protected by the Hedgerow Regulations and therefore could be removed at any time. Therefore the County Ecologist has not raised any objections in respect of impacts on this hedgerow.

The suggested condition relating to a Landscape and Ecological Management Plan suggested by the County Ecologist was not imposed on the previous permission and it is not considered that there have been any material changes that would now justify imposing this condition.

On this basis it is considered that a reason for refusal on the basis of impacts on important ecological features could not be justified in this case under Policy En1 of the Local Plan.

#### *Biodiversity Net Gain*

Biodiversity Net Gain (BNG) is a mandatory requirement for this development, as required by the Environment Act 2021 and relevant national policies. Accordingly, the applicant must demonstrate compliance with the mandatory BNG requirements, including showing a minimum 10% net gain compared to the pre-development baseline.

The County Ecologist initially objected on the basis of requiring further information relating to BNG. Following submission of amended BNG information, including an updated BNG metric, BNG assessment and preliminary ecological assessment, the County Ecologist has advised that

these assessments are acceptable and no longer objects. The submitted information indicates that the required 10% BNG mitigation would be achieved through the purchase of off-site units, which could be secured via the mandatory Biodiversity Gain Plan condition and other conditions, and the County Ecologist has raised no objections to this approach.

### *Protected Species*

There are mature trees/hedgerows on and adjacent to the site, the site is grassland and adjoined by open fields and large gardens, a pond lies close to the site and a watercourse runs alongside its eastern boundary. All of these are features that could be used by European Protected Species (EPS) or national protected species. As EPS may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2017 to have regard to the requirements of the Habitats Directive in the exercise of its functions.

The submitted ecology survey found that the ash tree on the northern boundary does not have any features for bat roosting potential. Therefore it is considered to be of negligible bat roost potential. The trees and hedgerows on the site would also be suitable for bat foraging and commuting opportunities, and whilst some trees would be lost, some trees and the northern and southern hedgerows would be retained and there is other similar habitat nearby. The trees and hedgerows would also be suitable for breeding birds and a note to applicant could be added to this effect. Conditions could be imposed to minimise light spill from any external lighting onto the hedgerows to maintain their value as bat foraging corridors, and to secure bat and bird boxes as recommended by the ecology report.

No evidence was found of badger activity, the nearby pond appears to have been filled in, and there are no records of water vole using the adjacent watercourse. The watercourse is also considered to be suboptimal for water voles and otters. Habitats on the site could however be suitable for use by badgers, great crested newts and reptiles, as well as hedgehogs (which are not a protected species) and so the recommendations in the ecology report would need to be followed. Hedgehog holes would be provided within some of the fences, which could be secured by condition. The County Ecologist has not raised any objections in respect of impacts on protected species.

On this basis it is considered that protected species would not be adversely affected by the proposal and the proposal complies with the Habitats Regulations 2017 and Policy En1 of the Local Plan.

### **Flood Risk and Drainage**

An unnamed watercourse runs alongside the site's eastern boundary flowing north east to south west. This watercourse flows from the fields to the north, passes underneath Drum and Monkey Lane, and then continues alongside the ends of gardens to dwellings on Normanton Road, before passing underneath Normanton Road and Heather Lane before joining the Gilwiskaw Brook around 165 metres south of the bridge on Bridge Street.

The site lies within Flood Zone 1 which covers the area at the lowest risk from fluvial flooding. The south eastern red line boundary of the site has been amended to address concerns relating to surface water flood risk, so that the site lies only with an area at low risk of surface water flooding. Parts of Drum and Monkey Lane lie within areas at low to high risk of surface water flooding. The area at low risk extends between eight and 21.5 metres into the site from the watercourse.

Plots 1 and 2 are not within the low risk area. Most of Plot 3 would be within the area at low risk. Some of Plot 3's garden would be within the low risk zone, but the majority would be outside. The

low risk zone extends in front of Plot 3 beyond the pedestrian access. The area adjacent to the watercourse that lies within low, medium and high risk zones is not within the site.

Concerns have been raised by the Parish Council and residents in respect of flood risk as set out in the 'Representations' section of this report.

Whilst the FRA states that the garden has not flooded and the brook has not broken its banks on either side in the last 25 years, the Parish Council and residents previously disputed this, stating that the watercourse becomes inundated and flows at capacity, and gardens to dwellings on Normanton Road, dwellings on Spring Lane and the nearby fields have flooded.

Furthermore whilst the FRA states that there are no known issues or reports relating to ground water flooding at the site and that the site is not in an area at high risk of ground water flooding, the Parish Council and residents previously indicated that there is a high water table and high groundwater level in the locality, in part due to the clay soils and during high rainfall. The information in the FRA has been taken from a map of groundwater risk covering a large part of the District and is not based on site-specific information. It appears that high groundwater has resulted in wet ground on nearby land, and it is understood that there are various measures in place on these sites to try and alleviate this situation. However it is not clear how much this has contributed to flooding in the area nor whether the site itself is affected by groundwater issues. It is therefore considered that conditions should be imposed to secure mitigation measures for potential impacts from groundwater and resistant/resilient building techniques relating to groundwater flood risk.

As noted above Plot 3 and its garden partly lie within the zone at low risk of surface water flooding. Under the NPPF, the flood risk sequential test is required to be undertaken for applications in areas known to be at risk now or in future from any form of flooding, which includes from surface water. However as set out in the Planning Practice Guidance (PPG) (which in a recent Court of Appeal judgment was found to have “equivalent” legal status to the NPPF), sites at low risk of surface water flooding are exempt from the sequential test. The flood risk exception test also does not apply to sites at risk of surface water flooding.

The other considerations relating to flood risk set out in the NPPF have not changed since the consideration of the 2019 application at Planning Committee in November 2020. The LLFA has no comment to make on the current application and did not raise any objections to the 2019 application in respect of surface water flooding. Previously the LLFA advised that the watercourse posed a high surface water flood risk to Plot 3, and so finished floor levels should be set sufficiently above flood levels in line with its standing advice, i.e. 300mm above the general ground level of the site. The LLFA subsequently advised that the surface water flood risk is low, which is acceptable for development and that mitigation is typically required only where there is a medium or high risk of surface water flooding. It is also considered that a close boarded fence along Plot 3's eastern boundary would need to be made permeable to water flows so it does not divert water back into the watercourse, which could be secured by condition.

The applicant's drainage consultant also advised in respect of the 2019 application that the development would reduce the amount of overland flow from the site as positively drained hard paved areas would intercept existing overland flow routes and attenuate them using the below ground storage. The consultant also advised that the runoff rate would not exceed the existing greenfield runoff rate from the site, therefore not increasing the flood risk further downstream or to other properties.

A sustainable surface water drainage scheme (SuDS) is also proposed, which would direct

surface water to filter strips/French drains/below ground attenuation crates and then discharge into the adjacent water course. Due to clay forming the underlying subsoil, infiltration cannot be used. Conditions could be imposed to secure the SuDS, mitigation measures for impacts from groundwater flooding, resistant/resilient building techniques relating to groundwater flooding, and the ongoing maintenance/management of the SuDS and mitigation measures, which were imposed on the previous permission.

Most of the trees and vegetation along the site's boundary with the watercourse have already been removed and whilst one tree in the north eastern corner would be removed, it is not considered that this would significantly destabilise the banks of the watercourse. The banks would not be altered other than installation of the headwall for the surface water drainage system.

In respect of the 2019 application, the LLFA also asked for provision of an easement alongside the watercourse to safeguard access to the watercourse for essential maintenance and inspection purposes, which is provided for on the layout plan. The LLFA also advised that the watercourse will become the responsibility of the riparian owner (i.e. anyone who owns a property where there is a watercourse within or adjacent to the boundaries of their property, and is also responsible for watercourses or culverted watercourses passing through their land) as per the Land Drainage Act 1991. Any works that are likely to affect flows within the watercourse would also need a separate land drainage consent from the LLFA.

Given the circumstances set out above, and the lack of objection from the LLFA, it is considered that a reason for refusal on the basis of an inadequate FRA, an inadequate surface water drainage system and the proposal increasing flood risk on the site or elsewhere could not be justified in this case under Policies CC2 and CC3 of the Local Plan and the NPPF and the PPG.

#### *Foul Drainage*

The site does not appear to be connected to the mains sewer system. The FRA shows the dwellings would connect to a private pumping station on the site which would then discharge to a rising main running through the garden to No. 31 Normanton Road which would connect into No. 31's foul drainage system and then on into the adopted mains sewer system.

No evidence has been submitted to demonstrate that a connection to the mains sewer could not be achieved or that there is no capacity at Severn Trent Water's (STW) treatment works. STW has been consulted on the application and any comments received will be reported on the Update Sheet. However as it is not known whether or not STW would take over the responsibility of the pumping station, rising main and connection to No. 31's drainage system and the mains sewer system, it is considered reasonable for a condition to be imposed requiring submission of a scheme for maintenance/management of these elements, as was imposed on the previous permission. As such the arrangements for foul drainage discharge from the site appear acceptable subject to any comments received from STW which will be reported on the Update Sheet.

#### **River Mease Special Area of Conservation/SSSI**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). The adjacent watercourse is a tributary of the Gilwiskaw Brook, which in itself is a tributary of the River Mease. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river.

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



appropriate assessment of the proposal and its impacts on the River Mease SAC is required.

As the site is currently greenfield with no associated foul drainage discharge, there would be an increase in occupancy of the site, resulting in an increase in foul drainage discharge from the site. Additional foul drainage discharge from the site would therefore adversely impact on the SAC as it would pass through the sewage treatment works within the catchment area of the River Mease SAC and contribute to the raised phosphate levels in the river.

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

The site is also located adjacent to a watercourse which is a tributary of the River Mease and therefore could be affected by construction works and activity associated with the proposal.

The River Mease DCS First and Second Development Windows (DCS1 and 2) have been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). Both DCS1 and DCS2 are considered to meet the three tests of the 2010 CIL Regulations and paragraph 177 of the NPPF.

In March 2022 Natural England published advice in respect of the nutrient neutrality methodology which can be used to mitigate against the impacts of additional phosphate entering the SAC from foul drainage associated with new development.

A contribution under DCS2 was secured by Section 106 agreement in respect of the previous permission and that contribution can be transferred over to the current application. As the DCS2 contribution has not been paid to the Council and the previous permission has expired, a new Section 106 agreement is required to secure the contribution.

The River Mease DCS is a mitigation scheme to mitigate against additional phosphate entering the SAC via Severn Trent Water's waste water treatment works. Therefore an assessment under the nutrient neutrality methodology is not required in this case.

The use of the mains sewer is the preferred method set out in the PPG for the disposal of foul sewage, and the DCS contribution provides for mitigation for the impact on the SAC from the use of the mains sewer.

The applicant has indicated they are willing to pay the required DCS contribution and the Council's solicitors have been instructed.

On the above basis, compliance with the proposed legal agreement would ensure that foul drainage discharge from the site would not adversely impact on the integrity of the River Mease SAC.

The flows from the three dwellings were taken into account against the existing headroom at STW's Packington Treatment Works under the 2019 application and this capacity is still available for the current application. As such it is considered that capacity is available at the relevant treatment works for the foul drainage from the site.

As the dwellings would be sited on a grassland which is permeable, a condition could be imposed requiring surface water to discharge to the proposed sustainable drainage system. Surface water can discharge into a tributary of the River Mease provided the discharge from the system is

restricted (in this case to the existing greenfield runoff rate from the site) and measures are put in place to prevent pollution of the watercourse.

On the above basis, compliance with the proposed condition would ensure that surface water runoff from the site would not adversely impact on the integrity of the River Mease SAC.

There could be impacts on the channel and banks of the watercourse during construction works and therefore a condition could be imposed requiring submission of a construction management plan. The watercourse would be outside the garden to Plot 3, and separated from the garden by a boundary treatment. The watercourse could also be excluded from the curtilage to Plot 3 to prevent increased activity within the watercourse.

On the above basis, compliance with the proposed conditions would ensure that construction works and activity on the site would not adversely impact on the integrity of the River Mease SAC.

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

### **Other Matters**

The Council's Environmental Protection team has not requested the imposition of conditions relating to contaminated land nor raised any concerns regarding air pollution. Whilst the site is in a Minerals Safeguarding Area, the Minerals and Waste Planning Authority (Leicestershire County Council) has advised that the site is in close proximity to existing dwellings where mineral extraction is unlikely to take place and so raises no objections. The Authority has also advised that the site is not located close to any safeguarded waste sites and so it has no objection in respect of this matter.

Concerns have been raised by regarding matters of governance, probity and conflict of interest relating to Councillor Rushton, and the impartiality of both the District and County Councils given that the applicant is a District Councillor and County Councillor, and leader of the County Council.

The status of applicants is not relevant to the determination of planning applications, as they are assessed against the development plan and any other material considerations.

The Council has been advised that the owners of the two dwellings on the former poultry farm site (Packington Farm and Kingfisher Lodge) financed and maintain the works that have been carried out to Drum and Monkey Lane and own the surfacing and kerbing along the lane. The Council has also been advised that access along the lane to the site for construction and delivery vehicles is refused.

Furthermore the owners of Packington Farm have stated that they had to provide proof of their rights to vehicular access along Drum and Monkey Lane as part of the purchase and development of the former poultry farm site, and had to go through the process of establishing prescriptive easement for vehicular movements along the lane. A prescriptive easement is understood to be the acquisition of a legal right enjoyed over another's freehold property which is obtained through long use, and which is similar to adverse possession, but relates to a right to use another person's property in a particular way rather than claiming ownership of the land.

The owners also stated that the proposal would increase the burden of the easement over the lane and such intensification of use should not be permitted, and that if the proposal is permitted

that any vehicles associated with the proposal use the lane would be doing so illegally, resulting in legal action being taken if the lane was used illegally.

The agent advised that as far as he is aware the applicant has a right of access along the lane. Furthermore meeting the requirements to obtain vehicular rights of access over land and obtain prescriptive easement does not form part of planning legislation. Concerns regarding the lack of vehicular access rights along the lane and the need to provide proof of rights to vehicular access along the lane and to apply for prescriptive easement were not matters raised in respect of the applications for dwellings on the former poultry farm site.

No evidence has been put forward to demonstrate who owns the lane nor to suggest that vehicular access rights to the site over the lane do not exist nor that a prescriptive easement would not be granted. Approving a planning application does not affect or override any legal rights or other legislation, nor does it mean that it is inevitable that an illegal action would take place. If an illegal action took place on the lane or on the site after a grant of planning permission then there would be options open to any affected parties to take separate legal action. Therefore it is considered that it would be unreasonable for the Council to refuse a planning application on the basis that to do so could result in a breach of third party land interests or other separate legislation.

Although the PPG indicates that the application site should be edged in red to include all land necessary to carry out the proposal, e.g. land required for access to the site from the public highway, there is no statutory requirement for the application site to have a common boundary with the public highway. The exclusion of Drum and Monkey Lane from the red line boundary does not affect the Council's ability to consider the adequacy of the access onto the lane, the lane itself and the lane's junction with the public highway. No works are proposed to the lane as part of the application.

The only condition that could affect the lane would be provision of the vehicular visibility splays. However these splays would not involve any development, and as if anything under 0.6 metres in height was provided within the splays this would block access to the site itself and to Packington Farm and Kingfisher Lodge and could block or obstruct the public footpath, it seems unlikely that the visibility splays could not be provided within the lifetime of a planning permission.

It is understood that enforcement of Section 34(1) of the Road Traffic Act 1988, which provides that anyone driving a mechanically propelled vehicle on a road that is a footpath, bridleway or restricted byway is guilty of an offence, unless it can be shown that there is a private right in place for people to use the accessway to gain vehicular access to their property, is a matter for the police and the courts.

Any damage to third party land caused by use of Drum and Monkey Lane as a result of the proposal would be a civil matter, as it is not an inevitable consequence of granting planning permission that damage would automatically be caused to third party land. Damage to the northern hedgerow along the lane is however considered above in the 'Design and Visual Impact' section.

It is a fundamental tenet of the planning system that every planning application is considered on its own merits and decisions made in relation to proposals in the vicinity of the site do not set a precedent for the approval or refusal of other forms of development.

In respect of the concerns raised regarding out of date information in the application submission, the submitted information together with all of the information gathered when undertaking the site visit and assessing the application and comments from consultees have allowed for the

application to be fully and adequately assessed.

### **Conclusion**

The site is located within the Limits to Development, as set out in the North West Leicestershire Local Plan (2021) and therefore complies with the settlement hierarchy set out in Policy S2.

Reasons for refusal in respect of loss of greenfield land, impact on the character and visual amenities of the area, residential amenities, highway safety, public footpath, the protected tree, trees and hedgerows, ecology, flood risk and drainage, and matters relating to bin collection arrangements could not be justified in this case. The proposal would not adversely impact on the historic environment, protected species and the River Mease SAC/SSSI.

In terms of benefits, the proposal would make a contribution, albeit limited, to the delivery of housing in the District. This location for new housing is more acceptable when compared to Small Villages and more remoter locations in the countryside where there would be more adverse environmental and social sustainability impacts. In this case the proposal would not constitute an 'isolated' dwelling, and it would be close to other dwellings and services/facilities without being dependent on the private car. The site is therefore considered to be socially sustainable having regard to the provisions set out within the NPPF.

The proposal would support local services and facilities 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.

The mandatory 10% BNG requirement has been met, which is given moderate weight as it is a benefit of a generalised nature imposed for a broad range of development to alleviate a national problem. The proposal would also secure some biodiversity enhancements which is afforded limited weight in favour of the proposal.

Overall, having assessed the proposal in full against the policies set out within the NPPF, in particular those related to directing development to sustainable locations and securing well-designed places, and after carrying out a planning balance, it is recommended that planning permission be granted, subject to a S106 legal agreement to secure the River Mease DCS contribution, and subject to the imposition of suitably worded planning conditions.