

Demolition of existing buildings and erection of 7 no. dwellings and associated infrastructure

Report Item No
A5

Land At Queens Street Measham Swadlincote Derbys DE12 7JE

Application Reference
15/01005/FUL

Applicant:
Queens Bridge Homes

Date Registered:
3 December 2015

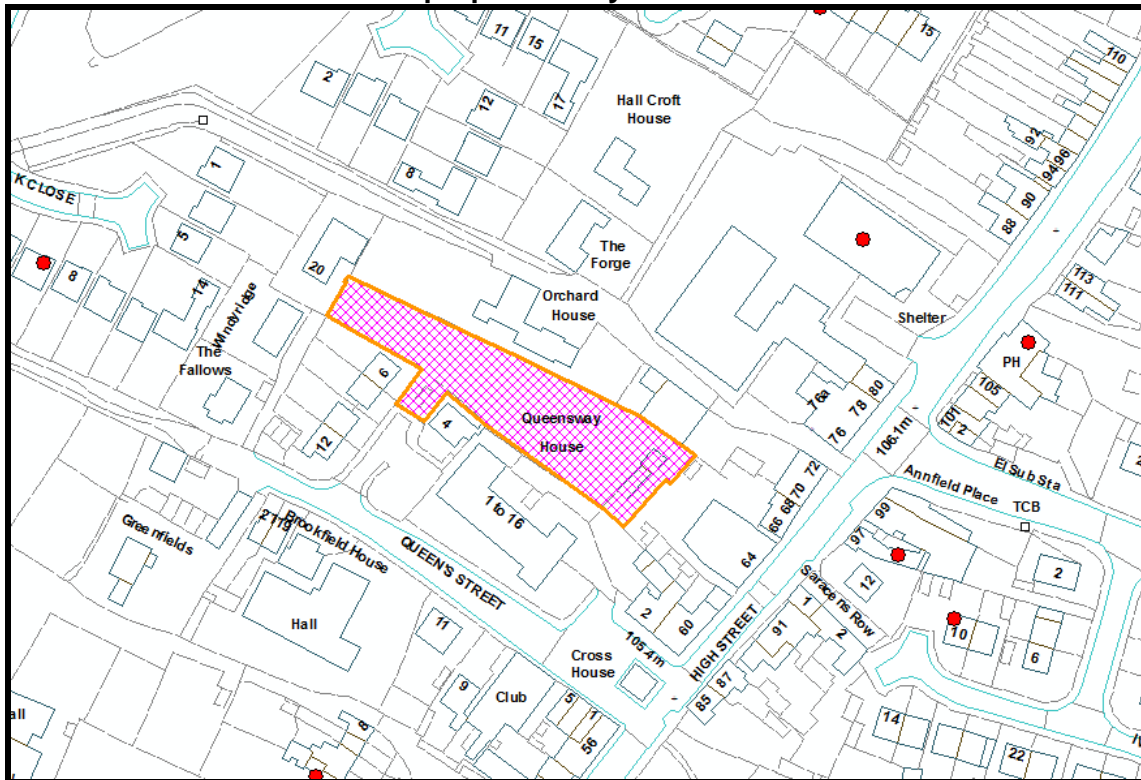
Case Officer:
Ebony Mattley

Consultation Expiry:
10 November 2016

Recommendation:
PERMIT subject to S106 Agreement

8 Week Date:
28 January 2016
Extension of Time:
11 January 2017

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Reasons for Approval

Reason for Call In

The application is reported to the Planning Committee, at the request of Councillor Gill Houlton on the basis that the application is a matter of concern, has significant detrimental effects on residents' properties, the proposed access is poor, and the scheme is contrary to Policies E3 and E4 of the adopted Local Plan.

Proposal

This application seeks full planning permission for the erection of seven dwellings and associated infrastructure at land at Queens Street, Measham.

Consultations

Members will see from the main report below that there were objections raised from 6 separate addresses and objections from Measham Parish Council, with further letters from 4 addresses, resultant of the re-consultation.

There are no other objections raised from statutory consultees.

Planning Policy

The application site is located within Limits to Development, as defined by the adopted North West Leicestershire Local Plan Proposals Map 2002 and submitted Publication Policies Maps June 2016.

Conclusion

The proposal is considered to represent sustainable development and, therefore, the application is considered acceptable in relation to the NPPF. Furthermore, as the site falls within limits to development within the adopted Local Plan and will fall within limits to development within the submitted Local Plan, the site is considered to be sustainable in the context of the River Mease.

It is considered that a suitably designed scheme has now been presented, which overcomes the two previous reasons for refusal in terms of density/layout/design and impact upon the occupiers of Orchard House.

The proposed development would be acceptable (subject to conditions) in terms of density, layout and design, residential amenities, highway safety, impact upon trees, ecological and archaeological impacts and impact on the River Mease SAC/SSSI.

There are no other relevant material planning considerations that indicate planning permission should not be granted. It is recommended that planning permission be granted, subject to the signing of a legal agreement and imposition of planning conditions.

RECOMMENDATION - PERMIT, APPROVE SUBJECT TO A LEGAL AGREEMENT AND THE IMPOSITION OF CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

This application seeks full planning permission for the erection of seven dwellings and associated infrastructure at land at Queens Street, Measham.

The original submission was for eight dwellings, however during the course of the application following the submission of a series of amended plans, the scheme was reduced to seven dwellings and re-consultation undertaken on that basis.

Final minor amendments have also been made showing:-

- o Revised access arrangement with 4.8 metre entrance and 0.5 metre margins,
- o Increase in the dimensions of the garage to House Type D and re-positioning it further back
- o Increase in the dimensions of the bin muster point
- o Site Location Plan updated to state 7 dwellings
- o Plans and Elevations to House Type A, correctly labelled

Re-consultation has been undertaken with Leicestershire County Highway Authority.

The proposal includes 7 x 3 bed units, comprising of three pairs of semi-detached properties and one detached property. Access to the site is proposed from Queens Street, Measham.

The site measures 0.2 hectares and is overgrown. The site is a linear strip of land extending from the rear of properties fronting High Street to the rear of properties off Queens Street which back onto Oak Close. There is a topographical fall across the site from east to west.

The eastern tip of the site lies within the Measham Conservation Area and a protected Beech Tree occupies the northern boundary of the site.

The site is located within Limits to Development, as defined by the adopted North West Leicestershire Local Plan Proposals Map 2002 and submitted Publication Policies Maps June 2016.

The application has been accompanied by a Design and Access Statement; Phase I and II Geo-Environmental Assessment; Flood Risk Assessment; Biodiversity Report and Arboricultural Assessment and Impact Assessment.

Relevant Planning History:-

13/00969/FUL - Demolition of existing buildings and erection of 7 new affordable dwellings, including access and parking arrangements and parking for No. 6 Queen's Street - Refused - 04.09.2014.

11/00378/OUT - Residential development with access off Queens Street (Outline application with appearance, landscaping, layout and scale reserved) - Approved - 07.12.2011.

2. Publicity

34 Neighbours have been notified.

Site Notice displayed 20 October 2016.

Press Notice published Leicester Mercury 9 December 2015.

3. Summary of Consultations and Representations Received

Statutory Consultees:

The following summary of representations is provided.

Measham Parish Council has the following objections to raise:-

A previous application on this site No 13/00969/FUL was refused and the Parish Council request that this application is also refused;

The access is inadequate and is currently used by residents of Queens Street to park their cars; Double parking makes access difficult, which would worsen should this development be permitted;

Safety concerns due to the lack of pavement;

The width of the private drive is inadequate;

Lack of parking and no provision made for visitors for No. 6 Queens Street;

The Parish Council has received 5 letters of objections; and

It is requested that this land is incorporated with Queensway House to develop affordable elderly persons accommodation using the commuted sum which was received by NWLDC in lieu of affordable housing from David Wilson Homes on the Bosworth Road Pickering's development.

Natural England raises no objection, subject to the imposition of planning conditions.

Environment Agency raises no objection.

Leicestershire County Council - Highways raises no objection, subject to the imposition of planning conditions.

Leicestershire County Council - Ecology raises no objection, subject to the imposition of a planning condition.

Leicestershire County Council - Archaeology raises no objection, subject to the imposition of a planning condition.

Leicestershire County Council - Lead Local Flood Authority has no comments.

NWLDC Urban Design Officer is satisfied with the amended layout and house types and raises no objection, subject to the imposition of conditions.

NWLDC Tree Officer is satisfied with the amended layout and raises no objection, subject to the imposition of conditions.

NWLDC Environmental Protection raises no objection.

NWLDC Recycling/Waste Collection raises no objection.

Third Party Representations

Objections were received to the originally submitted scheme (for 8 dwellings) from 6 separate addresses, from No's 60 and 72 High Street, No's 8 and 10 Queens Street, Orchard House and Long Close House.

Principle

A scheme of 7 dwellings was previous refused, so how can 8 be acceptable?
Loss of green space in centre of the village adjacent to the Conservation Area

Trees and Hedgerows

Plans are inaccurate
Tree and hedge Root Protection Area (RPA) queried
Tree and hedge plans/surveys queried

Layout and Design

Should be refused for the same reasons as before - contrary to Policies E3 and E4
Layout is not compliant with the NPPF
Density
Out of keeping with the street

Residential Amenity

Impact upon view
Inadequate seperation distances
House heights/overshadowing/overbearing impacts
Should be refused for the same reasons as before - contrary to Policies E3 and E4

Highway Safety

Parking issues and poor parking layout
Loss of parking to No's 6 and 8 Queens Street
Safety due to removal of existing footpath
Restricted access for emergency vehicles
Not accessible for refuse collection
A plot is too close to building and will destabilise them

Other

Bat report needs to be updated
No details of finished floor levels
Drainage - rainwater soakaways will cause a major issue due to the sloping site
Boundary disputes
Engineering report and design for buttress support to agricultural building is required.

Following receipt of revised plans further consultation has been undertaken and objections have been received from 4 addresses - Orchard House, Long Close House and No's 8 and 10 Queens Street, raising the following new/additional objections:-

Likely future development on the adjacent site of Queensway House, the two sites should be considered as one.

The site plan is not accurate

Boundary dispute

Wheelie bin location will have an impact upon residential amenity

New planting is over the boundary and has an impact upon neighbouring amenities

Encroachment of plots into RPA

Inadequate access, increase in traffic and loss of parking spaces to No's 6 and 8 Queens Street, contrary to Policy IF7

Not accessible by fire engine

Does not comply with Building for Life 12

All responses from statutory consultees and third parties are available for Members to view on the planning file.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

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

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 32 (Promoting sustainable transport)

Paragraph 34 (Promoting sustainable transport)

Paragraph 47 (Delivering a wide choice of high quality homes)

Paragraph 49 (Delivering a wide choice of high quality homes)

Paragraph 57 (Requiring good design)

Paragraph 59 (Requiring good design)

Paragraph 61 (Requiring good design)

Paragraph 64 (Requiring good design)

Paragraph 118 (Conserving and enhancing the natural environment)

Adopted North West Leicestershire Local Plan (2002)

The application site is located within Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S2- Limits to Development

Policy E2 - Landscaped Amenity Open Space
Policy E3 - Residential Amenities
Policy E4 - Design
Policy E7 - Landscaping
Policy T3 - Highway Standards
Policy T8 - Parking
Policy H4/1 - Housing Land Release
Policy H6 - Housing Density
Policy H7 - Housing Design

Submitted North West Leicestershire Local Plan

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. The weight to be attached by the decision maker to this submitted version should be commensurate to the stage reached towards adoption.

S1 - Future Housing and Economic Development Needs
S2 - Settlement Hierarchy
D1 - Design of New Development
D2 - Amenity
H6 - House Types and Mix
IF7 - Parking Provision and New Development
EN2 - River Mease Special Area of Conservation
HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment

Other Policies/ Guidance

National Planning Practice Guidance - March 2014.
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).
River Mease Water Quality Management Plan - August 2011.
River Mease Water Quality Management Plan - Developer Contribution Scheme June 2016.

6Cs Design Guide (Leicestershire County Council)

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new development.

5. Assessment

The main considerations with regards to this application are the principle of development, impact upon heritage assets, density, layout and design, impact upon residential amenity, highway considerations, trees and hedgerows, protected species/ecology, archaeology, impact upon the River Mease Special Area of Conservation/SSSI and other matters.

For the avoidance of doubt, whilst the scheme proposes starter homes, at the time of writing starter homes cannot be deemed affordable housing, so at this stage will be assessed as if the scheme is for 7 no. open market dwellings.

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, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

Previous applications on the site include reference 13/00969/FUL which sought consent for seven affordable dwellings, which was refused at Planning Committee in August 2014. Prior to that, outline planning permission (for access only) was granted for five dwellings on the same piece of land under application 11/00378/OUT. Accordingly whilst the outline application has subsequently lapsed, the principle of residential development has previously been considered to be acceptable.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

The NPPF also requires that the District Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the submitted Local Plan.

The site is located within limits, within the adopted Local Plan where there is a presumption in favour of sustainable development and would also fall within limits within the submitted Local Plan and would fall to be considered against Policy S2, which is supportive of infill residential development in settlements, such as Measham.

Furthermore, in respect of sustainability, in the context of the River Mease, in the Authority's opinion, the limited capacity DCS2 should be directed to the most sustainable locations for new development within the District. Therefore as the site lies within the Limits to Development, the Authority is of the view that this application is acceptable under DCS2.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Measham benefits from a range of local services and is readily accessible via public transport. On this basis future residents would not be heavily reliant on the private car to access the most basic of services.

In conclusion, it is considered that the site would be socially sustainable and there would be some limited economic benefits associated with the construction of the dwellings and these benefits would not be significantly or demonstrably outweighed by any potential negative environmental impacts of the proposal. Overall the proposal is considered to represent sustainable development and, therefore, the application is considered acceptable in relation to the NPPF. Furthermore, as the site falls within limits, the site is considered to be sustainable in the context of the River Mease.

The NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. Based on the above discussions, the proposed scheme is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

Impact upon Heritage assets

The proposed development must be considered against section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that "special regard shall be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area".

Paragraph 131 of the NPPF states that planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. It further indicates (at paragraph 132) that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The western edge of the Conservation Area (at the point of the application site) is marked by brick buildings which are proposed to be demolished as part of the application proposals. The Conservation Officer has raised no objection to this element of the proposal and therefore it is considered that the removal of the buildings would not harm the significance of the Conservation Area.

The proposed development on the site would just encroach into the Conservation Area and would be visible from the rear of properties fronting High Street. Glimpses of the site are also available from the Conservation Area at the eastern end of Queen Street between existing developments. However, due to a drop in levels, these views would be of the upper half/ roof space of the development. When having regard to the scale, form and detailing of the proposed units, along with existing neighbouring development, it is not considered that the proposal would be detrimental to the character or appearance of the Conservation Area or its setting, or to that of buildings which contribute positively to it.

Therefore the proposal would not involve harm to the significance of a designated heritage asset.

Density, Layout and Design

Members may recall that application ref: 13/00969/FUL was refused at Planning Committee for two reasons, one being:-

"Policy E4 North West Leicestershire District Plan seeks to achieve good design in new development that respects the character of its surroundings. The proposal would represent an overdevelopment of the site resulting in a poor layout with inappropriate space about and between existing and proposed dwellings and poor access/manoeuvring arrangements, such that the development would appear out of keeping with surrounding development. Approval of the proposal would therefore, be contrary to the provisions of Policy E4 of the Local Plan."

Density

The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances.

The application proposes 7 dwellings on a 0.2 hectare site equating to a net density of 35 dwellings per hectare (dph). Policy H6 requires a minimum of 40 dph in town centre locations and accessible locations and 30 dph in other locations. When having regard to the location of the site within the historic core of the settlement where densities are typically higher but also accepting that the site abuts more modern development on Queen's Street and Oak Close

where densities are generally lower, it is considered that the proposed density is appropriate in this case. Therefore, the scheme is considered to be acceptable in relation to Policy H6 of the adopted Local Plan and the advice in the NPPF.

Layout and Design

The site is surrounded by residential development, including a residential care home immediately to the south of the site. To the east of the site, development is predominantly characterised by traditional two-storey brick and rendered properties located toward the front of plots with boundaries well defined and with buildings that are well detailed with strong chimneys, window and brick detailing, and generally well-proportioned buildings. To the north, south and west of the site are buildings of modern form and construction of varied styles.

The scheme proposes three pairs of semi-detached properties, two of which face onto the road frontage, when entering the site, creating a strong attractive streetscene. There is also another pair of semi-detached properties and one detached dwelling towards the east of the site. All properties are of two storey proportions, reflecting the proportions of surrounding properties.

Following concerns raised by officers regarding overdevelopment and layout, amended plans have been submitted, reducing the number of units to seven (and subsequently reducing the footprint of plot 7 with a garage space) and providing larger amenity spaces to all plots, reducing tandem car parking spaces and providing all parking spaces to the frontages of each of the semi-detached properties.

The development now provides appropriately sized gardens commensurate to the size of the dwellings to which they serve.

Comments have been raised by a local resident about the scheme not being compliant with Building for Life 12. Notwithstanding that Building for Life is normally applied to scheme of 10 dwellings or more, the Council's Urban Design Officer has been consulted upon the amended plans and welcomes the amendments.

With regards to the specific design of the properties, the Council's Urban Design Officer has commented upon and sought amendments to the house types during the course of the application. Subject to conditions to secure materials, it is considered that the design approach is acceptable and is reflective of the more traditional properties to the east of the site, on High Street.

In conclusion, it is considered that the scheme is markedly different from that previously refused with an acceptable density and spaces between buildings, larger amenity spaces, well related parking spaces, two storey proportions and acceptable design of the plots is considered to be in accordance with Saved Policy E4 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

Impact upon Residential Amenity

The properties that would be most immediately affected by the proposed development would be Orchard House to the north, Queensway House and No's 4 and 6 Queens Street to the south and No. 20 Queens Street to the west.

Orchard House

Orchard House is located to the north of the application site and is a two-storey dwelling with numerous windows facing the application site. The previous application was refused for the following reason, due to the impact upon the occupiers of this dwelling:-

"Policy E3 of the North West Leicestershire District Plan seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings. The proposed development by reason of its proximity, height, mass, orientation and due to rising land levels in relation to neighbouring land would result in overshadowing and overlooking of Orchard House to the detriment of the amenities of the occupiers of that dwelling. Approval of the proposal would therefore, be contrary to the provisions of Policy E3 of the Local Plan."

The refused scheme (following the submission of amendments) proposed a dwelling sited 2.25m from the application site boundary and 5.4m to the closest point with Orchard House. This application does not propose a dwelling to the northern boundary, with the nearest proposed plot - plot 4 being sited 10.2 (extending to 10.9 to the rear of plot 4) from Orchard House. It is considered that this is sufficient distance away not to cause any significant loss of light, overshadowing or overbearing impacts. There is one ground floor window proposed in the side elevation of plot 4, which would serve a study and no first floor side windows. Whilst there are first floor front and rear windows these would be orientated to the east and west and therefore there would not be any direct overlooking upon Orchard House. The closest point between Plot 2 and Orchard House, would be 11 metres and given the orientation/relationship would not result in any significant adverse impacts.

No.20 Queens Street

No.20 Queens Street is located to the west of the site, at a lower land level. During the course of the application, following concerns raised by officers, amended plans have been received re-positioning plots 1 and 2, further within the site (to the east), creating a greater separation distance from the adjoining No. 20. There is now a distance of 20.2 metres between the rear walls of plots 1 and 2, to the closest point with No. 20.

The previously refused layout proposed plots 1 and 2 to be sited 12 metres from the boundary, to the dwelling and 8 metres from the boundary to the terrace area, whereas this scheme increases the distances to 15.6 metres and 13.3 metres, respectively, following the submission of amended plans.

The previous reason for refusal did not include any significant adverse impacts upon the occupiers of this dwelling and it is considered that there is a greater separation distance, in comparison to the previous scheme.

No.'s 4 and 6 Queens Street

No.4 Queens Street is a single storey dwelling located to the south of the site. The rear elevation of this dwelling is located 2.5 metre off the site boundary which is currently occupied by fencing which extends approximately 1 metre above the ground level of this neighbouring property. The site level is approximately 1 metre below the ground level of this neighbouring property at this point, although this level difference reduces as the site progresses in an easterly direction. The rear elevation of No.4 contains three windows, at least one of which appears to serve a habitable room. Plot 3 is proposed to be sited at 4 metres away from No. 4 and does not propose to contain any side windows, at ground or first floor levels, which combined with the

land levels and orientation/relationship between the two properties, ensures that that there would not be any significant overbearing, overshadowing or overlooking impacts arising from the proposal.

No.6 Queens Street also abuts the southern boundary of the site and is a two-storey dwelling with three windows in its side elevation, serving a kitchen at ground floor level and a landing at first floor level. The third window is at first floor level and is obscure glazed, and therefore, the side windows do not appear to be primary windows to habitable rooms. The side wall of proposed plot 1 would be sited between 3 - 3.8 metres from the side wall of No. 6 and following the submission of amended plans to re-site plots 1 and 2 further to south, the rear of plot 1 is only proposed to project an additional 0.7 beyond the rear wall of No. 6 (in comparison to the previously refused scheme which projected 3 metres beyond the rear wall). Plot 1 does not propose to contain any side windows and it is considered that any potential overlooking from first floor rear windows, would be no greater than the existing relationship that exists between No's 6 and 8 Queens Street.

No.'s 4 and 6 Queens Street are located either side of the proposed access drive. Whilst it is acknowledged that there would be some additional noise and disturbance, when having regard to the number of units proposed and the relationship between the site and the neighbouring properties, it is not considered that this would be sufficiently detrimental to sustain a reason for refusal, in this case.

Queensway House

Queensway House to the south of the site is a residential care home, which is currently unoccupied and is located on higher ground than the application site. There would be a distance of 7 metres between the side elevation of plot 3 and the closest point to the care home. No ground or first floor windows are proposed to the side elevation of plot 3 which faces the care home. When having regard to these distances, levels and the relationship with these proposed dwellings, it is not considered that there would be any significant overbearing or overshadowing impacts on the neighbouring care home.

Plot 5 would be further still at 11.2 metres and as above, it is not considered that there would be any significant overbearing or overshadowing impacts on the neighbouring care home.

Letters of objection have also been received from Long Close House, confirming that they are the owners of the agricultural buildings and the area of land between them and Orchard House and the hedges and walls between them and raise objections on the proximity of plot 7 to the boundary. Plot 7 is proposed to be located 2.7 metres from the boundary, which is considered to be acceptable in this case.

In respect of impacts upon the future occupiers between the plots themselves, there is a distance of some 23 metres between the front walls of plots 1 and 2, with plots 3 and 4, and 22 metres between the rear of plots 3 and 4 and fronts of plots 5 and 6. Accordingly there is sufficient separation distances between habitable rooms within the dwellings to ensure that there are no significant overlooking, overshadowing, or overbearing impacts. Windows serving bathrooms at first floor, are to be fitted with obscure glass, secured by the imposition of a planning condition.

In summary, the proposal is considered to have minimal impacts upon amenity of existing neighbouring or future neighbouring residents. Accordingly the proposal is considered to be acceptable in relation to Saved Policy E3 of the adopted Local Plan and D2 of the submitted

Local Plan.

Highway Considerations

Objections have been raised by the Parish Council and residents regarding the access, traffic movements, turning, private drive and lack of parking provision and no provision made for visitors for No's 6 and 8 Queens Street. Similar objections were raised as part of the previous application and the County Highway Authority (CHA) confirmed that it was content and it should be noted that highway safety was not a previous reason for refusal.

With regards to this application, access is proposed from Queens Street. All plots are proposed to be three bed properties, with plots 1-6 having two car parking spaces each, with plot 7 proposing a garage and parking space. The level of parking is in accordance with the standards.

The amended plans have been considered by the CHA who have confirmed that providing that the scheme is to remain private (and not adopted) they raise no objection, subject to conditions.

For the avoidance of doubt the applicant has confirmed that the roads will be private, and are not to be offered for adoption. Accordingly, as the road will not be adopted, a condition is recommended to be imposed to secure the precise details and location of the bin collection/muster point.

The access is within the ownership of the applicant and any arrangement that has existed previously in respect of parking in this location, would therefore be an informal arrangement. The scheme does not result in the loss of any formally designated parking spaces and there is no requirement for the developer to provide additional parking provision for existing neighbouring properties. The applicant could have fenced the land off at any time to prevent others from using it to park their cars.

In summary, subject to the imposition of conditions it is considered that the scheme is acceptable in relation to Saved Policies T3 and T8 of the adopted Local Plan and Policy IF7 of the submitted Local Plan.

Trees and Hedgerows

Concerns have been raised from neighbours in respect of the impact upon the protected beech tree, the unprotected apple tree, elder and the existing hedgerow along the northern boundary.

The northern boundary of the site is occupied by a large Beech Tree which is protected by Tree Preservation Order T427. The proposals show the retention of the protected tree and an Arboricultural Assessment and Impact Assessment, Tree Survey and Constraints Plan and Tree Impact and Protection Plan accompany the application submission.

The Council's Tree Officer has visited the site and following the submission of amended plans, the Council's Tree Officer has raised no objections, subject to the imposition of conditions.

The Council's Tree Officer is satisfied with the Root Protection Area (RPA) equivalent to the crown spread, confirming this is sufficient to provide necessary protection to the Beech tree and important tree features are being retained, with the elder being required to be trimmed, as has been undertaken regularly during the life of the hedge. The Apple will also need branches shortening slightly on the site side, which the Tree Officer does not consider to be detrimental

and the applicant would be legally entitled to prune back to the boundary. The Tree Officer has also confirmed that a RPA fence is only required for the duration of the construction works and a permanent protective barrier is not necessary. It would not be reasonable to require the neighbour's agreement to this.

With regards to the impact upon the hedgerow, the Council's Tree Officer has confirmed that there is not a British Standard definition for establishing a hedge RPA and that the British Standard 5837:2012 is a standard for trees and not hedges.

The Tree Officer is satisfied that the 1.5 metre RPA from the centre of the hedge is sufficient to safeguard it and *Sambucus nigra* (Elder) is a shrub and not a tree and therefore not of individual significance, it cannot be considered as a constraint to development. As a hedge plant, it would be protected within the proposed hedge RPA.

The Tree Officer has confirmed that where there is encroachment to build a new footpath at one location near plot 2, the applicant has confirmed that there will be no requirement to excavate and the RPA can be protected by ground guards.

Subject to the imposition of conditions requiring the development to be undertaken in accordance with the submitted details, including protection measures during the construction phase, the proposal is considered to be acceptable in terms of its impact on the protected tree. Conditions are also recommended in respect of ground guards, no dig construction, pruning works and proposed new planting and landscaping.

Protected Species/Ecology

The scheme has been considered by the County Ecologist who confirms that the site had no significant habitats or evidence of protected species when surveyed in 2013 and the 2013 survey is valid in support of this application. The County Ecologist has requested that a condition be imposed requiring site clearance, outside of the bird nesting season.

In response to the letter of objection, requesting an updated bat survey, the County Ecologist has re-confirmed that an updated survey is not required.

The site lies within the catchment of the River Mease Special Area of Conservation (SAC) and consideration of the potential impacts of the development on this designated site will be covered later in this report.

Archaeology

The Leicestershire and Rutland Historic Environment Record (HER) shows that the application site is located within the medieval and post-medieval historic settlement of Measham (HER ref.: MLE10848) and lies in an area of archaeological interest.

The County Council Archaeologist has raised no objections to the application, subject to the imposition of conditions in respect of a programme of archaeological work, including an initial phase of trial trenching.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major

contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required. The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

The River Mease Developer Contribution Scheme Second Development Window (DCS2) was adopted by the Council on 20 September 2016 which has limited capacity available for new development. Having regard to this limited capacity the Authority has had to decide how to deal with applications within the catchment area. In the Authority's opinion, the limited capacity should be directed to the most sustainable locations for new development within the District. Therefore as the site lies within the Limits to Development, the Authority is of the view that this application is acceptable under DCS2.

As the scheme proposes 7 x 3 bed units the contribution would be £3,171.00. The applicant has confirmed that they are agreeable to paying the contribution which is to be secured by way of a legal agreement.

The flows from the new dwellings will need to be taken into account against the existing headroom at Measham Treatment Works. At the time of writing there is sufficient capacity for 7 dwellings.

Natural England confirm that they welcome the commitment to drain surface water to SUDS/soakaway to avoid any harmful discharge into the River Mease. As surface water should discharge to a soakaway or a sustainable drainage system to ensure that unnecessary water volume does not go to the sewage treatment plant, a condition to this affect is imposed.

The scheme has also been considered by the Lead Local Flood Authority, who have no comments to make on the application.

Therefore it can be ascertained that the proposal on the site will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Other Matters

Letters of Representation

In response to neighbouring letters of objection which have not been addressed within the report above:-

The applicant has provided title documents which are consistent with the site location plan. No further consideration is therefore required in respect of land ownership which is a civil matter between the two parties.

Concerns have been raised regarding the demolition of outbuildings causing impacts upon the foundations of walls and buildings. With regards to the largest of the outbuildings, falling within the Conservation Area, the applicant will need to serve notice under Section 80 of the Building Act 1984, with the Authority counter serving under Section 81. The smallest of the outbuildings,

due to its size would not require the service of a notice and would therefore be a civil matter. The owner of the neighbouring wall is advised to contact the owners of the site , under the Party Wall Act 1996.

Conditions are recommended to be imposed in respect of existing and proposed boundary treatments and a condition in respect of the means of demolition, however the other concerns raised, as set out above are not material planning considerations.

A right to a view is not a material planning consideration.

With regards to the comments about a comprehensive scheme which includes the adjacent Queensway House, the applicant would like this application to be considered, as submitted.

Conclusion

In conclusion, the proposal is considered to represent sustainable development and, therefore, the application is considered acceptable in relation to the NPPF. Furthermore, as the site falls within limits within the adopted local plan and will fall within limits within the submitted Local Plan, the site is considered to be sustainable in the context of the River Mease. It is considered that a suitably designed scheme has now been presented, which overcomes the two previous reasons for refusal in terms of density/layout/design and impact upon the occupiers of Orchard House. The proposed development would be acceptable (subject to conditions) in terms of density, layout and design, residential amenities, highway safety, impact upon trees, ecological and archaeological impacts and impact on the River Mease SAC/SSSI. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is recommended that planning permission be granted, subject to the signing of a legal agreement and imposition of planning conditions.

RECOMMENDATION:- Permit, subject to a legal agreement and the following conditions:-

- 1 The development shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The proposed development shall be carried out strictly in accordance with the following amended plans, unless otherwise required by a condition of this permission: 'Proposed House Type B' Drawing ref. 00-06 Rev A and 'Proposed House Type C/B' Drawing ref. 00-07 received by the Local Planning Authority on the 11 October 2016; 'Proposed House Type D' Drawing ref. 00-11 and 'Location Plan & Block Plan' Drawing ref. 00-01 received by the Local Planning Authority on 28 November 2016; and 'Proposed House Type A' Drawing ref. 00-05 Rev A and 'Proposed Site Plan Setting Out and Levels' Drawing ref. 00-03 Rev E received by the Local Planning Authority on 29 November 2016.

Reason - To determine the scope of this permission.

- 3 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on site until such time as precise details of the finished ground levels on the site and the finished floor levels of the buildings in relation to an existing datum point

have been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority.

- 4 Notwithstanding the submitted plans, nor Condition 2 above, no building shall be erected on site above damp proof course level until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garage shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

Reason - To determine the scope of this permission.

- 5 Notwithstanding the submitted plans, nor Condition 2 above, no building shall be erected on site above damp proof course level until a detailed scheme for all existing and proposed boundary treatments of the site, including a timetable for implementation has been submitted to and agreed in writing by the Local Planning Authority.

Reason - To preserve the amenities of the locality.

- 6 Notwithstanding the details shown on the 'Proposed Site Plan Setting Out and Levels' Drawing ref. 00-03 Rev E received by the Local Planning Authority on 29 November 2016, or provisions of Condition 2 above, no development shall commence on the site until a landscaping scheme has first been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following the first occupation of the first dwelling hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

Reason - To ensure satisfactory landscaping is provided within a reasonable period and to provide a reasonable period for the replacement of any trees.

- 7 The hard landscaping shall be carried out in accordance with the submitted details: 'Proposed Site Plan Setting Out and Levels' Drawing ref. 00-03 Rev E received by the Local Planning Authority on 29 November 2016. The hard surfacing of any public and/or shared areas shall be carried out prior to the first occupation of any dwelling with the proposed 'paving to access houses and rear patio' as defined on the plan shall be undertaken prior to the occupation of the respective plot.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority.

- 8 Notwithstanding the submitted plans, prior to the first occupation of any dwelling, hereby approved, a scheme that makes provision for waste and recycling storage across the site shall first be submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities for residents/collection crews, and adequate collection point space at the adopted highway boundary.

Reason - In the interests of visual amenity.

- 9 No development including demolition shall take place until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:
- o The programme and methodology of site investigation and recording
 - o The programme for post-investigation assessment
 - o Provision to be made for analysis of the site investigation and recording
 - o Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - o Provision to be made for archive deposition of the analysis and records of the site investigation
 - o Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason - To ensure satisfactory archaeological investigation and recording.

- 10 Operations that involve the destruction and/or removal of vegetation shall not be undertaken during the months of March to September inclusive, unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

Reason- To reduce the impact of the proposal on nesting birds, which are a protected species.

- 11 Before the external materials to the roofs of the dwellings hereby approved are installed:
- (i) the means of disposal of surface water from the dwellings to soakaway(s) or other sustainable drainage system shall be installed on site; or
 - (ii) evidence to demonstrate that these means of drainage are not suitable for the dwellings and alternative details of surface water discharge to mains sewer have been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be provided before the external materials to the roof of the dwellings are installed and shall thereafter be so retained.

Reason- To prevent an adverse impact on the River Mease Special Area of Conservation.

- 12 No work shall commence on site until the trees and hedgerow have been securely fenced off with protective fencing, in accordance with the Tree Impact and Protection Plan Drawing No. BA5120PRO (dated 03/09/16). Notwithstanding the ground protection measures, no works shall commence within the construction exclusion zones or tree precautionary zones, unless and until an arboricultural method statement, which shall include full details of any no dig methods and ground protection, shall first have

been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.

Reason- To ensure the existing trees are adequately protected during construction in the interests of the visual amenities of the area.

- 13 No development shall commence on site until a detailed scheme of pruning works to be carried out in accordance with BS3998:2010 Tree Work - Recommendations have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme.

Reason- In the interests of health and safety and amenity value of the trees.

- 14 No works or development shall take place until an auditable system of arboricultural site monitoring by the appointed project arboriculturist has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)

- a) Induction and personnel awareness of arboricultural matters
- b) Identification of individual responsibilities and key personnel
- c) Statement of delegated powers
- d) Timing and methods of site visiting and record keeping, including updates
- e) Procedures for dealing with variations and incidents.
- f) The scheme of supervision shall be carried out as agreed.
- g) The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

Reason- To ensure that the tree protection plan is adequately implemented in the interests of the visual amenities of the area.

- 15 No development (including demolition) shall commence on site until such time as:
- a) a method statement setting out the means of demolition of the existing buildings has been submitted to and agreed in writing by the Local Planning Authority; and
 - b) the existing buildings on the site have been demolished in full, unless an alternative timescale for their demolition has first been submitted to and agreed in writing by the Local Planning Authority.

All demolition works on the site shall be carried out in accordance with the agreed method statement.

Reason - To avoid the possibility of the coexistence of two unrelated developments which would be visually unsatisfactory; in the interests of residential amenities.

- 16 No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reason - To reduce the possibility of deleterious material (mud, stones etc.) being deposited in

the highway and becoming a hazard to road users, and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.

- 17 Before first occupation of any dwelling hereby permitted, the access and turning shall be provided in accordance with the details: 'Proposed Site Plan Setting Out and Levels' Drawing ref. 00-03 Rev E received by the Local Planning Authority on 29 November 2016; the access and turning shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate). The access drive and turning once provided shall be so maintained at all times.

Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of general highway safety, to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway and to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

- 18 Before first occupation of any dwelling hereby approved, the respective car parking provision shall be made (hard surfaced and marked out) within the curtilage in accordance with the 'Proposed Site Plan Setting Out and Levels' Drawing ref. 00-03 Rev E received by the Local Planning Authority on 29 November 2016. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.

Reason - To ensure that adequate off-street parking facilities are available.

- 19 The gradient of the access drive shall not exceed 1:12 for the first 7 metres behind the highway boundary.

Reason - To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety.

- 20 The windows serving bathrooms at first floor shall be glazed with obscure glass to Pilkington Standard 3 (or equivalent) and be non-opening or top opening only which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

Reason- To ensure that the development is not detrimental to the privacy and amenities of the neighbouring properties.

- 21 Notwithstanding the provisions of Part 1 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) the dwelling hereby permitted shall not be enlarged, improved or altered, nor shall any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be provided unless planning permission has first been granted by the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain control over future development in view of the form and density of the development proposed.

- 22 Utility boxes shall be painted black, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure an appropriate form of design.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
- 3 The proposed road doesn't conform to an acceptable standard for adoption and therefore will not be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by the private road within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see www.leics.gov.uk/htd or phone 0116 3057198. Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it. Details of the future maintenance of the private road should be submitted for the approval of the LPA before any dwelling is occupied.

This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website: - see Part 6 of the '6Cs Design Guide' at www.leics.gov.uk/6csdg.

The highway boundary is the wall/hedge/fence etc. fronting the premises and not the edge of the carriageway/road.