

Erection of three two storey dwellings and associated access arrangements including amended parking for No's 5,7 and 9 Borough Street (outline - means of access and layout for approval)

Report Item No
A3

Land To The Rear Of 3-9 Borough Street Kegworth Derby DE74 2FF

Application Reference
16/01210/OUT

Applicant:
Mr & Mrs J Marriott

Date Registered:
9 November 2016
Consultation Expiry:

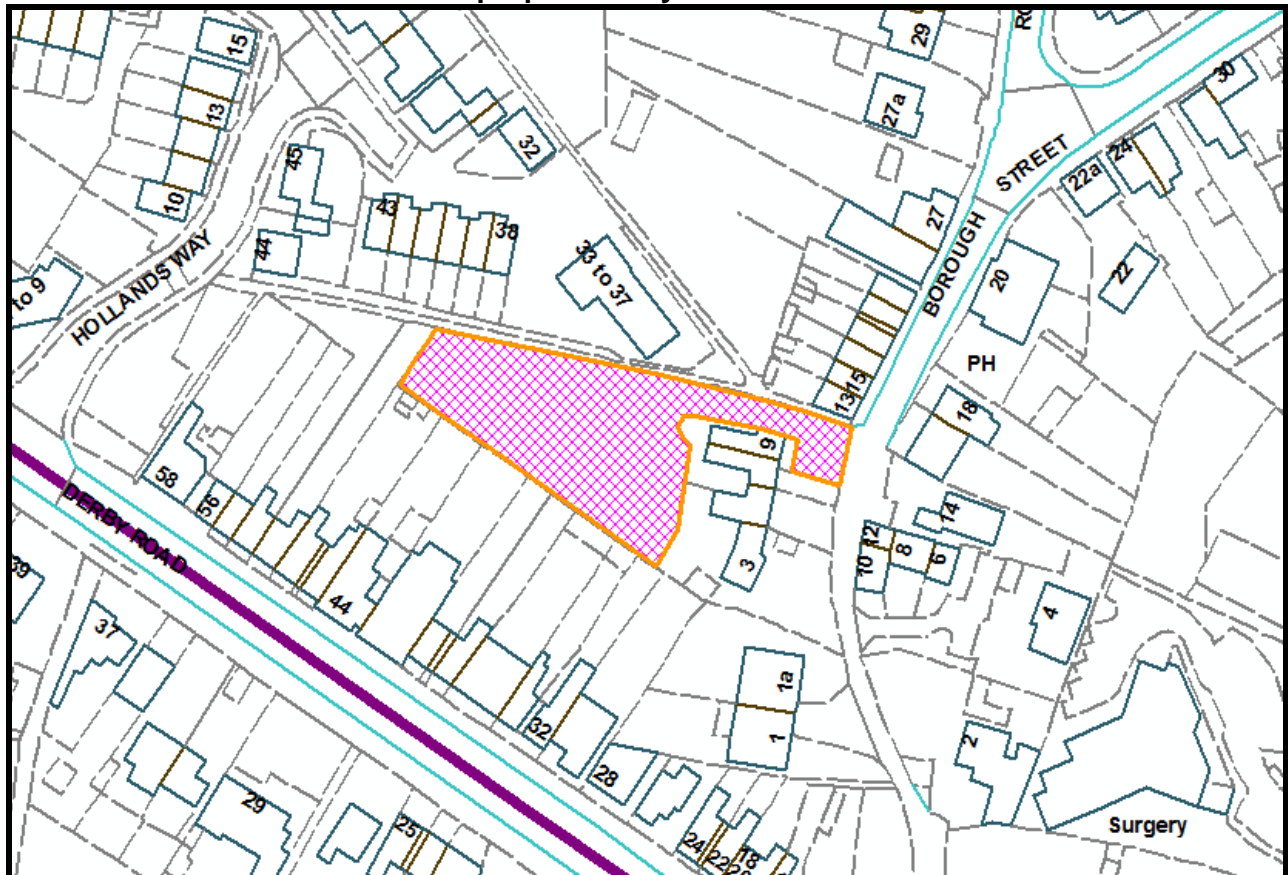
Case Officer:
Adam Mellor

13 March 2017

Recommendation:
PERMIT

8 Week Date:
4 January 2017
Extension of Time:
None Agreed

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application is brought to the Planning Committee at the request of Councillor Alison Smith on the basis that the development would result in an overdevelopment of the site, would lead to vehicles reversing into the highway, would impact adversely on a protected Ash tree and is of an inappropriate design.

Proposal

Outline planning permission is sought for the erection of three two-storey dwellings, as well as revised parking arrangements for nos. 5, 7 and 9 Borough Street, at land to the rear of nos. 3 - 9 Borough Street (odd numbers inclusive), Kegworth with means of access and layout for approval at this stage. The 0.13 hectare site is situated on the western side of Borough Street and is within the defined Limits to Development.

Consultations

Six individual representation have been received which object to the development proposals. Kegworth Parish Council also object to the application. All other statutory consultees, with the exception of the County Council Highways Authority, Council's Environmental Protection Team and Severn Trent Water whose comments are awaited, have raised no objections subject to the imposition of conditions on any consent granted.

Planning Policy

The application site is within the Limits to Development as defined in the adopted and submitted North West Leicestershire Local Plans. The application has also been assessed against the relevant policies in the NPPF, the adopted and submitted Local Plans and other relevant guidance.

Conclusion

The application site is located within the Limits to Development where the principle of this form of development would be acceptable with the application site being within an acceptable walking distance of services in order to ensure the development is socially sustainable. It is also considered that the site could be developed in a manner which would not appear out of keeping with the character and appearance of the surrounding locality, and which would not adversely impact on the amenities of neighbouring residents, highway safety, ecology, protected trees, archaeology or airport safeguarding and which would not further exacerbate any localised flooding impact. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions, is considered acceptable for the purposes of National and Local planning policies.

RECOMMENDATION - PERMIT, subject to 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, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Outline planning permission, with means of access and layout for approval, is sought for the erection of three two-storey dwellings and amended parking arrangements for nos. 5, 7 and 9 Borough Street at land to the rear of 3 - 9 Borough Street (odd numbers inclusive), Kegworth. The 0.13 hectare site is situated on the western side of Borough Street and is within the defined Limits to Development. The surrounding area is predominately residential with dwellings varying in their type and design.

Prior to the submission of the application the application was cleared of soft landscaping, in the form of trees, with it being proposed that a detached garage structure would also be demolished to facilitate the development. It is proposed that three dwellings, forming a semi-detached pair and detached property, would be set to the west of nos. 3 - 9 Borough Street and would cover ground areas of 72.9 square metres (detached) and 101.19 square metres (semi-detached pair combined). Whilst scale is not for approval at this stage the application description, as well as the indicative elevation information, highlight that the dwellings would be two-storey in height.

In terms of vehicular access into the site this would be via an existing access off Borough Street which serves nos. 5 - 9 Borough Street with the off-street parking arrangements for these dwellings being amended as part of the proposed development with each property being served by two dedicated spaces. Two off-street parking spaces would also be provided for each proposed dwelling along with relevant manoeuvring facilities.

A tree survey has been submitted in support of the application.

No recent or relevant planning history was found.

2. Publicity

33 neighbours have been notified.
Site notice posted 22 November 2016.

3. Summary of Consultations and Representations Received

The following summary of representations is provided. Members may inspect full copies of correspondence received on the planning file.

East Midlands Airport Safeguarding has no objections.

Kegworth Parish Council object to the application on the following grounds: -

- The development will impact adversely on an Ash tree protected by a Tree Preservation Order (TPO).
- There will be an increase in vehicular traffic on Borough Street with more cars using the driveway and no. 9 Borough Street having to reverse into the highway.
- The proposed layout only allows one access route through the centre of the parking spaces with it not being possible to improve the access to each dwelling whilst maintaining this amount of spaces.
- The gardens of the proposed properties are too small and unusable to future residents.
- The provision of two-storey houses will result in detriment to the amenities of nos. 33 - 37 Hollands Way.

- The proposal is an overdevelopment of the site.

Leicestershire County Council - Archaeology has no objections subject to conditions.

Leicestershire County Council - Ecology has no objections.

Leicestershire County Council - Highways Authority no representation received at the time of this report. Any comments will be reported to Members on the update sheet.

NWLDC - Environmental Protection no representation received at the time of this report. Any comments will be reported to Members on the update sheet.

NWLDC - Tree Officer has no objections subject to conditions.

Severn Trent Water no representation received at the time of this report. Any comments will be reported to Members on the update sheet.

Third Party Representations

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

- The plans make no reference to an Ash tree within the garden of no. 42 Derby Road which is protected by a Tree Preservation Order (TPO) with the layout having adverse impacts to the integrity of this tree.
- An alternative solution would be to develop the site for five bungalows which are needed in the area and would be financially viable.
- Light pollution from headlights would cause detriment to the amenities of residents of the dwellings on Derby Road.
- The surface water drainage solution would not be suitable due to the high water table in the area.
- Proposed increase in vehicular movements would impact adversely on pedestrian and highway safety due to the width and nature of Borough Street.

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 NPPF. The closer the policies in the development plan to the policies in the NPPF, the greater weight they may be given.

Save where stated otherwise, the policies of the adopted 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 10 (Achieving sustainable development);
- Paragraph 14 (Presumption in favour of sustainable development);
- Paragraph 17 (Core planning principles);
- Paragraphs 18 - 20 (Building a strong, competitive economy);

Paragraph 32 (Promoting sustainable transport);
Paragraph 39 (Promoting sustainable transport);
Paragraph 47 (Delivering a wide choice of high quality homes);
Paragraph 49 (Delivering a wide choice of high quality homes);
Paragraph 56 (Requiring good design);
Paragraph 57 (Requiring good design);
Paragraph 60 (Requiring good design);
Paragraph 61 (Requiring good design);
Paragraph 64 (Requiring good design);
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change);
Paragraph 118 (Conserving and enhancing the natural environment);
Paragraph 120 (Conserving and enhancing the natural environment);
Paragraph 121 (Conserving and enhancing the natural environment);
Paragraph 123 (Conserving and enhancing the natural environment);
Paragraph 141 (Conserving and enhancing the historic environment);
Paragraph 203 (Planning conditions and obligations);
Paragraph 204 (Planning conditions and obligations); and
Paragraph 206 (Planning conditions and obligations).

Adopted North West Leicestershire Local Plan (2002)

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

Policy S2 - Limits to Development;
Policy E3 - Residential Amenities;
Policy E4 - Design;
Policy E7 - Landscaping;
Policy T3 - Highway Standards;
Policy T8 - Parking;
Policy T20 - East Midlands Airport Safeguarding;
Policy H4/1 - Housing Land Release; and
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: -

Policy S1 - Future Housing and Economic Development Needs;
Policy S2 - Settlement Hierarchy;
Policy D1 - Design of New Development;
Policy D2 - Amenity;
Policy H6 - House Types and Mix;
Policy Ec5 - East Midlands Airport: Safeguarding;
Policy IF4 - Transport Infrastructure and New Development;
Policy IF7 - Parking Provision and New Development;
Policy En1 - Nature Conservation;
Policy En6 - Land and Air Quality;
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;
Policy Cc2 - Water - Flood Risk; and
Policy Cc3 - Water - Sustainable Drainage Systems.

Other Policies

National Planning Practice Guidance

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The NPPG does not change national policy but offers practical guidance as to how such policy is to be applied.

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.

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

Circular 06/2005 sets out that local planning authorities should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system.

5. Assessment

Principle of Development

The site is located within the Limits to Development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted and submitted North West Leicestershire Local Plans and other material considerations. Within the NPPF there is a presumption in favour of sustainable development and that proposals which accord with the 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 as a whole or if specific policies in the NPPF indicate development should be restricted.

Policy H4/1 of the adopted Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential approach is outdated in the context of the NPPF, the sustainability credentials of the scheme would still need to be assessed against the NPPF.

Kegworth is outlined as a Local Service Centre under Policy S2 of the submitted Local Plan and as such is considered a sustainable settlement for new residential development given its accessibility by public transport, transport links and range of local services. The site itself is within an acceptable walking distance of the Local Service Centre and as such a residential development on the site would score very well against the sustainability advice contained within the NPPF. A residential development of this nature would also help to sustain the services which are available in the settlement which is a key intention of the NPPF.

Overall, therefore, the principle of the development would be acceptable.

Accessibility

No representation to the application has been received from the County Council Highways Authority.

The submitted plans specify that the private drive will be widened to 4.8 metres in width, with an additional 0.5 metres to the width on the northern boundary due to the presence of an existing

boundary wall, to enable vehicles to pass clear of the highway. It is noted that the existing access into the site is already connected with the vehicular movements associated with nos. 5 - 9 Borough Street and on the basis that the proposed width will enable vehicles to be clear of the highway whilst another vehicle exits there would be no stationary traffic on Borough Street which would prevent the free and safe flow of vehicles. In terms of vehicular and pedestrian visibility splays the plans identify that 2 metre by 2 metre pedestrian visibility splays and 2 metre by 33 metre visibility splays in a northern direction would be provided which would be satisfactory for the speed of traffic on the carriageway, the fact that Borough Street is a one-way highway (vehicles having to travel southwards) and the level of pedestrian movements undertaken in the carriageway.

Within the site vehicles would be able to manoeuvre so as to exit the site in a forward direction including those associated with no. 9 Borough Street who would be provided with adequate visibility so as to assess movements on Borough Street, as well as the private drive, before entering or exiting their dedicated spaces. On the above basis the development is considered to be compliant with Paragraph 32 of the NPPF, Policy T3 of the adopted Local Plan and Policy IF4 of the submitted Local Plan.

Paragraph 32 of the NPPF outlines that applications should only be refused on highway safety grounds when the cumulative impacts are 'severe'. Whilst concerns have been raised by third parties about the increase of vehicular movements on Borough Street it is considered that the movements associated with three additional dwellings would not be significant and therefore would not have a 'severe' impact on highway safety in the context of Paragraph 32 of the NPPF.

In respect of off-street parking requirements nos. 5 - 9 Borough Street are two-bedroom properties and would be provided with two spaces. Each of the new dwellings, indicated to be two bedroom dwellings, would also be provided with two spaces. On the basis of the guidance in the 6Cs Design Guide the amount of spaces proposed to be provided for each unit would be an overprovision, given the total number of bedrooms, and as such this arrangement would be satisfactory in preventing on-street parking issues in the area. As a result of this the proposal would accord with Paragraph 39 of the NPPF, Policy T8 of the adopted Local Plan and Policy IF7 of the submitted Local Plan.

Neighbours and Future Occupants Amenities

Residential properties are situated around the site and in respect of those which are closest to the proposed dwellings these would be nos. 36 and 38 Hollands Way, set 12.4 metres to the north of plot 3, no. 44 Derby Road, set 23.4 metres to the south-west of plot 2, and nos. 7 - 9 Borough Street, set 11 metres to the east of plot 1. In respect of the distances to the boundaries these would be 4.4 metres plot 3 with nos. 36 and 38 Hollands Way, 1.2 metres plot 2 with no. 44 Derby Road and 8.2 metres plot 1 to nos. 7 and 9 Borough Street.

In respect of overbearing and overshadowing impacts it is considered that the distances between the elevations would be sufficient in preventing any adverse impacts in this respect. The separation distances to the boundaries is also considered to be sufficient, particularly given the length of garden associated with no. 44 Derby Road, although careful consideration would be given to the scale of the side projections proposed to plots 1 and 2 at the reserved matters stage given that these would be the closest part of these plots to the relevant boundaries and therefore may be more appropriate as single storey projections.

In respect of overlooking impacts these would be assessed at the reserved matters stage once the position of habitable room window was known but it is considered that the layout as

proposed would not result in any significantly adverse impacts in this respect.

Whilst concerns have been raised relating to car lights causing adverse impacts to residential amenities it is considered that at this present time vehicles associated with nos. 5 - 9 Borough Street could manoeuvre within the application site area with such movements not being too dissimilar to those which would be generated by future occupants of the proposed dwellings. On this basis, as well as the fact that no representation has been received from the Council's Environmental Protection Team in this respect, it is considered that such an impact would not be sufficiently detrimental as to warrant a refusal of the application.

Following revisions to the layout it is also considered that the future amenities of the inhabitants of the dwellings would be protected by virtue of their separation distances from the neighbouring built forms which would also prevent any direct overlooking impacts arising. An Ash tree exists within the garden of 42 Derby Road, which is protected by a Tree Preservation Order (TPO) 451, and whilst it is inevitable that some overshadowing impacts would occur, particularly to the garden associated with plot 1, the Council's Tree Officer is satisfied that the dwellings could be accommodated on the site which would not be subject to any excessive shading as a result of their relationship with this tree. On this basis it is considered that the extent of shadowing would not be sufficiently detrimental as to warrant a refusal of the application and, in any case, any future occupants would be aware of this relationship prior to their purchase.

Overall, therefore, the development would accord with the principles of Paragraph 123 of the NPPF, Policy E3 of the adopted Local Plan and Policy D2 of the submitted Local Plan.

Impact on the Character and Appearance of the Area and Streetscape

The need for good design in new residential development is outlined not only in adopted Local Plan Policies E4 and H7, as well as Policy D1 of the submitted Local Plan, but also Paragraphs 57, 60 and 61 of the NPPF.

In terms of topography the application site broadly slopes upwards from east to west and north to south (south-western corner being the highest point and north-eastern corner being the lowest point) with brick walls defining the majority of the southern and northern boundaries and close boarded fencing being present to the western and parts of the northern boundaries. Residential properties surround the site with public footpath L71 abutting the northern boundary. The immediate area is characterised by a mixture of development including two-storey and single storey terraced, detached and semi-detached dwellings and three-storey flats, properties are mainly orientated to address the highways.

It is noted that scale, appearance and landscaping are all included as matters to be considered at a later stage although the layout is for approval at this stage. As submitted the layout would result in a 'backland' form of development being created but whilst this is the case it is considered that such a layout would not result in significant detriment to the character and appearance of the streetscape, as to justify a refusal of the application, given that backland forms of development already exist on Borough Street (nos. 4, 6, 8 and 22 being such examples) as well as the fact that the properties would be closely associated with nos. 33-37 and 38-43 Hollands Way set to the immediate north. It is also considered that the provision of a pair of semi-detached dwellings and a detached dwelling being orientated to face towards Borough Street (semi-detached pair) and at 90 degrees to the carriageway (detached dwelling) would also be consistent with dwellings in the immediate area and therefore would respect the established character. The floor area of the dwellings would also be consistent with those in the immediate area.

Whilst the proposed gardens to plots 2 and 3 would be relatively small their overall size is considered to be consistent with those in the immediate area, such as those associated with properties on Hollands Way and Borough Street, and as a consequence there would be no significantly adverse impacts to the character of the area in this respect. A proposed density of development of 23 dwellings per hectare would also not result in an overdevelopment of the site given that such a density is consistent with the character of the immediate area.

The appearance of the dwellings would be agreed at the reserved matters stage and it is considered that at this point an appropriate design could be achieved which would accord with the Council's current design agenda. This would be achieved by responding to the positive characteristics of dwellings within the settlement (by the inclusion of features such as brick plinths, stone cills and headers, eaves and verge detailing and canopies) with it is also being considered important that plots 1 and 3 address public footpath L71.

Overall the layout of the development is considered to be compliant with Paragraphs 57, 60 and 61 of the NPPF as well as Policy E4 of the adopted Local Plan and Policy D1 of the submitted Local Plan.

Ecology

Given the dilapidated state of the garages which would be demolished as part of the proposal it is considered that they would not provide a suitable habitat for protected species. The clearance of vegetation prior to the submission of the application has also reduced the available habitat for nesting birds. Given the above circumstances it is considered that ecological species would not act as a constraint on the development with it being possible to impose notes to the applicant on any consent granted to make them aware of the legal requirements should protected species be discovered. In coming to this conclusion it is noted that the County Ecologist has no objections to the scheme. Overall it is considered that the proposal would accord with Paragraph 118 of the NPPF, Circular 06/05 and Policy En1 of the submitted Local Plan.

Landscaping

As identified above a protected Ash Tree, reference TPO 451, exists within the garden of no. 42 Derby Road and whose root protection area (RPA) and canopy extend into the application site. The indicative layout submitted initially had no regard to the implications to this tree but following a site meeting this layout has been amended to ensure that the dwellings are now located outside the RPA and canopy spread of the Ash tree and as a result would not impact adversely on its integrity. Whilst no built forms would be proposed within the RPA it is intended that the off-street parking area for plots 2 and 3 would encroach into this area but the Council's Tree Officer is satisfied that no adverse impacts would arise to the health and lifespan of the protected tree due to these works. It has also been advised by the Council's Tree Officer that the land levels within the RPA of the tree should not be altered and that a site specific tree protection plan should be agreed, these matters would be covered by the imposition of conditions on any consent granted.

The works proposed to form two off-street parking spaces for plot 9 would have implications to a Silver Birch tree which is shown to be retained on the proposed plans. Whilst such implications exist the Council's Tree Officer considers that the tree does not warrant protection as its long term retention is compromised by its relationship with the highway and numerous telegraph wires which penetrate through its canopy. On this basis there would be no objection should this tree be removed at a later date.

As identified in the Neighbours and Future Occupants Amenities section of this report it is noted that it is inevitable that the private amenity area associated with plot 1 will be in shade when the sun is positioned to the south and west due to its relationship with the protected Ash tree. However, BS5837 (2012) outlines that *"NOTE The presence of large specimen trees is increasingly being seen as advantageous since it contributes to climate change resilience, amongst other benefits;"* and *"NOTE 1 Shading can be desirable to reduce glare or excessive solar heating, or to provide for comfort during hot weather. The combination of shading, wind speed/turbulence reduction and evapo-transpiration effects of trees can be utilised in conjunction with the design of buildings and spaces to provide local microclimate benefits."* Whilst such a shading impact would occur the Council's Tree Officer considers that a scheme for three dwellings could be progressed on the site subject to the position of habitable room windows in plot 1 being carefully considered at the reserved matters stage. Provided this matter is satisfactorily addressed at that stage the protection placed on the tree will ensure that it is not subjected to unnecessary pressure for it to be removed.

A scheme of appropriate landscaping to mitigate against that lost from the site prior to the submission of the application could also be agreed under any subsequent reserved matters application.

Overall the proposed development is considered to be compliant with the aims of Policy E7 of the adopted Local Plan.

Archaeology

The County Council Archaeologist has indicated that an appraisal of the Leicestershire and Rutland Historic Environment Record (HER) notes that the site is located within the medieval and post-medieval historic settlement core of Kegworth town and on the western boundary of a circular enclosure which is likely to represent the medieval and possible Anglo-Saxon origins of the settlement. The site therefore has a strong potential for the below-ground presence of significant archaeological remains relating to the historic settlement, dating from the Anglo-Saxon period onwards.

On this basis the County Council Archaeologist suggests conditions should be imposed on any consent granted for a written scheme of investigation (including intrusive and non-intrusive investigation and recording) to be approved prior to the commencement of the development in order to record and advance the understanding of historic activity undertaken in the area. Such conditions are considered reasonable given the archaeological interest in the area and their inclusion would ensure that the development is compliant with Paragraph 141 of the NPPF as well as Policy He1 of the submitted Local Plan.

Flood Risk and Drainage

The site lies within Flood Zone 1 and is not identified as a site with a critical drainage issue on the Environment Agency's Surface Water Flooding Maps. It is highlighted on the application forms that surface water run-off would be addressed by the provision of a soak-away and in the circumstances that the site is not within Flood Zones 2 or 2, nor a critical drainage area, it is anticipated that any surface water run-off solution identified would not result in any drainage or flooding issues. As a result of this the development is considered to be compliant with Paragraph 103 of the NPPF, as well as Policies Cc2 and Cc3 of the submitted Local Plan.

Insofar as foul drainage is concerned it is indicated on the application forms that this would be

discharged into the mains sewer with such drainage being agreed with Severn Trent Water under separate legislation. No representation has been received from Severn Trent Water raising any objections to this approach and as a consequence the development would be compliant with Paragraph 120 of the NPPF.

Other Matters

East Midlands Airport Safeguarding have raised no safeguarding objections to the application and as such the proposal would be compliant with Policy T20 of the adopted Local Plan and Policy Ec5 of the submitted Local Plan.

Whilst the provision of single storey dwellings may be desirable the application is required to be assessed on the basis of its own merits against National and Local Policies. On this basis the fact that the development would not provide for single storey dwellings would not be a reason, in itself, to resist the development.

Summary Reasons for Granting Outline Planning Permission

The application site is located within the Limits to Development where the principle of this form of development would be acceptable with the application site being within an acceptable walking distance of services in order to ensure the development is socially sustainable. It is also considered that the site could be developed in a manner which would not appear out of keeping with the character and appearance of the surrounding locality, and which would not adversely impact on the amenities of neighbouring residents, highway safety, ecology, soft landscaping, archaeology or airport safeguarding and which would not further exacerbate any localised flooding impact. There are no other material planning considerations that indicate planning permission should not be granted and accordingly the proposal, subject to relevant conditions, is considered acceptable for the purposes of the above mentioned policies.

RECOMMENDATION - PERMIT, subject to the following conditions;

- 1. Outline Time Limit**
- 2. Submission of Reserved Matters**
- 3. Approved Plans**
- 4. Finished Floor and Site Levels**
- 5. Boundary Treatments**
- 6. Highways**
- 7. Archaeology**
- 8. Site Specific Tree Protection Plan**

(Subject to no contrary observations by 2 March 2017)