

Erection of one detached dwelling with detached garage and stable block for use in connection with horse stud and formation of new access (Outline- access and layout included)

Report Item No  
A5

Land At Redburrow Lane Packington Ashby De La Zouch  
Leicestershire LE65 1UD

Application Reference  
16/00888/OUT

Applicant:  
Mr & Mrs K Goodwin

Date Registered:  
29 July 2016

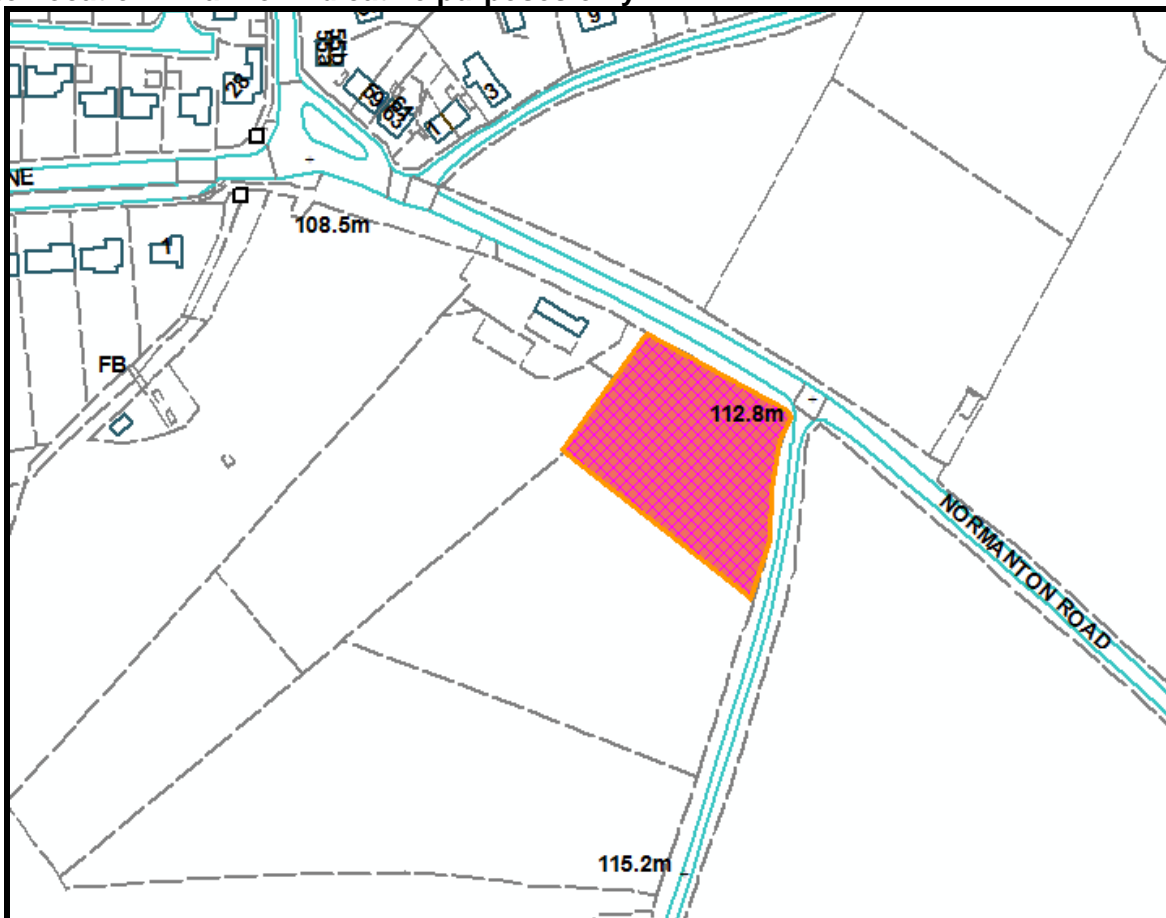
Case Officer:  
Jenny Davies

Consultation Expiry:  
9 November 2016

Recommendation:  
REFUSE

8 Week Date:  
23 September 2016  
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 before Planning Committee as the planning agent is related to a former councillor who has served within the last five years.

### **Proposal**

Outline planning permission (with access and layout included for determination) is sought for the erection of one detached dwelling with detached garage and stable block for use in connection with horse stud and formation of new access on land at Redburrow Lane, Packington. The site forms part of a paddock located at the junction of Redburrow Lane and Normanton Road. A new access would be formed onto Redburrow Lane.

### **Consultations**

Four letters of support have been received. Packington Parish Council objects to the proposal. There are no objections raised by other statutory consultees.

### **Planning Policy**

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

### **Conclusion**

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable could not be justified, the proposal would not result in any unacceptable impacts on the built or historic environment and would have limited economic benefits. However the site lies outside the Limits to Development and therefore conflicts with Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan. Significant harm would also arise from impact on the rural character and visual amenities of the countryside. Therefore it is considered that the proposal does not constitute sustainable development, which on balance would not be outweighed by any other material considerations. It is therefore recommended that planning permission be refused.

## **RECOMMENDATION - THAT PLANNING PERMISSION BE REFUSED**

**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 access and layout included for determination) is sought for the erection of one detached dwelling with detached garage and stable block for use in connection with horse stud and formation of new access on land at Redburrow Lane, Packington. The site is 0.3 hectares in size and forms part of a paddock located at the junction of Redburrow Lane (to the east) and Normanton Road (to the north). The site is adjoined by paddocks (in the applicants' ownership) to the south, open countryside to the north and east and by the Peveril Homes development for 30 dwellings to the west, which is currently under construction.

The dwelling would be located close to the eastern boundary with Redburrow Lane. The detached triple garage and stable block would be located close to the western boundary, with the garage in the northern corner and the stable block close to the western corner. A new access from Redburrow Lane would be formed, which would necessitate the removal of hedgerow, with a driveway laid through the site to provide turning space and access to the garage and stables. The access would extend beyond the stables to the southern boundary to provide a field access to the adjacent paddock. Scale, appearance and landscaping have been reserved for future determination, although two indicative elevation drawings have been submitted.

The applicants currently operate a stud farm from the site and adjacent paddocks to the south and north off Normanton Road. Information has been provided relating to the stud use as follows:

- the Tame Valley Stud is a private stud breeding Welsh Mountain ponies;
- the land has been used for the grazing of horses since 1999, which is an agricultural use and does not need planning permission;
- the grazing use will continue and the stables would be ancillary to the grazing land;
- no permanent staff are employed;
- the applicants currently visit the site daily to inspect the animals;
- currently there are 15 animals within the stud;
- the animals are currently walked between the applicants' land and horse boxes are not used;
- the applicants would use their own horse box to transport animals to and from the site;
- the stud is private and not open to the public and so visiting mares are not brought to the site;
- those animals suitable for breeding are retained by the stud and others sold at the Welsh Pony and Cob breed sales held once a year in Wales;
- it is likely that eight stables would be required although they would not always all be in use as it is the intention to graze the animals;
- the stables are required for foaling, visits by the vet, periods of inclement weather, weaning foals, stabling sick/injured animals, emergency stabling at Bonfire Night, Christmas and New Year and other activities associated with the stud, and would only be used by animals owned by the applicants;
- the adjacent Peveril Homes site has been broken into which has frightened the horses.

The site lies outside the Limits to Development as identified in the adopted and submitted North West Leicestershire Local Plans and lies within the catchment area for the River Mease Special Area of Conservation. A tributary to the River Mease lies approximately 124 metres to the west/north west. Packington House, which is a Grade 2 listed building, lies 262 metres to the north east.

Planning history:

- change of use of land to tennis club involving the erection of a pavilion, formation of three hard surfaced courts and car parking area and access onto Normanton Road (99/0174) refused in June 1999 on grounds of impact on character of countryside, not adjoining the existing settlement and weakening of the Authority's ability to resist development between the site and Packington.

## **2. Publicity**

4 neighbours notified.

Site Notice displayed 19 August 2016.

Press Notice published Leicester Mercury 24 August 2016. Press Notice published Leicester Mercury 24 August 2016.

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

**Packington Parish Council** objects to the application on the following grounds:

*The Parish Council has taken a consistent view when it comes to applications made outside the limits to development and this matter is no exception. If granted, it would mean spreading the development of Packington village further and such development is detrimental to the countryside. If granted, it would also mean that a precedent is being set in relation to further similar applications. Councillors also have concerns about very poor access from Redburrow Lane onto Normanton Road, particularly as slow horse boxes will be entering a narrow highway with a 60mph speed limit.*

**The Environment Agency** has no objections.

**Leicestershire County Council Ecologist** has no objections subject to conditions.

**Leicestershire County Council Highway Authority** has no objections subject to conditions.

**Natural England** has no objections subject to conditions.

**NWLDC Environmental Protection team** has no environmental observations.

No comments have been received from Severn Trent Water by the date of this report. Any comments received will be reported on the Update Sheet.

### **Third Party Representations**

Four letters of support have been received which make the following comments:

- no reason for the application to be refused;
- the dwelling would contribute to the Council's five year housing land supply and the need for family homes in the village;
- Packington needs more single dwellings;
- a village needs to grow organically and homes from small to large need to be part of the village;
- more than 40 dwellings have been approved on the adjacent site;
- precedent for new housing outside the Limits to Development set by the adjacent site;
- as the site is located adjacent to existing development, it would appear logical to infill up to Redburrow Lane;
- it would be logical to have a dwelling present close to the ponies to protect them from animals

or residents of the adjacent dwellings;

- the land would still be used for keeping ponies;
- the site is well screened by a high hedgerow;
- the dwelling would complement this exposed corner;
- the dwelling would be of a sympathetic design and in keeping with the local vernacular;
- the dwelling would screen the adjacent new dwellings and retain a rural view when entering the village;
- the garage and stables would provide a screen to the adjacent new dwellings;
- the site is secluded and would not affect anyone;
- access would not be a problem as there are already dwellings on Redburrow Lane and no known accidents at the junction; and
- would not exacerbate traffic whilst the adjacent housing development does.

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

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

##### **National Planning Policy Framework (NPPF) - March 2012**

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.

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 and 19 (Economic growth)

Paragraph 28 (Supporting a prosperous rural economy)

Paragraphs 32 and 35 (Promoting sustainable transport)

Paragraphs 47, 49 and 55 (Delivering a wide choice of high quality homes)

Paragraphs 57, 58, 60, 61 and 64 (Requiring good design)

Paragraph 69 (Promoting healthy communities)

Paragraphs 96, 99 and 100 (Meeting the challenge of climate change, flooding and coastal change)

Paragraphs 109, 112, 118, 119 and 123 (Conserving and enhancing the natural environment)

Paragraphs 129, 131, 132, 133 and 134 (Conserving and enhancing the historic environment)

Paragraphs 203, 204 and 206 (Planning conditions and obligations)

##### **Adopted North West Leicestershire Local Plan (2002):**

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan 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:

Policy S1 - Overall Strategy

Policy S3 - Countryside

Policy E2 - Landscaped Amenity Open Space

Policy E3 - Residential Amenities

Policy E4 - Design

Policy E7 - Landscaping  
Policy F1 - National Forest - General Policy  
Policy F2 - Tree Planting  
Policy F3 - Landscaping & Planting  
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 the submitted Local Plan should be commensurate to the stage reached towards adoption.

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 IF1 - Development and Infrastructure  
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 HE1 - Conservation and Enhancement of North West Leicestershire's Historic Environment  
Policy CC2 - Water - Flood Risk  
Policy CC3 - Water - Sustainable Drainage Systems

### **Other Guidance**

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990  
National Planning Practice Guidance 2014  
The Conservation (Natural Habitats &c.) 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  
The River Mease Developer Contributions Scheme (DCS)  
The Community Infrastructure Levy Regulations 2010  
6Cs Design Guide - Leicestershire County Council

## **5. Assessment**

The main issues for consideration in the determination of this application relate to the principle of the development, its visual impact, its siting and design and its impact on the historic environment, residential amenities, ecology and trees, highway safety and on the River Mease Special Area of Conservation.

### **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, includes the adopted North West Leicestershire Local Plan (2002 (as

amended)).

The application site lies outside the defined Limits to Development within the adopted Local Plan and the submitted North West Leicestershire Local Plan with dwellings not being a form of development permitted in the countryside by Policy S3 of both Plans. Policy S2 of the submitted Local Plan also advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. Paragraph 17 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 NPPF requires that the 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 Council is able to demonstrate a five year supply of housing (with 20% buffer) against the housing requirement contained in the submitted Local Plan.

Consideration must also be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

The dwelling is proposed to be used in connection with an existing horse stud that is operated by the applicants from the site and nearby fields. The stud use primarily involves the grazing of horses, and therefore is considered to be an agricultural use for which planning permission is not required. The addition of stables could remove the stud use from the definition of agriculture, as the animals would no longer be completely dependent on grazing from the land. However having regard to the information provided by the agent in relation to the use of the stables and the intention to primarily graze the animals, in this case, and on the basis of the submitted information regarding operation of the stud, it is considered that the stud use of the adjacent land would not result in a material change of use from the current grazing/agricultural use.

The application does not appear to have been submitted on the basis that the dwelling is essential for the applicants to live adjacent to the stud use. Limited information has been submitted to demonstrate why the dwelling is proposed in this location, namely that the animals require a daily inspection, the adjacent Peveril Homes site has been broken into which frightened the animals and the application has been made so that the applicants can consolidate their holding on one site.

If a dwelling is proposed to support a farm or rural business, whilst PPG7 has been cancelled, its Annex is still considered to provide a reasonable basis for an assessment in respect of the issues to be considered for such new dwellings. In such a scenario it would be expected that an application for such a dwelling would be accompanied by information setting out the financial and functional case for the need for a dwelling on the site. As no such information has been submitted, and the application does not appear to have been made on this basis, limited weight is attached to the dwelling being essential in connection with the existing stud use.

In terms of social sustainability Packington provides a range of day to day facilities, e.g. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites, and there is a limited hourly public transport service. These services/facilities are within 800-1000m (preferred maximum walking distance) of the site. Ashby-de-la-Zouch is also located approximately 1.5km from the site, where a wider range of services can be found. To walk to these facilities from the site would involve a route along Redburrow Lane and Normanton Road, including using the junction of both roads. Neither road

has a footway or street lighting along the site boundaries although verges are available along both roads. A footway is required to be provided along part of the frontage to the adjacent Peveril Homes site, although this would not extend to the site boundary. Both roads are subject to a 60mph speed limit adjacent to the site, although the 30mph speed limit on Normanton Road is required to be moved closer to the site under the permission for the adjacent Peveril Homes site. An alternative route to the village is also available via a public footpath (located around 330 metres from the site) running from Redburrow Lane to Heather Lane. Whilst Redburrow Lane is single track it has a relatively low traffic flow and a verge is available. Furthermore, there are several public footpaths leading off the road, and the road is used by cyclists/walkers and horse riders from nearby stables.

As such there are some opportunities to walk to the village from the site along a route which is already in use by pedestrians and other non-car users. Therefore in this case, on balance it is considered that occupiers of the dwelling would not necessarily be dependent on the private car. Taking all of these matters into account it is considered that a reason for refusal on the basis of the site not being socially sustainable in terms of access to services/facilities could not be justified in this case.

In terms of environmental sustainability the proposal would result in the loss of agricultural land. Best and Most Versatile (BMV) agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The ALC maps indicate that the site falls within Class 3 but do not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification.

Whilst the NPPF does not suggest that the release of smaller BMV site is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost. Therefore given the relatively limited extent of the potential loss of the site (0.3 hectares), it is considered that this is not sufficient to sustain a reason for refusal in this case.

As set out in more detail below, the proposal would not result in an 'isolated' dwelling or any unacceptable impacts on the built or historic environment. There would also be limited economic benefits which would include local construction jobs, helping to maintain local services in the area and connection to the existing horse stud. However as the development site is also outside the defined Limits to Development it would conflict with Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan. Significant harm would arise from impact on the rural character and visual amenities of the countryside and the unwarranted development of the countryside.

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable could not be justified, the proposal would not result in any unacceptable impacts on the built or historic environment and would have limited economic benefits. However the site lies outside the Limits to Development and therefore conflicts with with Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan. Significant harm would also arise from impact on the rural character and visual amenities of the countryside. Therefore it is considered that the proposal does not constitute sustainable development, which on balance would not be outweighed by any other material considerations.

### **Character and Visual Impact**

The site is outside the Limits to Development under the adopted and submitted Local Plans. On this basis the proposal would be assessed against the context of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan, particularly as the Council is able to



demonstrate a five year supply of housing. Such policies are considered to be supported by the principles of the NPPF and the ministerial letter from Brandon Lewis of the 27th March 2015 urging Inspectors to protect the intrinsic beauty of the countryside. It is, however, recognised that the NPPF does not necessarily preclude development on greenfield land and therefore a determination is also made as to whether the dwelling would be 'isolated' in the context of Paragraph 55, or impact adversely on the rural environment.

The area is characterised by open fields with trees and hedgerows forming the boundaries, including the site, although it is acknowledged that residential development has been approved on the adjacent site to the west. The proposal would result in the loss of greenfield land within the countryside. It is acknowledged that the site is adjoined by the Limits to Development under the submitted Local Plan, which run along the site's western boundary, and that residential development is under construction on the adjacent site.

However the site is closely associated with the rural landscape to the north, east and south. As a consequence it contributes positively to the undeveloped nature of the area, which would be its defining characteristic, in particular along Redburrow Lane and on the approach to the village along Normanton Road. A mature hedgerow forms the boundary to the site alongside both roads, which provides screening. Whilst the indicative plans show a two storey dwelling it is noted that a single storey dwelling could be proposed at reserved matters. However it is considered that regardless of the scale of the dwelling, some parts would be visible above the boundary hedgerows, and along with the garage would be visible through the hedgerows in the winter months. Currently the site is well screened from Redburrow Lane. However a new access would be formed, and hedgerow removed to provide the access and visibility splays. Whilst it is acknowledged that new hedgerow could be planted behind the splays, this would take some time to mature, and a view would be provided through the new access of the development on the site. The dwelling itself would also be detached from the adjacent new dwellings and would extend development into the open countryside, with the stables generally being appropriate in a rural location. A new dwelling, and its associated infrastructure, such as the garage and extent of hardsurfacing, would result in the urbanisation of the site which would diminish its present character and contribution to the character and visual amenities of the area, and would be an incongruous encroachment into the rural environment.

Whilst it is considered that the proposed development will impact adversely on the character and visual amenities of the rural environment, it would be difficult to determine that the dwelling would be isolated.

There is also no overriding need for a new dwelling on this site due to the Council having a five year housing land supply, and consequently there is conflict with a fundamental principle of the NPPF by virtue of the failure of the development to protect or enhance the natural environment.

### **Siting and Design**

The proposal would result in a density of three dwellings per hectare, which is significantly below that sought under Policy H6 of the adopted Local Plan (a minimum of 30 dwellings per hectare). However the NPPF states that authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate in this location.

There is variety in the scale and design of the dwellings on the adjacent site and in this part of the village and the footprint of the dwelling would give an opportunity to reflect local character and distinctiveness. The site could accommodate all of the necessary requirements (private garden, parking/turning space) without being too cramped or resulting in over-development.

Whilst the orientation of the dwelling and garage appear to face into the site, as details of appearance are not included, the dwelling's and garage's detailed design, including opportunities to provide active elevations facing towards the roads, would be considered at the reserved matters stage. The scale and footprint of the stables is not unusual for such buildings and its detailed design would also be dealt with at reserved matters.

### **Historic Environment**

Section 66 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 a listed building or its setting, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess. Paragraph 131 of the NPPF requires, amongst other things, new development to make a positive contribution to local character and distinctiveness. Paragraph 132 of the NPPF stipulates 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.

Packington House on Spring Lane lies around 262 metres to the north east of the site, which is a Grade 2 listed building. Therefore the impact of the development on the setting of the listed building should be given special regard as required by the 1990 Act. Packington House is a substantial three storey property that is still isolated from the village and largely retains its rural setting. Therefore significant weight is given to preserving the setting of the Grade 2 listed building.

The built fabric of Packington House and any of its special features would not be affected by the proposed development which lies beyond its curtilage. However consideration needs to be given to the impact of the proposed development on the setting of Packington House. 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 due to the buffer of fields between the listed building and existing development on the edge of the village. There are views towards Packington House from Normanton Road on the approach to the site. However in these views the site would be set apart from Packington House with existing and new development on Spring Lane and on the southern side of Normanton Road forming part of this view, and from within the site vegetation screens views of the listed building. The Conservation Officer raises no objections. Given its distance from Packington House and the intervening screening from vegetation it is considered that the proposal would not adversely impact on the setting of the listed building.

### **Residential Amenities**

The nearest new dwellings on the adjacent Peveril Homes site to the west would be Plots 7 and 8. The dwelling would be at least 33 metres from Plots 7 and 8, and the garage would be at least 12 metres from Plot 7 and over 25 metres from Plot 8, and their gardens. The stables would be 13.5 metres from Plot 7 and 11 metres from its garden and 15 metres from Plot 8. Plot 8's garden is located to the north and west of the dwelling. The hedgerow along the western boundary is understood to be within the applicants' ownership. As such a garage and stables are unlikely to adversely impact on the occupiers of Plots 7 and 8 from overlooking, overshadowing or oppressive outlook. It is not clear whether the stables would be higher than single storey; however any impacts from a two storey garage and stables could be considered at reserved matters stage as this would be dependent on their detailed design.

The use of the stable block could result in smells and noise affecting occupiers of Plots 7 and 8.

However, no objections have been raised in respect of this matter by the Council's Environmental Protection team and the stables are not located immediately adjacent to the boundary with these dwellings. A condition could be imposed relating to manure storage. Use of the access drive/turning space may also result in an impact from noise and disturbance. However given the submitted information regarding the operation of the stud and the distance from Plots 7 and 8, it is considered unlikely that any impacts would be significant.

### **Trees and Ecology**

There are trees and hedgerows on and near the site and large areas of grassland nearby, all of which are features that could be used by European Protected Species (EPS) or national protected species. Therefore 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 and to the requirements of the Wildlife and Countryside Act 1981 (as amended).

A survey found no evidence of badger setts or of badgers using the site. The majority of trees and hedgerows would be retained and the loss of hedgerow to form the new access would not significantly impact on the hedgerow wildlife corridor as conditions could be imposed requiring new hedgerow planting behind the proposed visibility splays. Whilst some grassland would be lost, there is other similar habitat adjacent to the site. As such it is considered that protected species would not be adversely affected

A survey of the northern and eastern boundary hedgerows found that whilst both hedgerows are species rich, neither can be identified as 'important' under the Hedgerow Regulations. The County Ecologist requests the imposition of planning conditions requiring the hedgerows to be retained and protected during construction. Whilst the County Ecologist also requests imposition of a condition relating to new hedgerows, given that landscaping matters are reserved for future consideration, such a condition cannot be imposed at this stage. An amended plan addresses the Council's Tree Officer's request that the dwelling be sited further away from the northern hedgerow to prevent impact and future incompatibility issues with the hedge and trees.

### **Highway Safety**

The new site access would exit onto a 60mph zone on Redburrow Lane and the stretch of Normanton Road fronting the site is also within a 60mph zone. The Parish Council has raised concerns regarding the very poor access from Redburrow Lane onto Normanton Road, particularly as slow horse boxes will be entering a narrow highway with a 60mph speed limit. The Highway Authority advises that in respect of a proposal of this nature it can only consider the impact of the new access, rather than the additional traffic using this junction. Furthermore the Highway Authority is aware of the stud use of the land and has recommended a condition preventing the dwelling/stables from being open to the public or being used for any other business/commercial use, including livery stables.

Amended plans have been submitted following the Highway Authority's request for further details of the access, along with a speed survey of the lane. The Highway Authority advises that the northern splay would meet the 6Cs Design Guide requirement for splays of 33 metres in areas where speeds are between 21-25mph (as in this case), although the splay to the south falls slightly short (1.92 metres) of this requirement. However the Highway Authority states that the vehicle speeds are evidenced to be low, and use of the access is expected to be similar to that associated with a single dwelling. As such, and in accordance with the Manual for Streets (MfS) guidance, it advises that it would be reasonable for visibility splays to be measured from a two metre set back behind the highway where it is likely visibility achieved could be in excess of

33 metres. The visibility proposed would not therefore be considered unacceptable by the Highway Authority and not to a level where it would be considered that the residual cumulative impact of development was demonstrably severe in accordance with paragraph 32 of the NPPF. Given the above it is considered that a reason for refusal in respect of severe impact on highway safety could not be justified in this case.

### **River Mease Special Area of Conservation**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC) and a tributary lies approximately 124 metres to the west. 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 application initially suggested connection to the mains sewer. However due to issues relating to capacity within DCS2, the application has been amended to propose a cesspool (sealed tank that does not discharge into the ground and needs to be emptied of waste) with a capacity of 70,000 litres.

Natural England advises that the Council should ensure that there would be no harmful discharges of foul or surface water from the site into the River Mease or its tributaries. The Environment Agency has no objections and makes no comments in respect of impact on the SAC. None of the Severn Trent Water (STW) treatment works in the SAC catchment area accept foul waste from licensed waste collectors, which STW has confirmed, and advises that this arrangement will continue in perpetuity. As the foul waste from the site would not be emptied within the SAC catchment area or discharge into the watercourse, there is not a requirement for a contribution under DCS2. A condition could be imposed requiring discharge of surface water to a sustainable drainage system. Therefore in this case, given the lack of objection from the Environment Agency and Natural England, the distance from the SAC tributary and intervening development, that the cesspool is a sealed tank, that waste would not be disposed of in the SAC catchment and that a condition could be imposed requiring submission of a management/maintenance scheme for the cesspool, it is considered that use of a cesspool, along with surface water discharge from the site, would not adversely impact on the SAC/SSSI.

Therefore it can be ascertained that the proposal 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**

As noted above, the Environment Agency has no objections, although it comments that it does not accept the promotion or proliferation of cesspools as a viable long term sewerage option other than in exceptional circumstances. Whilst these comments are noted, the Environment Agency has not objected on this basis. The National Planning Practice Guidance (NPPG) sets out a hierarchy of preferred non-mains drainage solutions; firstly mains sewer, then a package

treatment plant and lastly septic tanks, with no reference made to cesspools.

The NPPG also advises that non-mains proposals should clearly set out the responsibility and means of operation and management of non-mains drainage systems, and the effects on amenity and traffic should be considered, due to the need for sludge to be removed by tankers, matters which also applicable to cesspools. Withdrawn Circular 03/99 also set out guidance for assessments of non-mains drainage proposals, which provides a useful tool.

It is considered that it would be difficult to connect to the mains sewer given the distance away (120 metres). As the tank would be constructed alongside the dwelling it would not result in significant additional construction work. Furthermore journeys made to and from the property by tanker are unlikely to be no more significant in terms of fuel consumption and CO2 emissions than journeys made by refuse collection lorries, in particular in remote locations, and by lorries/tankers providing gas/oil to dwellings in parts of the District which do not have mains gas. Given the distance from Plots 7 and 8 on the adjacent site, and that the Council's Environmental Protection team has not raised any objections, it is considered that the cesspool would not result in significant impact on the amenity of nearby residents. It is also considered that suitable access could be provided to the site for a tanker. It is also considered that use of a cesspool on this site would not set a precedent for non-mains drainage on other sites as all such proposals would be assessed on their own merits.

It is acknowledged that cesspools are generally not considered to be a suitable non-mains drainage alternative. However in this case given the lack of objection from the Environment Agency and the matters set out above it is considered that a reason for refusal in respect of use of a cesspool could not be justified in this case.

### **Conclusion**

In conclusion, a reason for refusal on the basis of the proposal not being socially sustainable could not be justified, the proposal would not result in any unacceptable impacts on the built or historic environment and would have limited economic benefits. However the site lies outside the Limits to Development and therefore conflicts with Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan. Significant harm would also arise from impact on the rural character and visual amenities of the countryside. Therefore it is considered that the proposal does not constitute sustainable development, which on balance would not be outweighed by any other material considerations. It is therefore recommended that planning permission be refused.

### **RECOMMENDATION, REFUSE for the following reason:**

- 1 Paragraph 7 of the National Planning Policy Framework (NPPF) defines sustainable development which includes that the planning system needs to perform an environmental role, including protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan and Policy S3 of the submitted North West Leicestershire Local Plan provide a presumption against non-essential residential development outside the Limits to Development. Policy S3 of the submitted Local Plan states that land identified as countryside will be protected for the sake of its intrinsic character and beauty. Policy S2 of the submitted Local Plan advises that in villages such as Packington a limited amount of growth will take place within the Limits to Development. The proposal would result in significant harm to the character and rural appearance of the locality and the proposal would appear as an unwarranted and

incongruous intrusion into the countryside. As a consequence the development would fail to protect or enhance the natural environment and would not therefore constitute sustainable development, contrary to the environmental strand of sustainability enshrined within the NPPF. In addition, the development would be contrary to Paragraph 17 of the NPPF, Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

**Notes to applicant**

- 1 Outline planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Local Planning Authority acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Local Planning Authority has therefore complied 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.