

Residential development of 25 dwellings including affordable housing, formation of sustainable urban drainage system and public open space and demolition and replacement of boundary treatment at corner of Bowleys Lane and Church Street

**Report Item No
A2**

Land (Dormers Green) Off Bowleys Lane Appleby Magna Derby

**Application Reference
13/00799/FULM**

**Applicant:
Jupiter Strategic Land Ltd.**

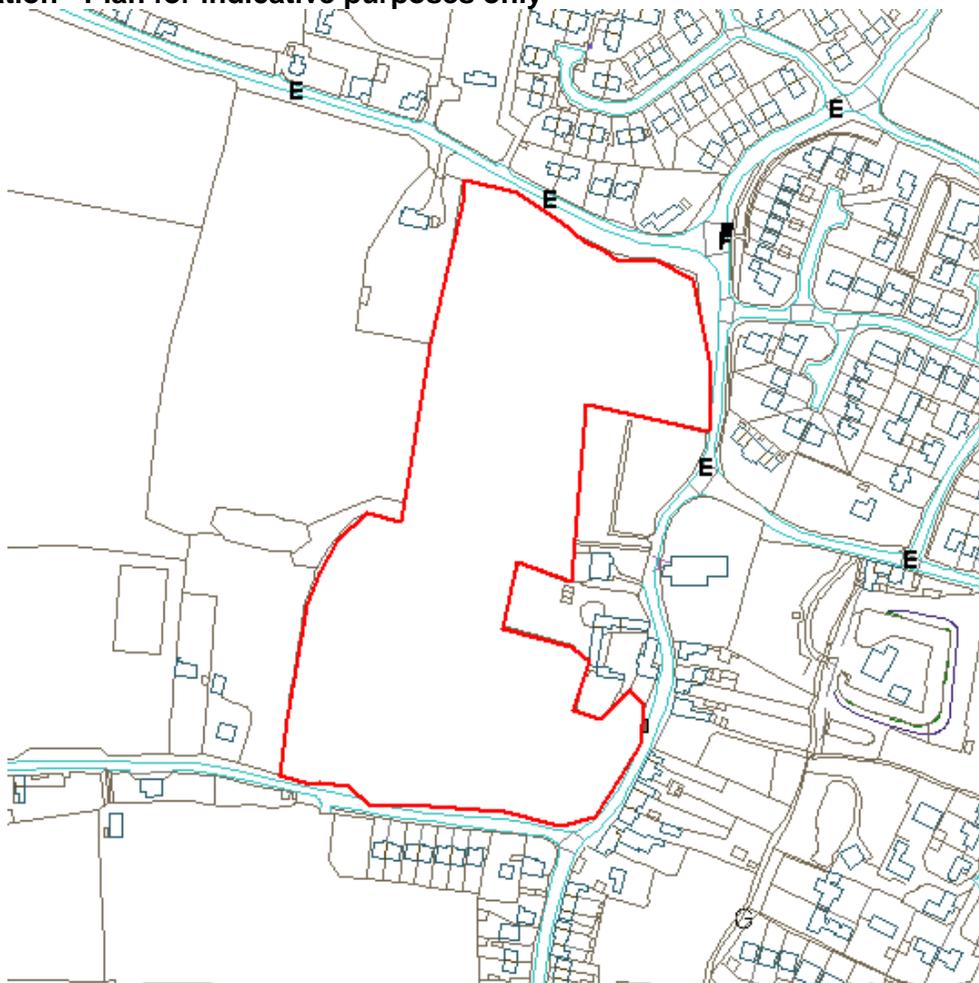
**Date Registered
18 October 2013**

**Case Officer:
Jenny Davies**

**Target Decision Date
17 January 2014**

**Recommendation:
REFUSE**

Site Location - Plan for indicative purposes only



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

Executive Summary of Proposals and Recommendation

Proposal

Planning permission is sought for residential development of 25 dwellings including affordable housing, formation of a sustainable urban drainage system and public open space and demolition and replacement of boundary treatment at land off Bowleys Lane, Appleby Magna. The site is currently grassland and includes a pond, and lies on the northern side of Bowleys Lane, extending to the east to Church Street and to the north to Rectory Lane. The site is adjoined by residential properties, the church hall, the village cemetery, open fields, woodland and the road network. The dwellings would be located on the southern part of the site, with an area of public open space and a surface water retention basin in the south eastern corner of the site and new swales/an existing pond in the centre. The northern part of the site would remain undeveloped. Access to the site would be located in a similar position to an existing field access onto Bowleys Lane. Pedestrian links would be provided within the site and the routes of the public footpaths that cross the site would not be altered. Three stretches of Bowleys Lane (between the site and the junction with the A444) would be widened.

Consultations

Members will see from the main report below that three letters of support have been received (although one subsequently been withdrawn). Objections have also been received, including from Appleby Magna Parish Council, with 52 letters being received from members of the public. The objections cover several different issues, broadly but not exclusively relating to the principle and sustainability of the proposal, highway safety, impact on the character of the area and on the historic environment, flood risk and drainage. The County Highway Authority initially objected on two grounds in relation to the sustainability of the site's location and the suitability of Bowleys Lane, although following the submission of additional information the Highway Authority has withdrawn the second of these reasons. The County Ecologist objected in relation to impacts on great crested newts although this objection has also now been withdrawn. The County Archaeologist also recommends refusal on the basis of impact on archaeological remains not having satisfactorily investigated. English Heritage have also recommended refusal on the basis of the proposal resulting in substantial harm to heritage assets.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application however, is the supply of housing in the context of the National Planning Policy Framework (NPPF).

Conclusion

Whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, such general policies that restrain the supply of housing are to be considered as not up-to-date given the inability of the Council to demonstrate a five-year supply of deliverable housing land. Thus the site's release for housing is considered suitable and will contribute towards meeting the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Appleby Magna is a sustainable location for the level of development proposed for this site and the proposal would not result in a significant increase in housing development within the village.

The proposed development would be acceptable in terms of density, layout and design, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

However the proposal would have a harmful impact on the significance of designated heritage assets and insufficient information has been submitted to ensure that the development would not harm archaeological remains and the public benefits of the proposal (contribution towards housing land supply, high quality design, provision of affordable housing and contributions to public service/facilities) would not outweigh this harm.

The proposed development would, overall, not be considered to constitute sustainable development as defined in the NPPF. It is therefore recommended that planning permission is refused on the grounds of impact on the historic environment and archaeology.

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 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

The application falls to be determined by the Planning Committee as one of the applicants is related to Councillors Richard Blunt, Caroline Large and Charles Meynell. It is also considered necessary for the application to be determined at the Planning Committee given that there are also two other applications for major residential development within Appleby Magna (13/00697/FULM and 13/00797/FULM) being considered separately on this agenda.

Full planning permission is sought for residential development of 25 dwellings including affordable housing, formation of a sustainable urban drainage system and public open space and demolition and replacement of boundary treatment at land off Bowleys Lane, Appleby Magna.

The site is currently grassland and includes a pond, and lies on the northern side of Bowleys Lane, extending to the east to Church Street and to the north to Rectory Lane. The site is adjoined by residential properties, the church hall, the village cemetery, open fields, woodland and the road network. Land levels increase approximately by up to seven metres from south to north and from west to east, with the site being higher than existing dwellings on Bowleys Lane. Land levels also undulate across the site which relate to archaeological remains.

The proposed dwellings would be located on the southern part of the site, with an area of public open space and a surface water retention basin in the south eastern corner of the site and new swales/an existing pond in the centre, which would form part of the sustainable urban drainage system. A car park to serve the church hall shown on the original plans has been removed. The northern part of the site would remain undeveloped; the amended plans show this land to be retained as grazing land whereas the original plan indicated that this land would be gifted to the Parish Council to be used as public open space and an extension to the cemetery.

The 25 dwellings comprise 1 x one bed dwelling, 4 x two bed dwellings, 8 x three bed dwellings, 6 x four bed dwellings and 6 x five bed dwellings. A mixture of detached, semi-detached and terraced properties are proposed which would be two and three storeys (with the second floor accommodation where included provided within the roof space). The scheme would provide for 30% affordable housing (eight dwellings) with a tenure mix of five properties being affordable rent and eight properties being intermediate/low cost housing.

Access to the site would be located in a similar position to an existing field access onto Bowleys Lane which is located in the site's south west corner. Pedestrian links would be provided within the site and the routes of the public footpaths that cross the site would not be altered. Three stretches of Bowleys Lane (between the site and the junction with the A444) would be widened, by between 0.32 metres and 0.94 metres.

The mature trees and hedgerows that currently form the site's western and northern boundaries are shown to be retained as are the boundary treatments that adjoin existing dwellings to the east. However the frontage hedgerow along Bowleys Lane is shown to be partially removed to provide new accesses and the vegetation along the boundary of the junction of Church Street and Bowleys Lane would be removed to provide access into the area of open space.

The south eastern part of the site lies within the Appleby Magna Conservation Area and the majority of the site's eastern boundary adjoins the Conservation Area. Church Farmhouse and a Type K6 telephone box, which are both Grade 2 listed buildings, adjoin the site to the east.

The Church of St Michael, which is a Grade 2* listed building, lies to the east/north east of the site on the opposite side of Church Street and there are a number of other listed buildings along Church Street and Mawby's Lane. There are also several unlisted buildings of interest in close proximity along Church Street, including the church hall, the Crown Inn and properties between Nos. 29-47 Church Street. The moated site to the east of the church is also a Scheduled Ancient Monument. The site contains archaeological remains relating to Dormer Hall and its driveway and fishponds, ridge and furrow, village closes and marl extraction. A group of four trees adjacent to the site's western boundary but lying outside the site are protected by a Tree Preservation Order (T145). Public footpaths Q12 and Q26 cross the northern part of the site. The site also lies within the catchment area of the River Mease Special Area of Conservation.

A Village Green application relating to the site was submitted to Leicestershire County Council in summer 2012 and a Public Inquiry relating to this matter took place from 4-7 March 2014.

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 10(b) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts, both on its own and cumulatively with three other major housing proposals on Top Street and Measham Road (13/00697/FULM, 13/00797/FULM and 14/00082/OUTM) and a scheme for eight dwellings on Measham Road (13/00829/OUT), are considered to not be significant and can be considered as part of the planning application.

Planning permission was refused in October 1977 (77/1021) for the erection of dwellings on the eastern/south eastern part of the site on the grounds of being within the countryside, beyond the level of growth set out in the Village Plan, enough land being available within the village for housing growth and intrusion into the countryside, effect on rural character and adverse impact on the setting of the listed church and Church Farm. The derelict barn on the site was also included in two applications for barn conversions at Church Farm (87/0160 and 87/0264) to be used as garaging.

2. Publicity

64 No neighbours have been notified (date of last notification 6 March 2014)

Site Notice displayed 1 November 2013

Press Notice published 12 December 2013

3. Consultations

Appleby Magna Parish Council consulted 25 October 2013
LCC Development Contributions consulted 4 December 2013
County Highway Authority consulted 25 October 2013
Environment Agency consulted 25 October 2013
Severn Trent Water Limited consulted 25 October 2013
Head of Environmental Protection consulted 25 October 2013
Natural England consulted 25 October 2013
NWLDC Tree Officer consulted 25 October 2013
County Archaeologist consulted 25 October 2013
LCC ecology consulted 25 October 2013
NWLDC Conservation Officer consulted 25 October 2013
NWLDC Urban Designer consulted 25 October 2013
English Heritage- major dev in CA consulted 25 October 2013

County Planning Authority consulted 25 October 2013
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 25 October 2013
Development Plans consulted 25 October 2013
Head Of Leisure And Culture consulted 25 October 2013
Manager Of Housing North West Leicestershire District Council consulted 25 October 2013
Police Architectural Liaison Officer consulted 25 October 2013
LCC/Footpaths consulted 25 October 2013
Highways Agency- Article 15 development consulted 25 October 2013
Ramblers' Association consulted 25 October 2013
SUDS LCC consulted 1 November 2013

4. Summary of Representations Received Statutory Consultees

Appleby Magna Parish Council objects on the following grounds:

- *Too many proposed dwellings for the area - this area is covered under E1 Character Areas therefore this area needs to be protected, not developed.*
- *Major access issues, could be as many as 50+ vehicles meeting the needs of the proposed properties, in and out of local roads most of which are single lane - this area already suffers from frequent congestion due to funerals, school runs, kids clubs etc.*
- *The area is high, again, nowhere for the water to run off to and the infrastructure would not cope.*
- *Most important, there is an application for a Village Green in this area, which is undergoing a public enquiry in March 2014.*

The Parish Council also states that *'There is a village survey being carried out (an unbiased, objective questionnaire) re development within Appleby Magna - the results are not yet available, but we will pass these to you on receipt, this, with other planning matters can be discussed when you meet with Councillors to review the planning applications.'*

The Parish Council also *'wishes to register interest in any Section 106 funding, should this become relevant - this would be useful to the village and Councillors are open to discussion in the future based on mutually agreed planning applications - however, this does not in any way give approval to any large scale planning applications as long as the infrastructure and inadequate water management in the village remains as is.'*

The Parish Council goes onto state the following:

'All of the above applications are responded to by the Parish Council using material considerations, Councillors have acted fairly, openly and apolitically, approaching each application with an open mind and avoiding pre-conceived opinions, all issues have been carefully weighed up and they determined each application on its individual planning merits, avoiding undue contact with interested parties, clearly stating reasons for their decisions.'

It is interesting to note that Christine Fisher, Chief Executive of NWLDC stated in a letter sent 14th October 2014 re Churchyard of St Michael and All Angels, Appleby Magna regarding further burial land - "It is also unlikely that there will be any major development in Appleby Magna that would attract significant 106 funding." ... this leads the Councillors to feel that their major concerns with the infrastructure of the village are generally held.

Appleby Environment believes, in light of the cumulative effects of the various housing developments, and taking account of guidance set out in the NPPF on the importance of such

cumulative effects, that NWLDC is required to commission an Environmental Impact Assessment (EIA). This is required to assess the cumulative effects of the proposed developments. This has to be undertaken prior to the determination of these residential applications.

The Parish Council works closely with Appleby Environment and other key interdependents to ensure the village is looked after and is sustained (and grows) in a strategic and robust manner, taking into account all factors which impact residents and are also material planning considerations, such as water management, road use, access/egress issues, sewage management and ensuring Appleby Magna sustains its character.

The Parish Council has also made the following additional comments:

- It is worth noting that the Severn Trent water disposal lorry is in the village every day dealing with water problems - this is causing a great deal of concern to residents, especially in light of further possible developments;*
- the Talbot Street, Whitwick planning application to build 8 houses has been rejected - in some part due to concerns re flooding and traffic/road safety - similar potential impacts to those causing concern in Appleby Magna village;*
- we are quite happy for planning to evaluate this further however we do feel the archaeological report does not reflect the aerial view of the development area on Dormers Field;*
- concern regarding the boundary planting areas. Will the developer make arrangement for the maintenance of the areas in-perpetuity or would the responsibility be passed to the PC? If the latter is the case we would require a minimum space for contractor's vehicles to access the existing hedgerows for cutting and mowing of the grass areas.*

The Parish Council has also forwarded the results of a village survey carried out on its behalf, which had a 57.2% turnout. The responses indicate the following:

- 87% of respondents oppose all or most of the proposed developments;*
- 89% of respondents are quite or very worried about flooding and drainage issues;*
- 56% of respondents are quite or very concerned about the primary school having to move and 62% of respondents are quite or very concerned that the primary school would have to change its future development plans. 32% and 23% of respondents did not respond to these two questions;*
- 75% of respondents are very concerned about the impact of extra traffic;*
- 50% of respondents are very opposed to measures to accommodate extra traffic;*
- The majority of respondents are in agreement with six out of seven of listed guidelines in the Village Design Statement being important to guide new development, and there being no over-riding view in relation to the seventh listed guideline;*
- 60% of respondents are quite or very unhappy with the process of consultation/planning;*
- 21% of respondents think 16 to 25 dwellings would be a reasonable level of new housing for the village.*

Furthermore the Parish Council initially made the following comments:

In the absence of an approved NWLDC Core Strategy we would ask that the total number of dwellings for all the applications be taken into consideration. The rejected Core Strategy considered Appleby Magna as a sustainable village and as such would share a quantity of new dwellings with the other sustainable villages. The proposed quantity was 80 between all the sustainable settlements the proposals before the Council would exceed this level by 20% in a single community. There are several new dwellings already approved or awaiting approval prior to these applications giving a total of 9 new dwellings to be constructed. Please note that the Parish Council does not object to some development within the village, but feels that the proposed 9 dwellings plus 1 or 2 more would more than satisfy this village's quota towards the 5

year plan.

A major point of concern is the current flooding issues associated with a stream running through the village, this causes flooding in Church Street, Mawbys Lane, Duck Lake, Black Horse Hill and Old End as well as the Caravan Park off Measham Road. The Caravan Park off Measham Road is also the location of the main Severn Trent Water sewage pumping station for the village. With reference to the Severn Trent Water letters included in the Flood Risk Assessments for Applications 13/00797/FULM and 13/00799/FULM which states "the Village system is currently experiencing some hydraulic sewer flooding problems". These problems are associated with Black Horse Hill, Duck Lake, Old End and the Caravan Park off Measham Road. One resident of Black Horse Hill is currently unable to reside in the property because of these known problems. The application 13/00809/OUT would add to this problem and the dwelling may also be affected by it. The Parish Council would ask that further investigation of these known issues be carried out before adding to this problem.

The application 13/00799/FULM is on land that is currently subject to an Application for Village Green Status under consideration by Leicestershire County Council, the Parish Council ask that this be taken into consideration when assessing this application. It is our understanding that planning applications appertaining to Village Green land should be frozen, awaiting conclusion. There are also concerns about traffic movements on the single track section of Bowleys Lane from the proposed entrance to this development to its junction with the A444.

The Parish Council requests that all of the above applications be deferred until the key, serious issues relating to infrastructure, highways and footpaths are sorted out and professional reports requested and received for due consideration by all parties.'

The County Highway Authority initially recommended refusal on two grounds:

- (i) The Applicant has failed to demonstrate that their proposal will be in a location where services are readily and safely accessible by walking, cycling and public transport. Leicestershire County Council policy contained in the Local Transport Plan 3 seeks to deliver new development in areas where travel distances can be minimised, and genuine, safe and high quality choices are available (or can be provided) for people to walk, cycle and use public transport facilities and services nearby. The LTP3 reflects Government guidance contained in the NPPF.
- (ii) The proposal, if permitted, would lead to additional traffic using a section of highway, which is unsuitable in its width and design to cater for this increase and would not be in the interests of the highway.

Following submission of additional information the County Highway Authority has withdrawn its second reason for refusal.

The Highways Agency has no objections.

The County Footpaths Officer advises that two rights of way cross the site.

English Heritage advises that it considers the proposal to be harmful to significance and does not consider there to be clear and convincing justification to outweigh this significant degree of harm, and therefore recommends refusal on the grounds of harmful impact on the setting of a scheduled monument, highly graded listed buildings and the Appleby Magna Conservation Area.

The County Archaeologist initially advised that the site has high potential for the survival of

medieval and post-medieval archaeological remains and therefore an Archaeological Impact Assessment should be submitted before the application is determined. Following submission of this assessment the County Archaeologist advises that trial trenching of the site is required before the application is determined and that without the trial trenching the application should be recommended for refusal in relation to archaeological impacts.

The Council's Urban Designer advises that the Council needs to be satisfied that the scheme offers a good standard of design as measured against Building for Life 12. He goes on to state that the proposal has the makings of an excellent scheme but sets out a number of issues that need to be addressed.

Severn Trent Water has no objection subject to conditions.

South Staffordshire Water advises that the site is outside its area of supply.

Leicestershire County Council (SUDS Approval Body) advises that it cannot review the application and provide formal comments.

The Environment Agency has no objections subject to conditions, refers to the need for surface water to go to watercourse and that the River Mease Developer Contribution Scheme will apply.

Natural England initially requested further information in relation to foul and surface water disposal, suggested that green infrastructure, priority habitat creation and biodiversity enhancements should be incorporated, refers to its Standing Advice relating to protected species and advised that impacts on biodiversity, geodiversity and local landscape character should be considered. Following the submission of further information, Natural England has no objections subject to conditions.

The County Ecologist initially objected on the grounds of the proposal causing harm to great crested newts. Following the submission of further information the County Ecologist has advised that the amended plans have addressed her original concerns and conditions need to be imposed.

The Council's Tree Officer advises that there is little of arboricultural merit on the site and the proposal would not impact on any off-site trees and sets out matters that can be dealt with by condition.

The Environmental Protection team has no environmental observations and no comments in relation to contaminated land.

The Affordable Housing Enabling Officer initially advised that the location, tenure mix and type of the proposed affordable housing is acceptable. However she raised concerns in relation to the size and design of some of the properties. Following the submission of the amended scheme she advises that all of the proposed changes to the scheme are acceptable.

NHS England requests a contribution of £12,024 towards the Measham GP surgery.

Leicestershire County Council - Highway Transportation & Waste Management Authority has not made a request for a contribution towards civic amenity sites.

Leicestershire County Council Library Services Development Manager initially requested a

contribution of £1580.00 (based on 26 dwellings) and subsequently requested a contribution of £1510.00 (based on 25 dwellings).

Leicestershire County Council Local Education Authority initially requested a contribution of £45,887.90 and subsequently requested an amended contribution of £54,825.99 (both based on 26 dwellings). The County Council has also informally provided an education contribution for this site having regard to the cumulative impact of this proposal and two others within the village.

No responses received from DEFRA, the Council's Leisure team or Leicestershire Police by the date of this report.

Third Party Representations

Three letters of support which (in summary) make the following comments:

- the site is of archaeological importance;
- the proposal will make a contribution to the lack of housing, link into existing footpaths and provide an extension to the cemetery;
- the village needs new development and that sustainability should not mean stagnation;
- support for housing subject to work being carried out to consider danger of cars on existing road;
- concerns about the village survey.

However following the submission of amended plans one of these letters of support has been withdrawn although it is advised that the development is not opposed.

53 letters of objection have been received which make the following comments:

Principle and Sustainability

- all applications for new housing in Appleby Magna need to be considered at the same time;
- all applications will need to be delayed pending outcome of the Village Green application as this takes precedence;
- public support for use of the land as open space as evidenced by Village Green application;
- loss of open space used by residents for recreation for many years;
- cumulative impact on village needs to be considered alongside other applications for new houses;
- Environmental Statements need to be undertaken to consider cumulative impacts;
- strategic environmental assessment/sustainability appraisal needs to be undertaken by the Council as part of their emerging local plan;
- under the Core Strategy quota of new houses for Appleby Magna anticipated at 8-10 dwellings;
- these houses have already been provided by several small scale developments/proposals in the village;
- Council's supporting evidence for Core Strategy remains valid and states that rural housing requirement is already largely taken up;
- the criticisms from the Inspector in relation to the Core Strategy related to housing numbers and the lack of specific identified sites for development and there was no challenge to the issue of distribution of housing;
- under last Local Plan large scale developments unacceptable in the village;
- small piecemeal development is more sustainable and allows village to grow naturally;
- professionally established local need should be met by specific allocation;
- applications are premature as the number of houses and the best site needs to be determined first;
- permission was granted in January 2014 for more houses in Ravenstone than were intended

in all the sustainable villages for the whole of the plan period;

- Policy S3 of the Local Plan is still relevant;
- development is outside the limits to development and will result in loss of countryside;
- adherence to planning restrictions on location of new houses now appears to be being disregarded and it is not clear which rules are being followed;
- there are other sites available that could be built on;
- large scale development of the village would be unsustainable as the three tests in the NPPF would not be met;
- the District Council's own sustainability criteria show that housing development in the rural villages at all but the smallest scale threatens nationally required sustainability targets;
- cumulative number of dwellings proposed is disproportionate to the scale, size and character of the village;
- rate of growth should be slow to allow newcomers to integrate into the community;
- the village cannot absorb more than small scale development due to limited public transport, facilities, jobs and infrastructure;
- unsustainable demands on local services and possible creation of tensions within the community;
- the level of services that are available in Appleby Magna has been exaggerated;
- difficult to increase the limited capacity at Sir John Moore School as it is a Grade 1 listed building;
- current or recent consultations to close GP surgery and reduce bus service;
- the minutes from Appleby Magna Parish Council meetings show that the GP surgery will be closed;
- all options being offered in relation to the No. 7 bus service involve a significantly reduced service to Measham and Ashby and are an improvement on the 2012 consultation options so it is not plausible that there will be any further enhancement of service;
- impact on local village shop;
- limited capacity at Snarestone Treatment Works;
- limited capacity of local drainage system;
- limited capacity of electricity supply cables;
- limited capacity of internet/broadband links to the village;
- increase in car journeys which will increase carbon emissions, noise and pollution;
- Strategic Housing Land Allocation Assessment (SHLAA) is flawed;
- site should not have been included in the SHLAA;
- house sizes need to complement those already in the village;
- lack of affordable homes;
- minimum number of affordable homes will be provided;
- affordable housing proposed is well above the requirement for the village;
- little evidence of need and demand for new homes in the village as a number of homes currently for sale and have been for some time;
- No "golden thread of sustainability here, only a threadbare case which does not stand up to NPPF guidelines;

Visual Impact and Historic Environment

- detrimental impact on the setting of Grade 1 and Grade 2 listed buildings;
- detrimental impact on the Conservation Area;
- area is of historic value to character of the village;
- loss of hedgerow at junction of Church Street and Bowleys Lane;
- widening Bowleys Lane will affect the Conservation Area and character of the area;
- impact on Sensitive Areas;
- contrary to Appleby Magna Village Design Statement;
- character of the site itself, Bowleys Lane and the village would be spoiled;

- impact of attenuation pond on Conservation Area not properly shown;
- dwellings will dominate the site, Bowleys Lane and the surrounding area due to difference in land levels and size of dwellings;
- the house designs can be found anywhere in the country;
- rural aspect of the village from approach roads and uninterrupted views to landmark buildings in their settings should be retained with solid blocks of housing at the edge of the village avoided;
- impact on character of area including extending beyond existing village boundary and loss of open rural aspects and open spaces within the village;
- loss of area of land that forms a buffer between the village and the main road network;
- loss of open field on the edge of the village;
- Landscape and Visual Appraisal is highly selective and makes unsubstantiated assumptions without providing factual evidence;
- 'managed open space' is also in conflict with the significance of the countryside as part of the village;

Residential Amenities

- loss of light/overshadowing;
- loss of privacy/overlooking;
- noise and disturbance will affect peace and quiet of the area;
- impact on quality of life from congestion, delays and pollution;
- proximity to existing dwellings;

Flooding and Drainage

- current issues with flooding in the village and close to the site will be exacerbated;
- flooding already affects parts of the site;
- surface water runoff will increase in particular to Bowleys Lane and Church Street;
- proposals to minimise surface water runoff will not be satisfactory;
- failure of drainage system would result in flooding;
- attenuation pond is too small and will be empty most of the time;
- potential for backflow from sewers to end up in pond and for pond to overflow onto Church Street;
- Flood Risk Assessment is inadequate and incorrect;
- need for sustainable drainage system to be maintained;
- flows from houses onto Bowleys Lane need to be taken into account;
- swales have no purpose as higher than slab levels;
- surface water disposal system should not be connected to the mains sewer;
- impacts, including cumulatively, on River Mease SAC have not been considered and an Appropriate Assessment is needed;
- potential pollution problems need to be considered;

Highway Safety

- village road network does not have the capacity and is not suitable for extra traffic;
- Bowleys Lane is not suitable for additional traffic as single track with bends, close to houses and no footways;
- Church Street and other roads within the village are already too narrow and hazardous often with no footways and cannot be widened;
- access at junction of Bowleys Lane and A444 is already difficult;
- additional traffic will cause congestion and have significant detrimental impact on health and safety of road users and residents;
- existing on-street parking will be exacerbated;
- church hall parking is not an improvement on the existing parking situation;

- hedgerow removal not required for highway safety purposes;
- submitted transport information is badly researched, misleading, inaccurate, fails to address substantial negative impact on the local transport network and does not make an assessment of the cumulative impact of the different proposals;
- conclusions of the transport statement are unsupported and do not take account of the amount of traffic that will be generated and the existing road network;
- inadequate assessment of car travel;
- revised plans have made a bad plan even worse and threatens health and safety of village residents.

Ecology

- loss of open space, trees and hedgerow;
- impact on and loss of wildlife and plants including newts and bats;

Other Matters

- loss of view/outlook;
- impact on property values;
- impact on important archaeological remains;
- loss of best and most versatile agricultural land;
- impact on farming as land currently used for grazing livestock;
- loss of Green Belt land;
- safety issues associated with swales and attenuation pond;
- new car park should be connected via a footpath to front of church hall;
- compensation for local residents is not proposed;
- amendments suggested to layout and design;
- lack of site levels and dimensions on plans;
- high probability that land will be sold on and plans changed to higher densities and lower quality design;
- comment that site could be used by travellers if not developed is scaremongering;
- concerns in respect of commerciality and viability of proposals due to potential impact of HS2;
- HS2 may dissuade potential buyers and result in half-finished building sites;
- impact of HS2 on future occupiers;
- public consultation has not been carried out properly, it does not properly represent the views of the village and the statistics and information presented is inaccurate ;
- even after public consultation more residents opposed development than were in favour;
- developers have ignored local residents' wishes set out in adopted documents and during consultation;
- selective use of policy in application submissions, failure to take into account local planning policies and documents and contradictory statements set out within the supporting information;
- impacts of the development significantly outweigh the benefits;
- concerns about timescales for comments to be made on the application and lack of consultation on additional documentation;
- concerns that residents' letters have been forwarded onto the agent/applicant and that comments were made in confidence.

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

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy

Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document.

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.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage effective use of land by reusing land that is previously developed;
- conserve heritage assets in a manner appropriate to their significance;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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

"Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted."

"32. ...Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

"34. Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas."

"47. To boost significantly the supply of housing, local planning authorities should:

- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5%

(moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

"49. Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

"54. ... Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs."

"55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities."

"57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"59. Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."

"61. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere."

"112. Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."

"118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is

likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest; ...

...- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"119. The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."

"123. Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"131. In determining planning applications, local 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;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

"132. 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 more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...."

"133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or all of four other criteria apply."

"134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."

"135. The effect on the significance of a non-designated heritage asset should be taken into account in determining the application."

"138. Not all elements of a Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm or less than substantial harm."

"139. Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets."

"173. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking

account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

"203. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

"204. Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development."

North West Leicestershire Local Plan:

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development plan. 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 sets out 13 criteria which form the strategy for the adopted Local Plan.

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy E1 states that development will not be permitted within the Sensitive Areas which would adversely affect or diminish the present open character of such areas and the contribution they make to the settlement, streetscene or relationship with adjoining countryside.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy E7 seeks to provide appropriate landscaping in association with new development.

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the River Mease.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development. In relation to car parking standards for dwellings, an average of 1.5 spaces off-street car parking spaces per dwelling will be sought.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst other things, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account a number of issues including housing mix, accessibility to centres and design.

Policy H7 seeks good quality design in all new housing development.

Policy H8 provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

Policy L22 provides that major new development will only be permitted where adequate provision is made for open space for formal recreation use.

Other Guidance

Submission Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs).

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System) sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they 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. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

River Mease Water Quality Management Plan - August 2011 draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

The River Mease Developer Contributions Scheme (DCS) - November 2012 is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

The Community Infrastructure Levy Regulations 2010 provide a legislative requirement that an obligation must meet the following tests:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development;

- fairly and reasonably related in scale and kind to the proposed development.

The Technical Guidance to the National Planning Policy Framework - March 2012 provides additional guidance relating to flooding.

Planning Practice Guidance - March 2014 supplements the policies in the NPPF. The Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

NWLDC SPD for Affordable Housing - January 2011

Key Principle AH2 provides that affordable housing will be sought on all sites of 5 or more dwellings in Appleby Magna.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Appleby Magna.

NWLDC SPG - Play Area Design Guidance - July 2002 sets out the relevant requirements in respect of children's play provision required in association with residential development.

Appleby Magna Village Design Statement The purpose of the Village Design Statement is to influence the planning process so that any further development and change within the village and the surrounding countryside will be managed in a way that protects and enhances the qualities that give Appleby its special character, by taking into account local knowledge, views and ideas.

Appleby Magna Conservation Area Appraisal and Study SPG identifies individual factors considered to have a positive impact on the character of the Conservation Area. These factors include principal listed buildings and unlisted buildings of interest in the vicinity of the site.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the proposal, layout and design and impact on the historic environment and Sensitive Areas, trees, residential amenities, highway safety, drainage and flood risk, protected species/ecology and on the River Mease Special Area of Conservation, and the provision of affordable housing and developer contributions.

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)).

In terms of the Local Plan, the site lies outside the Limits to Development, Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3. As explained further below, however, as a consequence of the Council currently being unable to demonstrate a five-year supply of housing land, Policy S3 can no longer be considered an up-to-date policy in the context of paragraph 49 of the NPPF as it is a general policy that constrains the supply of housing.

Notwithstanding the countryside location, and whilst the proposal would be contrary to the

adopted Development Plan, therefore, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and national policies.

In terms of the Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
- the latest urban capacity information;
- the need to maintain an appropriate supply of available housing land;
- lead times before houses will be expected to be completed and build rates thereafter; and
- other material considerations.

As with Policy S3, however, Policy H4/1 being a policy for the supply of housing, can no longer be considered up-to-date due to the inability of the Council to demonstrate a five-year supply of housing land.

Whether or not this site would be considered "appropriate" is a matter of judgement. Insofar as the site's location is concerned, it is well related to the existing built up area of the settlement and would not result in isolated development in the countryside.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

Housing Land Supply

The NPPF requires that the Council should be able to identify a five year supply of housing land and include an additional buffer of 5% or 20% depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the "Sedgefield" approach should be used and that a buffer of 20% should be allowed for (an approach to assessing land availability also suggested as appropriate within the recently published National Planning Practice Guidance). On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.7 years which represents a shortfall vis-à-vis the requirements of the NPPF.

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". Therefore the Council would not, in these circumstances, be able to rely on either Policy S3 or Policy H4/1 as they are "relevant policies" for the purposes of NPPF paragraph 49. Whilst members have previously been advised, on the basis of the Stephenson's Green High Court decision that Policy S3 should not be considered to be a relevant policy for the supply of housing, and that accordingly the policy should not be considered to be out of date, a recent judgement from the most senior Judge in the Administrative Court (who is also a specialist Planning Judge) has qualified the position taken by the Judge in the Stephenson's Green case as a result of which it is no longer appropriate to rely on the latter decision.

In *South Northamptonshire Council -v-Secretary of State for Communities and Local*

Government (10 March 2014) Mr Justice Ouseley, considering the meaning in paragraph 49 of the NPPF of policies "for the supply of housing", said this:

"46. That phraseology is either very narrow and specific, confining itself simply to policies which deal with the numbers and distribution of housing, ignoring any other policies dealing generally with the location of development or areas of environmental restriction, or alternatively it requires a broader approach which examines the degree to which a particular policy generally affects housing numbers, distribution and location in a significant manner.

47. It is my judgement that the language of the policy cannot sensibly be given a very narrow meaning. This would mean that policies for the provision of housing which were regarded as out of date, nonetheless would be given weight, indirectly but effectively through the operation of their counterpart provisions restrictive of where development should go. Such policies are the obvious counterparts to policies designed to provide for an appropriate distribution and location of development. They may be generally applicable to all or most common forms of development, as with EV2, stating that they would not be permitted in open countryside, which as here could be very broadly defined. Such very general policies contrast with policies designed to protect specific areas or features, such as gaps between settlements, the particular character of villages or a specific landscape designation, all of which could sensibly exist regardless of the distribution and location of housing or other development".

Thus, whilst e.g. Green Wedge or Gap policies may not be caught by Paragraph 49, policies such as S3 and H4/1 that generally restrict development outside of settlement boundaries in open countryside clearly are. In these circumstances members must be advised to consider both S3 and H4/1 as not being up-to-date policies. In any event, as the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements up until the end of the Plan Period (i.e. to 2006) less weight could have been attributed to any conflict with Policy S3 in the overall planning balance.

In addition, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore 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.

Sustainability

As set out above, the application site is an unallocated site located outside the Limits to Development in the adopted Local Plan. The County Highway Authority (CHA) raises concerns as it considers that the applicant has failed to demonstrate that the proposal is in a location where services are readily available and safely accessible by a variety of modes of transport. These are issues which Policy H4/1 of the Local Plan deals with. Notwithstanding the status of Policy H4/1 as mentioned above, since its adoption the NPPF has been published.

In terms of the sustainability of the site, Appleby Magna provides a good range of day to day facilities, i.e. a primary school, shop/Post Office, church, church hall, two public houses, GP surgery, play area/recreation ground and some small-scale employment sites. It should be noted that public consultation was undertaken at the end of 2013 to close the GP surgery so patients would have to attend the surgery in Measham (3.05km away) and it is understood that the surgery will close in May 2014.

There is also a limited public transport service; the No. 7 service currently provides a service Monday to Saturday (approximately every 1.5-2 hours) from 8.10am to 5.48pm which serves Measham, Ashby de la Zouch, Atherstone and Nuneaton with a total of 11 buses running per

day. Public consultation was also undertaken at the end of 2013 to reduce the bus service so it operates every four hours, with a total of six buses running per day. The County Council has advised that its review of this bus service will be considered at its Scrutiny Committee in March 2014 and at its Cabinet meeting in May 2014.

In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the preferred maximum walking distance to a town centre with 400 metres acceptable and 200 metres being desirable. The Inspector in the Moira Road, Ashby appeal referred to the DoT statistics which detail that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1Km (0.62 miles), cycling about 4.5Km (2.8 miles) and by bus about 8Km (4.97 miles). Below are the approximate distances from the centre of the site to local facilities and services via the existing footway network:

Bus Stop - 300 metres
Primary School - 880m
Shop/Post Office - 380 metres
Play Area/Open Space - 105 metres
Church Hall - 170 metres
Public House - 190 metres

The application site is well related to most of the key services/facilities within the village, being within 800 metres (preferred maximum walking distance) of the majority of the services listed above, apart from the school, which is located outside the main village. The level of services available is considered to be good for a rural village although the public transport connectivity is considered to be poor. Whilst there is no footway on this side of the roads, an existing footway runs along the southern side of Bowleys Lane and along the eastern side of Church Street and existing residents on these roads make use of these footways and the existing footway network within the village. Public footpaths cross the northern part of the site which would be accessible from the new housing. There is also a variety of pedestrian routes through the village that could be used to reach existing services. Although there already appears to be a high level of car use within the village (based on 2011 Census data) there are some services/facilities within the village and some opportunities to access them other than by car.

Concerns have been raised about the impact on local services, in particular on Sir John Moore Primary School which is located in a Grade 1 listed building, in particular the capacity for the site/building to house additional pupils. Contributions have been sought by Leicestershire County Council (discussed in a separate section below) which would fund capacity for extra school places and the County Council would decide where those spaces are provided. The school has advised that it has a Master Plan in place which involves a new building to the rear of the existing building and there is some flexibility to provide space for additional pupils within this proposed building. Contributions have also been sought to provide additional capacity at the library and GP surgery at Measham, to improve the open space/recreational facilities within the village and to provide bus passes/travel packs and improve bus stops.

Given the scale of the development it is considered that the proposal would not result in unsustainable demands on local services and facilities, and contributions have been sought to provide additional capacity within schools, the library and GP surgery at Measham, to improve the recreational facilities within the village and to provide bus passes/travel packs and improve bus stops. There is nothing to suggest that the public houses and shop would be adversely affected by an increase in residents and it may be the case that additional residents could support and sustain these and other services/facilities. Taking all of these matters into account,

it is considered that Appleby Magna is a sustainable location for the level of development proposed for this site on an individual basis. Also in terms of the four current proposals for major housing schemes in the village, the site is considered to be in the best location in terms of distances to most services/facilities.

Scale of Development

It is appropriate to consider the scale of the proposed development compared to Appleby Magna so as to understand its potential impact upon the scale and character of the village.

In terms of likely future needs the GL Hearn Leicester and Leicestershire Housing Requirements Study which was used to inform the housing requirement in the now withdrawn Core Strategy includes information regarding future natural change across the district. This Study projected a 23.4% increase in housing was required across the District from 2006-2031, which was reflected in the now withdrawn Core Strategy.

It is estimated that there are 433 properties in the village of Appleby Magna within its main built up area; there are 485 properties in the Parish of Appleby Magna. This proposal for 25 dwellings would represent a 5.8% increase in the number of dwellings within the village and a 5.1% increase within the Parish. The 25 proposed dwellings alongside the 12 new dwellings built since 2006 and the outstanding commitments for seven dwellings would equate to a 10.16% growth in the village since 2006. Adding on the eight dwellings at Measham Road (13/00829/OUT) with a resolution to permit would result in a 12.01% increase in growth. Therefore, the proposed development on its own, and with additional dwellings/commitments, would represent a lower level of growth than that for North West Leicestershire as a whole. As such it is considered that the proposal on an individual basis would not result in a significant increase in housing development within the village.

When considered cumulatively with the other three major housing proposals for the village (a maximum of 153 dwellings) there would be a 35.33% increase in dwellings within the village and a 31.55% increase across the whole Parish, which would represent a higher level of growth for the village and Parish than proposed across the District in the GL Hearn Study. When taking into account new dwellings/commitments this growth increases to 41.57 % and 37.11% respectively. This level of cumulative development is considered to be inappropriate for Appleby Magna given its poor public transport connectivity, its level of services/facilities and the village's rural location. However as this site is the first to be considered on the Agenda consideration is only given to the scale of the proposal on an individual basis. The cumulative impact is considered as part of the assessment of the remaining applications as the number of dwellings for the village increases as each application is put forward.

Loss of Agricultural Land

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. The site is currently grassland although it is not clear if it is in active agricultural use. However the development of the southern part of the site would result in an irreversible loss to non-agricultural use. DEFRA has been consulted on this issue, but no response has been received.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it would seem inevitable that greenfield land (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The application site falls within Grade 2 of the ALC.

However, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively). The site is approximately 4.2 hectares in size. It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process, which in this case would be small in scale as it would relate only to the southern part of the site (1.3 hectares) with the northern part of the site being large enough to continue to accommodate an agricultural use.

Nevertheless it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, when considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the loss.

Conclusions in respect of the Principle of Development and Planning Policy

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The site is outside Limits to Development in the adopted Local Plan and its development for housing would therefore be contrary to Local Plan Policy S3. For reasons which have been outlined above, however, this Policy cannot be considered as being up-to-date in the context of Paragraph 49 of the NPPF. The site's general suitability for housing (given its location in terms of distances to most services/facilities) is also material, together with the need for the District to release land for housing to ensure the provision and maintenance of a five year supply of land (with a 20% buffer) and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF).

It is considered that the proposal on its own would not significantly increase housing numbers within the village. Although the level of cumulative development proposed across the four major housing proposals is considered to be inappropriate for Appleby Magna, both when considering the four sites together and with new dwellings/commitments, as this site is the first to be considered on the Agenda consideration has only been given to the scale of the proposal on an individual basis.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in contributing to housing land supply, its proximity to services/facilities, the provision of affordable housing and open space and the inclusion of appropriate contributions to local services would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, the proposal would have a harmful impact on the significance of designated heritage assets and insufficient information has been submitted to ensure that the development would not harm archaeological remains. The public benefits of the proposal (contribution towards housing land supply, high quality design, provision of affordable housing and contributions to public service/facilities) would not outweigh this harm. In the overall balance it is considered that the proposal would not constitute a sustainable form of development.

Density

The proposal results in a density of 5.95 dwellings per hectare for the whole site, which is well below that sought under Policy H6 of the Local Plan (a minimum of 30 dwellings per hectare), although for the developed area of the site the density increases to 19.2 dwellings per hectare. The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate having regard to the location of the site on the edge of a village and the character of the area.

Layout and Design

The proposal provides a mix of housing with the majority being detached or terraced properties, ranging in size from one to five bedrooms.

It is recognised that the dwellings along Bowleys Lane and at the site entrance have been positioned to allow a view through to the church. Furthermore the site is located on the edge of the village with open countryside beyond and so a low density development with a softer entrance and frontages to the site, with strong landscaping, is appropriate. Three properties will front directly onto Bowleys Lane, and whilst they are set back from the road, this is partly due to land levels and to allow partial retention of the frontage hedgerow. A key end stop/vista would be provided by Plots 5 and 6.

Although there are no true dual aspect dwellings, opportunities for surveillance are available with corner plots and elevations facing onto the road, parking areas and the open space/SUDS. Although some side elevations are lacking windows, e.g. Plots 25 and 11, this matter could be dealt with by condition. The design of the parking court has been amended to break up the level of hardsurfacing and to provide a communal bin collection area, with surveillance being provided by Plot 15. The terraces reflect the form of existing terraces/semi-detached properties located on the opposite side of Church Street and frame and provide surveillance to the new open space in the site's south eastern corner.

The surrounding area is characterised by older properties on Church Street with more modern dwellings on Bowleys Lane, although within these there is a mix of size and design. The VDS states that there is no over-riding style that characterises the village's appearance. The detailed designs show properties with traditional proportions and detailing which fit in with the character of older properties located within the historic core of the village. There would be a mix of designs, with variation in the design of the detached properties and terraces so that one style is not dominant.

The site can accommodate all of the necessary requirements (private gardens, parking/turning space, bin storage/collection areas) without being cramped. A landscaping scheme for the site shows hedgerows/planting to front and side boundaries and a brick wall to the rear of Plots 12-14, which reinforces and enhances street definition. Although land levels rise up across the site from south to north and east to west, the streetscenes do not indicate a significant increase in land levels across the site.

The open space at the south eastern corner would provide a 'village green' area which is framed both by new development and existing housing on Church Street. The open space/SUDS on the central part of the site would ensure archaeological remains in this area remain largely undisturbed and great crested newt habitat is retained. The provision of new footway links to Church Street and the existing public footpath network gives legibility to the scheme and would enhance links to the village. The derelict building adjacent to Church Farm is shown to be retained and any future proposals for this building would need to be considered as part of a

separate application.

The residential element of the scheme would create a housing development that would be of high quality in terms of its form and design, with dwellings that fit well with the traditional house types within the village and its character would be further reinforced by landscape features and building details, such as materials and colour. The scheme would create a well-defined network of both roads and pedestrian links. The scheme would also provide additional open space and footway links that are well related to new and existing housing and would integrate the scheme into the village. Based on the above and subject to conditions, the scheme is considered to be acceptable in terms of its design and layout.

Historic Environment

Significance of Heritage Assets

The south eastern part of the site lies within the Appleby Magna Conservation Area and the majority of the site's eastern boundary adjoins the Conservation Area. Church Farmhouse and a Type K6 telephone box, which are both Grade 2 listed buildings, adjoin the site to the east. The Church of St Michael, which is a Grade 2* listed building, lies to the east/north east of the site on the opposite side of Church Street and there are a number of other listed buildings along Church Street and Mawby's Lane (the Moat House - Grade 2* - and the Dovecote at the Moat House, the gatepiers and retaining wall to the church, No. 17 Church Street and Moore's Almshouses - which are all Grade 2 listed buildings). Sir John Moore's School, which is a Grade 1 listed building, lies approximately 500 metres to the south of the site. There are also several unlisted buildings of interest in close proximity along Church Street, including the church hall, the Crown Inn and properties between Nos. 29-47 Church Street. The moated site to the east of the church is also a Scheduled Monument. The site contains archaeological remains relating to Dormer Hall and its driveway and fishponds, ridge and furrow, village closes and marl extraction. The Conservation Area and listed buildings are designated heritage assets as defined in the NPPF, with the properties on Church Street being undesignated heritage assets. The archaeological remains within the site are also considered to form an undesignated heritage asset.

Appleby Magna is thought to have Saxon origins and it is considered likely that the original settlement may have been in the vicinity of the later St Michael's church, which is Grade 2* listed. However evidence of Romano-British activity indicates that the area around the shallow stream valley was farmed and settled much earlier. Appleby Magna also lies to the south east of the approximate route of a possible Roman road linking Watling Street at Tamworth with a crossing of the Trent at Sawley and the adjacent Roman settlement at Redhill. Within the existing village, which remained in agricultural use until the 19th century, it is thought the settlement was planned, based around Church Street and Top Street linked by two cross routes, Mawbys Lane and Stoney Lane/Blackhorse Hill with three foci of early occupation. To the east of the site lies the scheduled moated site of the former medieval manor house of the Appleby Family, fishponds and settlement earthwork remains later converted into formal gardens in the 16th or 17th Century east of the Church. Within the village there are numerous listed buildings which in general are clustered around the historic routes. Highly graded assets include the Grade 1 listed Sir John Moore School dated 1697 and designed by Sir William Wilson, the Grade 2* 16th Century Moat House with gatehouse which has been described as the best preserved medieval house on a moated site in Leicestershire, and the 14th century Church of St Michael, listed Grade 2*. Together with the moated site, the relationship and association of these structures with one another, including the association with the earlier manor house, is highly significant. This significance derives from the group's architectural, historic and archaeological interest. This includes the historic relationship of the Moore Family who owned the manor house. This historic inter-relationship is recognised within the submitted CgMs

Heritage Assessment and the Appleby Magna Conservation Area Appraisal and Study (2001), which also states that the pattern of the pre-enclosure settlement remains largely evident within the area.

The development site itself lies within and immediately adjacent to the medieval core of Appleby Magna. The site is a pasture field and contains a series of earthworks of former medieval closes along its eastern side, the site of the former Dormer's Hall in the centre of the site adjacent to the existing ponds, the line of the former driveway and possible fishponds of Dormer's Hall (demolished c.1770). The earthworks of medieval ridge and furrow survive along the western side and the southern end of the plot. The archaeological potential of the site for remains of this period is therefore high and these earthworks and their setting reveal the historic relationship of the site with the wider historic core of the village. The CgMs Heritage Assessment also states that the archaeological remains are considered to be of regional importance. Furthermore English Heritage notes that the archaeological remains visible on the site are directly related to the scheduled monument by virtue of their interpretation as remains of contemporary settlement activity. The special character of the Conservation Area is derived both from the historic inter-relationship of the Moat House site and the Parish Church and from the grouping of farmhouses, their outbuildings and cottages along the curvatures of including along Church Street. The character of the site, in terms of its agricultural use and visible archaeological remains, creates an open setting to this part of the Conservation Area and the foreground to the church, and helps reinforce the strong contrast of the rural landscape with the historic village settlement. The site is visible in immediate and longer views of the Conservation Area and listed buildings, in particular as public footpaths cross the northern part of the site. As such it is part of the 'surroundings in which a place is experienced; its local context embracing present and past relationships to the adjacent landscape' and therefore forms part of the setting to the designated heritage assets. Therefore the historic and visual relationship of the site with the wider historic core of the village forms an important part of the setting of the group of inter-related heritage assets.

Therefore the listed and unlisted buildings, the Conservation Area, scheduled monument and archaeological remains form an important part of the history of this part of the village and the village as a whole and are considered to be heritage assets of significance which have value for this and future generations.

Impact on Significance of Heritage Assets

The National Planning Practice Guidance states that 'Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.' Therefore English Heritage is of the view that the proposal would be harmful to the significance and setting of the scheduled monument, listed buildings and the Conservation Area.

English Heritage advises that the development of the site would result in the loss of a significant part of the rural setting of this historic settlement, and that development would erode the survival of archaeological remains of former activity and land use, and begin to fragment the surrounding agricultural setting from the historic core of the village. The archaeological remains are directly related to the scheduled monument by virtue of their interpretation as remains of contemporary settlement activity and therefore form an intrinsic part of the setting of the scheduled monument. The rural landscape and archaeological remains present on the site have a unique character which clearly shows historic use of the site and results in the countryside penetrating the village,

a characteristic that is noted in the Village Design Statement, and therefore the site contributes positively to the character and appearance of the Conservation Area, and therefore the setting of the inter-related heritage assets. The Heritage Statement states that the church has no known functional, spatial or historic relationship with the southern part of the site and English Heritage disagrees with this view, stating that the church sat within a settlement of which remains are likely to be preserved on the site, even as agricultural land supporting the settlement.

English Heritage advises that the loss of parts of the site would be both visual and also in the way the group of highly graded heritage assets would continue to be experienced and understood. It is considered that the local context of the setting of the heritage assets and the relationship of the site with these assets can be experienced when crossing the public footpaths on the northern part of the site as well as in other views, and therefore the site's present and past relationships with the heritage assets can be experienced.

There would be a harmful visual impact on the setting of the church, as the site currently forms an important part of the foreground and views towards the church from the south west, in particular when viewed from Bowleys Lane. The site's survival as pasture land and its historic relationship with the designated heritage assets is visible and can be appreciated and valued and this would be fundamentally altered. Moving through the site it would become apparent that the character and contribution of the site to the heritage assets would be lost, in terms of visual impact as the rural landscape is eroded and in terms of erosion of the relationship of the countryside with the village and the heritage assets.

This site also forms both part of and a backdrop to the Conservation Area. The hedgerow to be removed along the boundary at the junction of Church Street and Bowleys Lane is considered to be of little visual merit, as it is largely made up of sporadic hedgerow plants and brambles. The part of the site within the Conservation Area would largely be retained as open land. However Plots 19-25 would partly be located within the Conservation Area, on an area identified in the Conservation Area Appraisal as an area of green space that makes a positive impact on the character of the Conservation Area, which is also identified as a Sensitive Area under Policy E1 in the adopted Local Plan. Therefore the rural and natural character and setting of the Conservation Area and this part of the village would be lost through development of the site, and this would result in a harmful visual impact on the Conservation Area.

It is therefore considered that the proposal would be harmful to the significance of designated heritage assets and that this would constitute substantial harm. Paragraph 132 of the NPPF states that any harm should require clear and convincing justification. Paragraph 133 of the NPPF states that proposals leading to substantial harm should be refused consent, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh the harm or all of four other criteria apply (which are not considered to apply in this case as the site is a field currently in agricultural use and nothing has been put forward to suggest that this is not a reasonable or viable use of the land).

However longer views of the church are seen in the context of the wider village, with buildings and vegetation forming the foreground. The development of the site would not significantly affect the views of the church both in longer views, and it would continue to be a landmark within the village. The developed part of the site would be set back from Church Farmhouse and the telephone kiosk and the open space adjacent to these heritage assets would be retained. As such the harm to the visual setting of the Church Farmhouse and telephone kiosk and longer views of the church is considered to be less than substantial. Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against

the public benefits of the proposal.

English Heritage does not consider that clear and convincing justification for the development has been put forward either within the original application submission or the Heritage Statement and recommends that the application is refused on the grounds of harmful impact on the setting of the scheduled monument, listed buildings and the Conservation Area.

Furthermore, although the Authority does not have a five year housing land supply, and the proposal would provide a high quality design, along with contributions towards services/facilities and the provision of affordable housing, in this case it is considered that these public benefits are not so substantial that they would outweigh the harm to the heritage assets. In addition alternative sites are available elsewhere within the village for new housing. Therefore the proposal would be harmful to the significance of designated heritage assets for which there is no clear and convincing justification or public benefits that would outweigh this harm.

Sensitive Areas and Character of the Area

The south eastern and north eastern corners of the site are designated within the Local Plan under Policy E1 as Sensitive Areas. Policy E1 is not considered to be a relevant policy for the supply of housing (see the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal), notwithstanding that a contrary view has been taken elsewhere (and including by the Secretary of State on appeal), and accordingly the policy should not be considered to be out of date. Policy E1 is supported by the advice in the NPPF which seeks to protect valued landscapes as well as its key principles to conserve and enhance the natural environment and recognising the character and beauty of the countryside.

The north eastern Sensitive Area would not be affected by the proposed development as it is now shown to be retained as grazing land. Parts of the proposal lie within the south eastern Sensitive Area and therefore its present open character would be affected and diminished and the proposal would therefore be contrary to Policy E1. Therefore an assessment needs to be undertaken as to whether the proposal would adversely affect the contribution the south eastern Sensitive Area makes to the character, form and setting of the settlement, streetscene and adjoining countryside.

The part of the site within the Sensitive Area would largely be retained as open land, and although Plots 19-25 would partly encroach into the Sensitive Area, it is considered that this incursion in itself would not significantly diminish the open nature of the Sensitive Area on its own and the contribution it makes to the character of the area.

Therefore having regard to all of the above considerations, whilst there would be harm to the Sensitive Area it is considered that a reason for refusal based on the impact on the Sensitive Area could not be justified in this case.

Although the new dwellings would be at a higher land level than the existing dwellings on the southern side of Bowleys Lane, it is considered that they would not significantly dominate the streetscene as the dwellings are set back from the road and those that front directly would be two storey and approximately two metres above the road level.

In order to overcome one of the Highway Authority's reasons for refusals it is proposed to increase the minimum width of Bowleys Lane to 4.1m to allow two vehicles to pass each other along its entire length. This would result in three stretches of the carriageway along Bowleys Lane (between the site and the junction with the A444) being widened, by between 0.32 metres

and 0.94 metres. Although parts of some of the existing verges would be lost, verges would be retained along the length of the road, which in places would still be quite wide. No footways are proposed along this stretch of road. Therefore it is considered that this road widening would not be significantly detrimental to the character of the streetscene along Bowleys Lane.

Archaeology

As noted above there are archaeological remains across the site and the County Archaeologist advises that the site lies within an area of significant archaeological interest. The available evidence shows that the site has a high potential for the survival of archaeological remains of the medieval and post-medieval periods and a lower or uncertain potential for remains of other periods. The County Archaeologist also advises that Earthworks surviving within the affected area, coupled with the proximity of the site to the church, Church Farmhouse and the scheduled medieval remains at the Moat House indicate a high potential for archaeological remains within the area of development impact. As noted above the archaeological remains are considered to be an undesignated heritage asset and of regional importance.

The application includes development within areas where archaeological remains may be located, which would be disturbed by works associated with the proposal. English Heritage also notes that the impact on the potential archaeological remains is considered harmful. The County Archaeologist therefore recommended that an Archaeological Impact Assessment of the proposals was undertaken before determination of the application, to include geophysical surveying and targeted trial trenching to identify and locate any archaeological remains of significance, and propose suitable treatment to avoid or minimise damage by the development.

Following submission of a further Archaeological Assessment which included geophysical surveying, the County Archaeologist advises that some targeted trenching, to clarify the character of the geophysics and test areas where the other information suggests a significant potential, needs to be undertaken before determination of the application.

The agent has advised that this trial trenching has not been undertaken. A condition requiring trial trenching to take place after determination would not be sufficient to prevent any harm. It is therefore concluded that insufficient information has been submitted to ensure that the development would not harm important archaeological remains.

Trees

The Tree Officer advises that there is little of arboricultural merit on site and the proposal would not impact on any off-site trees. No development is proposed adjacent to the group of four trees protected by Tree Preservation Order. An ash tree on Bowleys Lane would be lost but its long term potential is limited. The partial retention of the frontage hedgerow to Plots 12-14 could be difficult and as such the Tree Officer suggested that it is retained in full, with these plots being accessed from the new road. However to provide such access would have implications for the design and layout of the site and as such access from Bowleys Lane is retained, with parts of the hedgerow removed. Additional planting is shown to the rear of this hedgerow. The hedgerow along the site's western boundary would be outside garden area. A clause relating to management of open space/areas of landscaping should be included within a legal agreement.

Whilst a section of hedgerow that extends into the site is considered to be of value, its retention would compromise the integrity of the scheme's design and in addition is a small stretch of hedgerow. The Tree Officer has also advised that whilst there are some small, sporadic, remnant hedgerow plants opposite No. 27 Church Street which are of little merit and two or three larger hawthorns behind the telephone box. However the vegetation at the Bowleys Lane/Church Street junction, which is proposed to be removed, is predominantly bramble on the

highway embankment with no hedgerow on the corner. As such an objection to the loss of the vegetation at the site's south eastern corner boundaries could not be justified. Conditions can be imposed relating to precise details of landscaping and boundary treatments.

Residential Amenities

Whilst tranquillity in the area may in part be due to the site's current use, it is not unusual to find housing adjacent to other areas of housing, and new housing is unlikely to generate significantly detrimental levels of noise and disturbance.

The site's access would be located opposite the recreation ground and would not immediately adjoin any existing dwellings. One of the new footpath links and the open space on the southern eastern part of the site would be located in part immediately adjacent to the boundary with Church Farm, which would increase the level of activity from the existing situation. However Church Farm is on a residential street where use by walkers would not be unusual and where open space can often be found, and it is Church Farm's garden that is immediately adjacent to the site. The Environmental Protection team has not raised any objections or concerns in relation to noise or disturbance.

The outlook from existing dwellings on the opposite side of Bowleys Lane and on Church Street towards and across the site would be affected. The existing dwellings' private garden space is located to the rear. The new dwellings that front onto Bowleys Lane would be positioned at a higher land level (up to three metres) than the road. Some of the existing frontage hedgerow would be retained with additional planting proposed. Plots 23-25 would be approximately three metres higher but their front elevations face towards the new open space and they would be positioned 27 metres from No. 1 Bowleys Lane and 12 metres from its boundary. It is also not an unusual arrangement for dwellings to face each other across the street, even at different land levels, as is the case elsewhere in the village.

At their closest point Plots 12-14 are sited 31 metres from the existing properties on Bowleys Lane and 20 metres from their front boundaries and the streetscene shows them to be between 1.65 and two metres higher. Plots 19-25 would be over 50 metres from existing dwellings on the eastern side of Church Street. Plots 16-18 would be at least 26 metres from the boundary to Church Farm and its adjacent barn conversions and 38 metres from the dwellings themselves.

It is therefore considered that the proposal would not result in significant detriment to the residential amenities of occupiers of properties on Bowleys Lane and Church Street in terms of loss of light, loss of privacy and creation of an oppressive outlook.

Highway Safety

The Highways Agency has no objection in relation to impact on the strategic highway network (M42/A42).

Concerns have been raised by local residents in terms of the width of Bowleys Lane and Church Street and other streets in the village and their capacity to cater for the extra traffic generated by the development and the other major housing schemes currently proposed. Other concerns have also been raised including relating to potential congestion, existing on-street parking, the junction of Bowleys Lane with the A444 and the Transport Assessment being misleading and inaccurate.

The County Highway Authority initially objected on two grounds relating to the proposal leading to additional traffic using a section of highway (i.e. Bowleys Lane), which is unsuitable in its

width and design to cater for this increase, which would not be in the interests of the highway safety, and the site being in an unsustainable location. Bowleys Lane can cater for two vehicles passing each other along the stretch that would be fronted by the development. However past this point the road narrows and at some points is wide enough for only one vehicle to pass at a time, with several tight bends and dwellings located close to the road. The Highway Authority advises that it is substandard in terms of its width, forward visibility, footway provision and street lighting. Existing pressure from on-street parking also arises from use of the recreation ground for sports matches, and although a new pavilion has recently been granted planning permission (13/00819/FUL) which would provide for some limited off-street parking space, it is expected that some parking on Bowleys Lane and its verges would still arise.

Additional information was submitted to address the Highway Authority's reason for refusal relating to the width of Bowleys Lane, which includes a proposal to widen three stretches of the carriageway along Bowleys Lane by between 0.32 metres and 0.94 metres. The visual impact of these measures is considered separately in this report. Having considered this report, the Highway Authority has withdrawn its reason for refusal relating to the width of Bowleys Lane and if approved recommends that the proposal is subject to conditions including relating to the widening of Bowleys Lane and the provision of footways to the site frontages, and contributions to be secured in a legal agreement which are considered in a separate section below. The latter of the Highway Authority's objections is addressed earlier in this report.

Whilst there is no footway on the sides of the road adjoining the site, footways run along the southern/eastern sides of Bowleys Lane/Church Street which run into the village and the development would include additional pedestrian links into the village and public footpath network. As such it is considered that new footways to the site frontages are not required, in part also because of their visual impact on the area. The Highway Authority's requirements for visibility splays and other technical requirements can be met and at least two parking spaces are proposed per dwelling, with more spaces in some cases, all of which can be secured by condition. As the site is served by a new access road, there is likely to be space for any off-street parking to take place within the site. The new car park to serve the church hall has been removed from the scheme. Whilst this would have been a benefit of the proposal, there is currently no parking at the church hall and the number of additional residents generated by the development is unlikely to result in a significant increase in use of the church hall. A report relating to the cumulative impact on the highway network alongside other housing proposals in the village concludes that '...the roads within Appleby Magna have significant spare capacity to accommodate the proposed development and potential traffic from other applications and the effects of cumulative impact on highway capacity will be minimal' to which the Highway Authority has raised no objection. Based on the above it is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

Drainage and Flood Risk

The site lies within Flood Zone 1 and as it is over one hectare in size, a Flood Risk Assessment (FRA) has been submitted. The Environment Agency has no objections in principle subject to conditions and advises that any concerns in relation to flood risk are solely in respect of surface water drainage. The FRA indicates that surface water would discharge into the mains sewer system with on-site attenuation being provided via a sustainable urban drainage system (SUDS). However the Environment Agency advises that it agrees with Severn Trent Water's (STW) response to the applicants 'developers enquiry' that its preference is for surface water to be disposed of via soakaways or a nearby watercourse if feasible (see Appendix F of the FRA) and recommends that the site connects directly to the watercourse via a new surface water sewer, in preference to connecting to the public combined sewer.

STW initially advised it had no objections subject to the imposition of a condition relating to drainage details, although detailed discussions have taken place relating to the capacity of the drainage system. Consideration of the capacity of STW's treatment works is set out below in the section relating to impact on the River Mease SAC.

Natural England initially sought further details of foul and surface water disposal and was provided with the comments made by the Environment Agency and STW. Natural England also sought clarification relating to runoff rates and measures in place to control levels of phosphate and pollutants if surface water was directed to the watercourse. Following further comments from the Environment Agency in relation to these matters, Natural England has advised it has no objections relating to foul and surface water disposal subject to conditions.

Following concerns raised by residents including in relation to the loss of existing natural drainage currently provided by the site, and for surface water (once the site is developed) to flood properties on Bowleys Lane and Church Street which are at a lower land level and exacerbate flooding that already takes place, the Environment Agency provided further detailed comments:

- *The potential for surface water ponding and overland flows from this site should be reduced post development. This is because they will be collected and managed on site as part of the proposed surface water drainage scheme. The on site SuDS attenuation pond system is to be excavated within existing ground levels without raised banks and generally be empty, therefore reducing the risk of flooding both on and off site;*
- *a new dedicated surface water sewer for this site would be in accordance with the surface water disposal hierarchy given under Part H of the Building Regulations. However a greenfield rate of discharge from the site must be maintained in order to prevent an increase in flood risk downstream. This is a standard requirement for all developments and there should be no issue in achieving this discharge rate (as proposed within the FRA Section 5.5.3). This would also prevent any combined sewer matter from entering the balancing pond;*
- *A new dedicated surface water sewer in this area of the village could also be used by STW to take other existing surface water flows out of the combined sewerage system, increasing the capacity for foul flows (including for the development site), whilst reducing the risk of flooding from surface water flows;*
- *In summary because there are technical solutions to prevent the proposed development from increasing flood risk (e.g. requisition a new surface water sewer from STW to connect the site direct to the watercourse), we have no grounds for objection from a flood risk perspective.*

Although surface water would have to discharge to watercourse via a new sewer rather than into the mains, the runoff to the watercourse would be restricted to greenfield runoff rates (i.e. the rate at which surface water currently discharges from the site when undeveloped) of 5l/sec/ha and this would be required by the Environment Agency's suggested condition. The surface water scheme for the site would have to include two treatment trains to help improve water quality; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year rainfall event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features. It is not clear how surface water would be dealt with from the runoff from the front gardens/driveways to Plots 12-14 and the garage/parking area to Plots 23-25 but this would have to be dealt with as part of a detailed surface water scheme for the site.

Concerns have also been raised by residents in relation to the capacity of the local drainage network. STW has advised that it is aware of current issues with the sewerage system which is

being looked into by its sewer modelling team and it intends to promote a project into its capital programme within the coming months. STW advises that it will not object to the proposal in relation to this matter and that a phasing condition should be imposed, which can be drafted as a Grampian condition to prevent occupation of the proposed dwellings until measures have been undertaken to ensure the sewer/drainage system has capacity to serve the development. Such an approach has been adopted on the scheme for eight dwellings at Measham Road (13/00829/OUT) which was approved at Planning Committee in February 2014.

On this basis and given the lack of objection from Severn Trent Water and the Environment Agency it is considered that a reason for refusal relating to flood risk and capacity of the drainage system could be not justified.

Protected Species/Ecology

The site is predominantly grassland and contains a pond, a derelict building and some trees/hedgerow, in particular along its boundaries. The site is also adjoined by grassland, and another pond, along with other trees and hedgerows, are nearby. Some of these are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions. The habitats could also be used by national protected species. Natural England makes no comments in relation to protected species other than to refer to its Standing Advice.

A medium population of Great Crested Newts (GCN) has been identified and is spread over several ponds in the vicinity, including the on-site pond, which is proposed for retention. The County Ecologist initially advised that one of the estate roads would be extremely close to the pond, and is too close to be sure that GCNs would not be harmed and the pond would also be close to the housing and would be subject to disturbance as a result. GCNs are concentrated in largest numbers closest to the breeding ponds during their migration to and dispersal from the ponds before and after the breeding season. The closer that informally managed open space, roads and pavements are to the pond, the higher the risk of harm at these times. Proximity to cars and the likelihood of disturbance through children's play increases the risk. The County Ecologist therefore advised that a buffer zone of at least 10 metres of natural vegetation needs to be retained around the pond, and managed sympathetically to GCNs, to give them some protection, which was not in place on the original layout plan. The County Ecologist concluded that she was satisfied that if the buffer zone issue can be addressed, sufficient terrestrial habitat can be retained for the population, and also that habitat connectivity to the adjacent pond can also be retained.

The County Ecologist also had some concerns about the potential use of the northern part of the site as public open space and a cemetery extension, which may be harmful to GCN, as this land needs to be retained as terrestrial habitat for GCN. Whilst the County Ecologist did not think that the presence of GCNs on the site will prevent the use of part of the northern land for these purposes, it would constrain use and some land will need to be retained as mitigation for disturbance to the GCNs. The County Ecologist also advised that further details of mitigation would be required, although those measures listed appear to be a reasonable approach.

Therefore based on the original layout plan the County Ecologist objected to the proposal on the grounds of causing harm to a population of European Protected species.

The amended plans for the site show that the northern area would be retained as grazing land and the reference to public open space and a cemetery extension have been removed. A 10

metre buffer between the existing pond and the access road and other development has been provided, along with an area of vegetation specifically for GCN and other wildlife that would not form part of the formal public open space or grazing land. As such the County Ecologist advises that the amended plans have addressed her original concerns and conditions would need to be imposed, including relating to a GCN mitigation strategy

The County Ecologist also advises that the archaeological trial trenching that has been requested by the County Archaeologist is a relatively minor disturbance to the GCN foraging habitat and is of a temporary nature over a few days. As such she advises that the trial trenching could be done prior to determination of the application, with a method statement relating to GCN included within the Written Scheme of Investigation for the archaeological works.

The County Ecologist has not made any detailed comments on the remainder of the submitted Ecological Assessment, which found no evidence of badgers or reptiles, although the site is considered to provide good badger habitat and unsuitable habitat for reptile species. The report found that the site provides low-moderate habitat quality for bats and a low level of bat activity, and that there are nesting and feeding opportunities for birds across the site. Whilst some of the trees and hedgerows would be removed, areas of new planting is shown across the site and the majority of the site would remain undeveloped with additional vegetation suitable for wildlife provided around the pond and alongside the boundaries of the northern area. Conditions can be imposed relating to a lighting plan to prevent impact of light spill and further surveys for bats before trees are removed and a management plan for wildlife habitats, including for GCN, would be secured in a legal agreement. On this basis it is considered that the proposal will not adversely affect other protected species.

If a prohibited activity would take place against a European protected species, i.e. in this case disturbance of great crested newts during construction of the proposed development, then the Authority has to consider the likelihood of a protected species licence being granted by assessing the proposal against the three tests set out under regulation 53 of the Habitat Regulations. Under regulation 53, activities which would otherwise contravene the strict protection regime offered to EPS under regulation 41 can only be permitted where it has been shown that the following three tests have been met:

- the activity must be for imperative reasons of overriding public interest ("IROPI") or for public health and safety;
- there must be no satisfactory alternative;
- the favourable conservation status of the species in question must be maintained.

Until recently, these tests had only really been examined as part of the EPS licensing process carried out by Natural England. However, recent court cases including (R (on the application of Simon Woolley) v Cheshire East Borough Council and others [2009] EWHC 1227), have upheld that Local Planning Authorities must engage with these three tests at the planning application stage and demonstrate that they are satisfied that the three tests have been met prior to granting planning permission.

However in this case, as the application is recommended for refusal in relation to impacts on heritage assets and archaeology, a prohibited activity would not take place and as such it is considered there is no need for an assessment against regulation 53 to take place. If a resolution to grant planning permission was to be taken, then Members would first need to assess the likelihood of a protected species licence being granted against the tests under regulation 53.

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), which was designated in 2005. A tributary to the River Mease lies approximately 90 metres to the east of the site. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. 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 will have a significant effect on the SAC is required.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water in the river are met by potential developers. 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 has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS which has been calculated as £7147.00. Natural England has no objections in relation to impact on the SAC/SSSI subject to conditions.

Consideration needs to be given to the capacity of Severn Trent Water's receiving treatment works at Snarestone. The flows from the new dwellings will need to be taken into account against the existing headroom at Snarestone. At March 2013 capacity was available for 47 dwellings but this is reduced by the number of dwellings that have already received a permit from Severn Trent Water and/or are under construction, and by the number of dwellings that have been granted planning permission. Taking these into account the capacity available at the treatment works is significantly reduced.

Severn Trent Water has advised that it has verbally agreed with the Environment Agency to change Severn Trent Water's permits, which will enable the transfer of some capacity from Packington Treatment Works to Snarestone (in part due to additional capacity becoming available due to the planned closure of the Arla site in Ashby) to create capacity for a further 90 dwellings, and that is likely to be take place as this approach has been successfully adopted elsewhere in the SAC catchment area. Severn Trent Water will be formally applying to vary the permit in the coming weeks and it expects that the updated permit will be issued in May 2014. As such STW advises that it will not object to the proposal and that if the transfer of capacity has not been agreed by the time the application is determined, then a phasing condition should be imposed, which can be drafted as a Grampian condition to prevent occupation of the proposed dwellings until additional capacity has been provided at Snarestone Treatment Works. Such an approach has been adopted on the scheme for eight dwellings at Measham Road (13/00829/OUT). If further capacity above 90 dwellings was required then STW has advised that it would provide more capacity. As such a reason for refusal based on limited capacity at the treatment works could not be justified.

A condition requiring that only a mains connection is used at the site would also be required as the use of other means for foul drainage discharge could adversely affect the SAC. The site is 90 metres from the nearest tributary to the River Mease, with no development located in-between. Natural England has advised that it has no objections to surface water from the scheme discharging to the watercourse. There is unlikely to be any direct impact on its channel and banks as it is separate from the site. Therefore there is unlikely to be any direct adverse impact on this stream, in particular as the Environment Agency has advised that the standards to which the surface water drainage system would have to be designed reduce the potential for pollution to the watercourse by including what are known as treatment trains, which capture and prevent any 'dirty' surface water run-off from the development reaching the river. More detailed consideration is given to surface water earlier in this report.

Therefore based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a 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.

Developer Contributions

Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the proposed development.

Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.

Healthcare

NHS England is seeking £12,024 to provide additional GP surgery facilities at Measham Clinic for additional patients arising from the development and details of a revised contribution have been sought. It is understood that the Appleby GP surgery (which is also a small and limited facility) will close in May 2014 and the Measham Clinic is used by some village residents and provides the full range of GP healthcare services. NHS England also advises that the Measham Clinic is very likely to feel the impact of any population increases whether the Appleby Magna surgery remains open or not.

The agent has queried whether the healthcare contribution is CIL compliant in terms of the amount of additional GP surgery hours that would be generated by the development when compared to the works that the requested contribution would pay for, and whether the scheme located on the western side of Top Street has been taken into account. The agent for the Bowleys Lane and Measham Road proposal has queried whether the healthcare contribution is CIL compliant in terms of the amount of additional GP surgery hours that would be generated by the development when compared to the works that the requested contribution would pay for, and whether the scheme located on the western side of Top Street has been taken into account. NHS England has advised that:

The responses have focused on the internal reconfiguration of the accommodation to increase capacity as this is feasibility and achievable. As you have indicated the total amount of consulting time for the proposed developments is 10.5 hours per week and this needs to be achieved throughout the building as flexibly as possible given that the practice's utilisation of the building currently is high. The cost of building an extension for the additional consulting hours

would far exceed the cost of this work and so it is proportionate. We are aware of a further development and we would respond in a similar manner but in proportion to the applications already submitted.

It is therefore considered that the NHS request is CIL compliant. The agent has subsequently advised that the applicant accepts the requested healthcare contribution.

Libraries

Leicestershire County Council is seeking £1,510 to provide additional capacity at Measham Library, which is the nearest library. It is therefore considered reasonable for a contribution to be sought to increase its capacity to cater for additional users.

Education

Leicestershire County Council is seeking the following contributions to provide additional places at the nearest schools where there is no capacity:

- initial request (based on 26 dwellings) - £45,887.90 (£0 - Sir John Moore Primary School; £0 - Ibstock Community College; £45,887.90 - Ashby School);
- amended request (based on 26 dwellings) - £54,825.99 (£0 - Sir John Moore Primary School; £8,938.09 - Ibstock Community College; £45,887.90 - Ashby School).

The education contributions referred to above relate to the original proposal for 26 dwellings on its own. Sir John Moore School has capacity for 140 pupils and the proposal on its own would not create a deficit in places which is why no contribution is sought. As such, it is clear what the individual impact from the proposed development would be on educational facilities in the locality.

The District Council has sought to clarify the position in terms of any cumulative impact from the three major housing schemes considered on this Agenda to ensure any resulting primary school deficit could be met through an appropriate financial contribution. Subsequently the County Council has informally provided further amended contributions which share existing spare school places across the proposals on this site and the sites at Measham Road and Bowleys Lane which resulted in a further change in the requested contributions. These contributions are however based on the original number of dwellings proposed for each site and after discussion with both the agent and the County Council it has been agreed that the County Council will again calculate the contributions (based on the amended number of dwellings for each site) once the three applications have been considered at Planning Committee.

Play Area/Open Space

Given the site's proximity to the recreation ground (which contains a play area), an on-site play area is not required. A contribution of £30,875 (£1,235 per dwelling) is sought towards open space within the village, which would allow the Parish Council some flexibility as to how the money is spent (which the Parish Council agrees to if the application is approved). Open space would also be provided within the site. An obligation relating to management plans for the open space, landscaping, GCN mitigation/wildlife habitats and SUDS to ensure that the land is properly established, maintained and managed in the future would also be required.

The northern part of the site was originally shown as being dedicated to the Parish Council to potentially provide additional open space and a cemetery extension. However this has been amended to retain this area as grazing land due to potential impacts of new future uses on great crested newts. Although the potential use of this land as open space/cemetery extension would be a benefit of the scheme, given the proximity of the existing recreation ground and provision of on-site open space, and the potential impacts on great crested newts which could affect

future land uses, in this case the Authority could not insist on this area being provided.

Affordable Housing

Eight affordable homes are proposed on site, which equates to 30% provision, with five being affordable rent and three being intermediate/low cost housing. The Strategic Housing Team is satisfied with the level, location, type and tenure of the affordable housing and their concerns regarding the design of the coach-house on Plot 15 have been addressed.

Highways Contributions

The County Highway Authority has also requested the following contributions to encourage sustainable travel to and from the site, achieve modal shift targets, and reduce car use:

- (i) Travel Packs - to inform new residents from first occupation what sustainable travel choices are in the surrounding area;
- (ii) Six-month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer) - to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car;
- (iii) Improvements to the nearest bus stop (including raised and dropped kerbs to allow level access) - to support modern bus fleets with low floor capabilities - £3263.00 per stop;
- (iv) Information display cases at the nearest bus stop - to inform new residents of the nearest bus services in the area - £120.00 per display.

The Highway Authority has previously advised that the contributions are related to the new development as they seek to make bus services more attractive and encourage their use by future residents of the development, and to encourage behavioural shift in terms of travel choice at an early stage before car use becomes ingrained. Furthermore the Highway Authority has considered that development would not be acceptable without these measures, as without them there is likely to be less use of buses and more car journeys. Consequently the development will be less sustainable, congestion on the network would increase, and the policies in LTP3 would not be complied with. Although the bus service is proposed to be reduced, a final decision has not been taken and in any case a bus service would still be available.

The Highway Authority also requests agreement of a construction traffic route which is considered to be necessary in this case given the site's proximity to residential areas and the village centre and that although existing weight restrictions are in place they would not prevent HGVs from passing through the village to access the site itself.

River Mease DCS

There is a requirement for a contribution of £7,174.00 in accordance with the River Mease DCS which is discussed above.

Other Contributions

No requests for contributions have been received from Leicestershire Police or the Council's Leisure team and the County Council has advised that a contribution towards civic amenity sites is not required.

Summary

Overall it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development. The applicant has agreed to all of the above obligations in principle and the legal

agreement would be negotiated following any resolution to grant planning permission. The District Council would continue negotiations with consultees and the applicants to ensure the appropriate level of contributions that have been sought could be secured through a S106 agreement.

Other Matters

The Environmental Protection team has not raised any objections or requested a condition in relation to contaminated land. However the Environment Agency has requested a condition to protect groundwater underlying the site.

The routes of the two public footpaths would not be obstructed or diverted as a result of the proposal as they lie outside the part of the site that would be developed. The County Footpaths Officer has requested that both footpaths are hard-surfaced to a width of two metres due the likely increase in their use but given their location within grassland on the edge of the village it is considered that such surfacing would detract from the character of the area. The Footpaths Officer also has no objection in principle to the erection of post and rail fencing alongside footpath Q12.

The purpose of the Strategic Housing Land Allocation Assessment (SHLAA) is to help inform future plan making in the District and monitor the supply of land for housing on sites that are capable of being developed in the next 5 years. The inclusion of the site in the SHLAA does not automatically mean it will be developed and site suitability is determined through the Local Plan process and assessment of the current application. The process associated with the SHLAA is not a matter that can be taken into account in the determination of planning applications.

The Village Green application is considered under different legislation (i.e. the Commons Act) by a different authority (i.e. Leicestershire County Council). The Council's solicitors have advised that this separate legislation does not prevent the Authority from making a decision on the planning application for the site. However whilst the Authority can determine the planning application, it is understood that no development can take place on the site until such time as the Village Green application has been determined.

Given the proximity of the site to residential properties on two sides and that there is only one access to the site, in this case it is reasonable to impose a condition limiting the hours of construction works (as at the site for eight dwellings at Measham Road - 13/00829/OUT).

Two public consultations/surveys in relation to this proposal and that at Measham Road were undertaken by the applicants before submission of the application. Concerns have been raised in relation to the timings of these consultations and whether they were adequate, misleading and have taken into account respondents' comments. A village survey has also been undertaken on behalf of the Parish Council which shows concerns for the level of development proposed (based on the number of dwellings proposed when the applications were first submitted). The Localism Act 2011 contains provisions to require pre-application consultation on certain types of planning applications. However although the Localism Act is now in force, the requirements on pre-application consultation will not apply until secondary legislation is enacted.

The site lies approximately 600 metres to the east of the proposed route of HS2. Any potential adverse effects on future residents would be expected to be limited due to mitigation measures to be included in the HS2 design having regard to the need to protect other nearby dwellings. The scheme also includes an additional belt of tree planting alongside the existing hedgerow on the western boundary. Putting the potential for noise nuisance to future residents to one side,

however, it is considered that only limited weight can be attributed to HS2 as a material planning consideration at this stage in HS2's development. The Government is currently consulting on the proposed Phase 2 (i.e. West Midlands to Manchester and Leeds) connections, and the route is not fixed at this time; Phase 2 is not currently subject to the safeguarding mechanism which applies to the Phase 1 (London to West Midlands) section.

In respect of the concerns raised in the letters of representation that have not been addressed above, impacts on views, property values, lifestyle, health and safety, the capacity of the electricity supply and broadband networks are not planning matters that can be taken into account in the determination of planning applications. There is no Green Belt land in the District. Other sites will be affected by a different set of circumstances and it is a fundamental tenet of the planning system that every application (including any future applications relating to this site) is determined on its own merits. There is no mechanism within the planning system for financial compensation to be paid to existing residents. Consideration is given to all policies set out in the Local Plan and the NPPF when assessing planning applications.

Conclusion

As set out in the main report above, whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, such general policies that restrain the supply of housing are to be considered as not up-to-date given the inability of the Council to demonstrate a five-year supply of deliverable housing land. Thus the site's release for housing is considered suitable and will contribute towards meeting the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Appleby Magna is a sustainable location for the level of development proposed for this site and the proposal would not result in a significant increase in housing development within the village.

The proposed development would be acceptable in terms of density, layout and design, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

However the proposal would have a harmful impact on the significance of designated heritage assets and insufficient information has been submitted to ensure that the development would not harm archaeological remains and the public benefits of the proposal (contribution towards housing land supply, high quality design, provision of affordable housing and contributions to public service/facilities) would not outweigh this harm.

The proposed development would, overall, not be considered to constitute sustainable development as defined in the NPPF. It is therefore recommended that planning permission is refused on the grounds of impact on the historic environment and archaeology.

RECOMMENDATION, REFUSE for the following reason(s):

- 1 The proposal would have a harmful impact on the significance of a scheduled monument, listed buildings and the Appleby Magna Conservation Area, all of which are designated heritage assets. It is considered that clear and convincing justification for the development has not been put forward nor would the public benefits of the proposal outweigh this harm, when assessed against the policies of the National Planning Policy Framework, taken as a whole. As such the proposal would not constitute a sustainable form of development.

- 2 The application includes development within areas where archaeological remains may be located, which would be disturbed by works associated with the proposal. It is considered that insufficient information has been submitted to draw the conclusion that the proposed development would not harm the archaeological remains. The public benefits of the proposal would not outweigh this harm when assessed against the policies of the National Planning Policy Framework, taken as a whole. As such the proposal would not constitute a sustainable form of development.