

---

Erection of 188 no. dwellings with associated garaging/parking, infrastructure, construction of new access off Frearson Road and formation of open space, landscaping and balancing pond

Report Item No  
A4

Land Off Frearson Road Coalville Leicestershire LE67 2XA

Application Reference  
11/01054/FULM

Applicant:  
Bloor Homes East Midlands Division

Date Registered  
6 December 2011

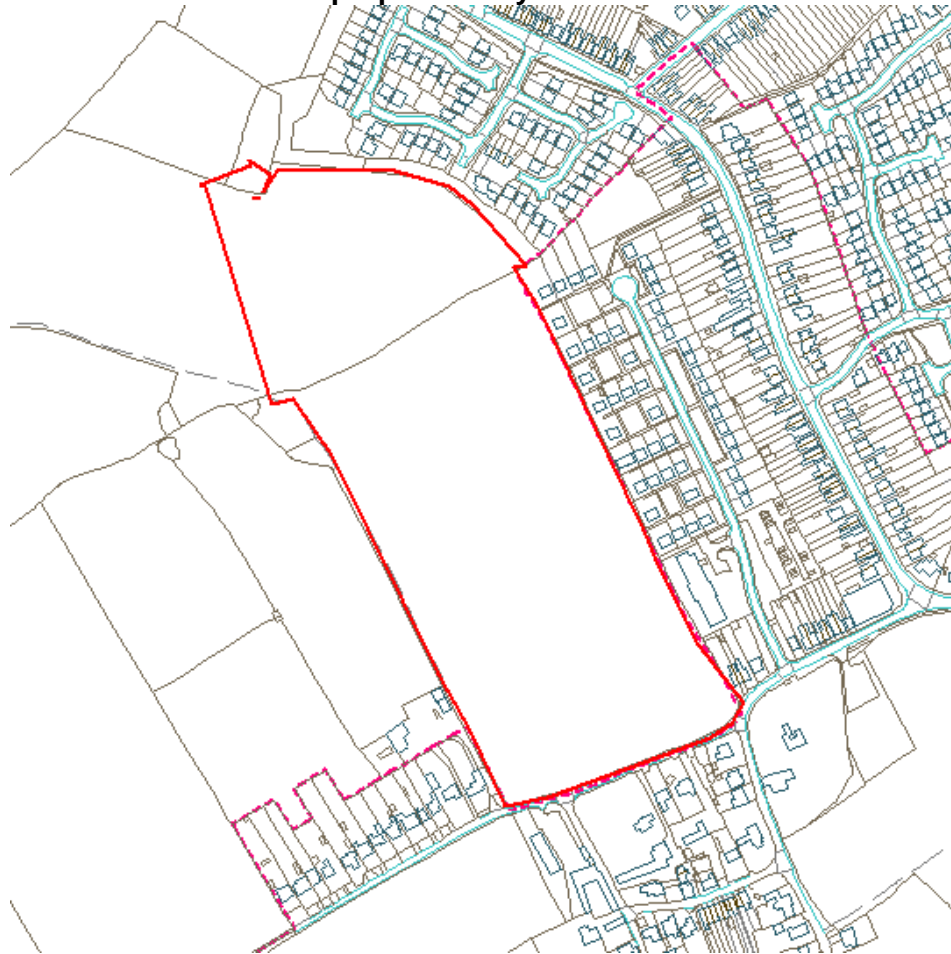
Case Officer:  
James Knightley

Target Decision Date  
6 March 2012

Recommendation:  
PERMIT Subject to a Section 106 Agreement

---

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**

This application seeks full planning permission for residential development of 188 dwellings and associated public open space.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals, including from Hugglescote and Donington le Heath Parish Council and from the Leicestershire and Rutland Wildlife Trust.

### **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**

The report below indicates that, whilst the site is a greenfield site outside Limits to Development, having regard to the site's general suitability for housing (including its proximity to the built up areas of Hugglescote and Donington le Heath) and the need to demonstrate and maintain a five year supply of housing land within the District, the proposals would be considered to constitute sustainable development, and release of the site for residential development would be appropriate in principle. The proposed development would, it is considered, be acceptable in terms of access and transportation issues, landscape and visual impact, design, heritage issues, ecological issues, flood risk and residential amenity; there are no other technical issues that would indicate that planning permission should not be granted. Insofar as developer contributions are concerned, appropriate contributions to infrastructure would be made so as to mitigate the impacts of the proposals on local facilities, albeit with no contribution to affordable housing proposed so as to ensure the development remains viable whilst making appropriate contributions to highways and transportation and other infrastructure.

### **RECOMMENDATION:-**

### **PERMIT, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS**

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

## MAIN REPORT

### 1. Proposals and Background

This is a full planning application for residential development of a site of approximately 8.95 hectares for 188 dwellings, currently in agricultural use. The site is adjacent to land in agricultural use, and existing dwellings on the Frearson Road estate, Hugglescote, and St Mary's Avenue, Donington le Heath. The southern boundary of the site abuts Berry Hill Lane in Donington le Heath.

The submitted scheme shows a mix of 2, 3, 4 and 5 bed accommodation, vehicular access via Frearson Road, an on-site children's play area, woodland planting and other public open space including a community orchard / allotment area. Whilst the proposed vehicular access is shown from Frearson Road, pedestrian routes through the site are also provided for, including retention of the routes of the existing right of way passing through the site, as well as a further pedestrian (and cycle) access to the south east (i.e. from Berry Hill Lane) which would also act as an access for emergency service vehicles if the need ever arose. The formation of the principal site access from Frearson Road would necessitate the removal of part of the buffer tree planting provided in association with the construction of the existing Frearson Road estate.

The application as originally submitted proposed a total of 215 dwellings, but the number of dwellings has reduced to 188 following various amendments to the scheme.

The application was reported to the Planning Committee meeting of 4 February 2014 where it was resolved to defer the application so as to allow further negotiations in relation to developer contributions.

Further to that deferral, the applicants have given consideration to the possibility of amending the application by way of providing for a contribution towards affordable housing, and have engaged with officers from the District Council's Housing and Planning teams in order to discuss a range of potential on-site affordable housing contributions. However, following further consideration of their position, the applicants have now requested the application be determined as currently submitted (i.e. with no affordable housing contribution, and as per the approach as reported to the Planning Committee meeting of 4 February 2014).

### 2. Publicity

142 neighbours have been notified (Date of last notification 12 December 2013)

Press Notice published 21 December 2011

Site Notices posted 25 January 2012

### 3. Consultations

Hugglescote & Donington Le Heath consulted 9 December 2011

NWLDC Urban Designer consulted 24 October 2012

County Highway Authority consulted 24 October 2012

LCC Development Contributions consulted 25 September 2012

Highways Agency- Article 15 development consulted 25 September 2012

NWLDC Conservation Officer consulted 18 October 2012

Environment Agency consulted 27 June 2012

Severn Trent Water Limited consulted 27 June 2012

Head of Environmental Protection consulted 27 June 2012

NWLDC Tree Officer consulted 27 June 2012  
County Archaeologist consulted 27 June 2012  
LCC/Footpaths consulted 27 June 2012  
LCC ecology consulted 27 June 2012  
NWLDC Urban Designer consulted 27 June 2012  
English Heritage- Ancient Monument consulted 27 June 2012  
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 27 June 2012  
Development Plans consulted 27 June 2012  
Head Of Leisure And Culture consulted 27 June 2012  
Manager Of Housing North West Leicestershire District Council consulted 27 June 2012  
Police Architectural Liaison Officer consulted 27 June 2012  
Highways Agency- Article 15 development consulted 27 June 2012  
LCC Fire and Rescue consulted 27 June 2012  
FRCA (MAFF)- loss of agricultural land consulted 27 June 2012  
DEFRA consulted 27 June 2012  
Natural England consulted 27 June 2012  
Ramblers' Association consulted 27 June 2012  
Head Of Street Management North West Leicestershire District consulted 27 June 2012  
Leicester & Rutland Wildlife Trust consulted 27 June 2012  
National Forest Company consulted 27 June 2012

#### **4. Summary of Representations Received**

**Campaign to Protect Rural England (CPRE) Leicestershire** objects on the following grounds:

- Application is premature to the Core Strategy
- Proposal does not meet the requirements for development within the countryside as set out in Local Plan Policy S3
- Would adversely affect the setting of Donington le Heath Manor House
- Contrary to Local Plan Policy H2
- Contrary to advice in (the then) PPS 3
- Poor housing mix (i.e. principally larger dwellings)
- Affordable housing not appropriately sited within the proposals
- Play area not properly overlooked, contrary to Local Plan Policy L21
- Adverse impact on protected species, contrary to (the then) PPS 9
- Agricultural land quality needs to be taken into account

**English Heritage** advises that the development includes for open space at its southern end so as to retain the distinctiveness of the village of Donington le Heath

**Environment Agency** has no objections subject to conditions

**Highways Agency** has no objections

**Hugglescote and Donington le Heath Parish Council** objects on the following grounds:

- Application is premature to the Core Strategy
- No demand for housing in the area
- Greenfield site
- Insufficient sewer capacity
- Too many dwellings off a single access
- Impact on great crested newts
- No regeneration benefits
- Loss of amenity

- Parish must receive a contribution from the New Homes Bonus spent in the area
- Outside Limits to Development
- Not within the area identified for development (i.e. South West Coalville) within the emerging Core Strategy
- Increased congestion, including at Hugglescote Crossroads
- Exacerbation of air quality problems
- Land is agricultural quality Grade 1
- Unsustainable location
- Impact on Conservation Area which would lead to the area no longer being designated as such
- Emergency access in a dangerous position
- Already too many developments identified in the Core Strategy for the Parish
- Loss of visual amenity to neighbours on St Mary's Avenue
- Three storey dwellings out of character
- Overlooking of elderly residents' dwellings
- Plans refer to the site as being in Donington le Heath whereas it is in Hugglescote
- Transport Assessment must include committed developments
- If approved the area adjacent to St Mary's Court should be allotments and not a play area (due to noise)
- Landscape buffer planting to eastern boundary would result in distress to adjacent sheltered housing residents by way of falling leaves and branches and loss of light
- Proposed community orchard adjacent to St Mary's Court would be a source of anti-social behaviour with children / teenagers throwing fruit at St Mary's Court
- Proposed landscaping to boundary with St Mary's Avenue will have a negative impact on quality of life of existing residents
- Inappropriate to direct monies towards Ashburton Road Recreation Ground as it is in private ownership

The Parish Council advises that, as long-term aims and related to the transfer of the existing lease of the Ashburton Road Recreation Ground between the District Council and the Harley Trust, it would be seeking the following:

- The ownership of Ashburton Road Recreation Ground to be transferred to the Parish Council
- The installation of robust vandal proof multi use goal posts on Ashburton Road Recreation Ground (£6,000)
- Skate board / BMX equipment for Ashburton Road (£100,000)
- Level football / ball game pitch on Ashburton Road Recreation Ground (£150,000)
- The ownership of the field adjacent to Ashburton Road Recreation Ground (up to the Manor House car park).
- Level field to make it suitable as a MUGA (£200,000)
- Construction of two MUGAs (£150,000)
- Construction of a Parish / Community Centre with changing and sports facilities (£400,000)
- Any use of monies by the Parish Council identified for youth and adult open space should be unrestricted within the Parish
- Contribution of £1,000 per dwelling towards a replacement Community Centre  
However, for the purposes of the current application, the Parish Council confirms that it is requesting a contribution of £1,400 per dwelling towards off-site youth and adult play, and £1,000 per dwelling towards provision of new facilities

**Leicestershire and Rutland Wildlife Trust** makes the following comments:

- Great crested newt surveys were inadequate and suggest a lower population in view of

- the fact that the ponds were drying out - additional surveys should have been undertaken between April and June 2012 and, if these surveys had been undertaken, it is likely that a larger population of great crested newts would have been recorded
- The population of Great Crested Newts will be adversely affected by loss of habitat and disturbance
  - Loss of hedgerow and grasslands may result in an adverse impact on the bat population
  - Concerned at the cumulative effect of this development and possible development on land to the west of the application site which would have a further detrimental effect on wildlife, particularly the populations of amphibians including great crested newts.
  - No mention in the application documents of the impact of local climatic conditions, an important constraint
  - No indication of the condition of the pond at the last completed survey of May 2011 (including water levels)
  - Importance of hedgerows understated
  - Importance of habitats used only for foraging and commuting by bats has been understated
  - Potential impact of lighting and disturbance on bats has not been adequately assessed
  - Queries planting and future management of ponds for Great Crested Newts
  - Insufficient future monitoring proposed, particularly in view of the vulnerability of the great crested newt population and the disturbance to the site from the housing development
  - There are a handful of sites in North West Leicestershire where Great Crested Newts have been recorded in large numbers in the last 10 years so the importance of this site should not be underestimated - recent surveys in North West Leicestershire with historic records of Great Crested Newts show that many Great Crested Newt populations have been lost
  - Numbers of Great Crested Newts are continuing to decline locally and nationally - a year-long study commissioned by Natural England revealed that they are now uncommon
  - The Great Crested Newt survey data is now more than two years old so up to date surveys would need to be undertaken between March and June before development can be allowed
  - The Great Crested Newt survey data is likely to have understated the population size as when surveys were undertaken two of the ponds dried out in early June
  - Lighting, noise pollution and disturbance from the housing development are likely to have an adverse impact on a number of species, particularly Great Crested Newts, bats and other nocturnal wildlife - the possible impact on these has not been fully assessed
  - An area for a future housing development has been allocated immediately to the west of this development in the North West Leicestershire Local Plan - the cumulative effect of these two developments will further squeeze wildlife in this area as there will be further loss of habitat / additional disturbance and needs to be taken into consideration when determining this application.
  - The Natural Environment and Rural Communities Act 2006 places a duty on public bodies including Local Authorities to have regard to the requirements of biodiversity in carrying out their functions.

**Leicestershire County Council Archaeologist** has no objections subject to conditions

**Leicestershire County Council Local Education Authority** requests a developer contribution of £534,050.30 in respect of primary sector education

**Leicestershire County Council Library Services Development Manager** requests a developer contribution of £11,870

**Leicestershire County Council Highway Transportation & Waste Management Authority** requests a developer contribution of £13,361 in order to mitigate the impact on civic amenity waste facilities in the local area.

**Leicestershire County Council Ecologist** has no objections

**Leicestershire County Council Landscape Officer** has no comments

**Leicestershire County Council Highway Authority** has no objections subject to conditions and Section 106 obligations

**Leicestershire County Council Rights of Way Officer** advises that both branches of the existing public footpath (N81) passing through the application site should be surfaced with tarmacadam to a width of 2 metres.

**Leicestershire Police** requests a developer contribution of £606 per dwelling

**National Forest Company** has no objections

**Natural England** has no objections

**NHS England (Leicestershire and Lincolnshire Area)** requests a healthcare contribution of £103,164

**North West Leicestershire District Council Environmental Health** has no objections

**North West Leicestershire District Council Leisure and Cultural Services** request a leisure contribution of £181,250

**North West Leicestershire District Council Waste Services Development Officer** advises that adequate bin presentation points must be provided

**Ramblers' Association** comments as follows:

- Disappointed that greenfield sites developed in preference to brownfield
- Pleased that vehicular access to Donington le Heath not possible
- Concerned that increased traffic to Standard Hill / A447 will increase dangers to walkers
- Pleased to note that Footpath N81 would be protected in its entirety, including the spur at the southern end which is not currently useable
- Pleased to note proposed pedestrian link parallel to Berry Hill Lane and good links to N81 from various parts of the development
- Suggests potential inclusion of an additional link to the northern end of St Mary's Avenue which could contribute towards a virtually traffic free route to the centre of Coalville

**Severn Trent Water** has no objections subject to conditions

### **Third Party Representations**

90 representations (and including from the Donington and Hugglescote Action Group and copy comments lodged with the County Highway Authority) have been received, objecting on the

following grounds:

- Unsuitable position of emergency access
- Emergency access needs restrictions to prevent use by motorcycles
- Emergency access encroaches on a Conservation Area
- Emergency access not workable
- Insufficient infrastructure (including schools, healthcare, public transport, shops, sewerage and highway network capacity)
- Adverse impact on highway safety
- Poorer highway infrastructure than Stephenson Green site
- Loss of high quality agricultural land
- Adverse impact on character of the Conservation Area
- Would more than treble the population of Donington le Heath
- Impact on wildlife / ecology, close to a nature reserve
- Coalescence and loss of identities of Hugglescote and Donington le Heath
- Non-essential development outside Limits to Development in the Local Plan / loss of countryside
- Contrary to now withdrawn / discredited Core Strategy
- Inclusion in SHLAA does not mean development is acceptable
- Adverse impact on air quality
- Flooding
- Light pollution
- Pollution to River Sence
- Unsustainable location
- Poor access to services and public transport
- Contrary to policy, including the NPPF, PPS 3, PPG 13, East Midlands Regional Plan and North West Leicestershire Local Plan
- Contrary to DfT guidance
- National Forest planting should be provided
- Out of character
- Adverse impact on setting of the grade II\* listed Donington le Heath Manor House
- Affordable housing shown in "ghettos"
- Ecological data flawed
- No need to approve scheme to meet 5 year housing land supply
- Should be a second vehicular access point for all users
- Greenfield site should not be developed when previously-developed sites are available
- Areas other than Coalville should have a fair share of the District's development requirements
- Unsafe to access the site via Frearson Road (including in respect of children playing in the street and the junction with Standard Hill)
- Unsafe cycle access
- Should be additional access points
- Principal access should be via Berry Hill Lane
- Existing housing developments have unsold properties
- Insufficient local employment to support additional population
- Insufficient consultation by developers and District Council
- Loss of amenity / privacy
- Disruption during construction works
- New Homes Bonus should be used in the area
- Development could be provided on the former Lounge Disposal Point site instead
- Traffic calming is required
- Premature
- Loss of amenity space / access to countryside



- Disturbance from play and community orchard areas
- Increased on-street car parking at Hugglescote Primary School
- Land is green belt
- Railway needs to be reinstated before further housing is built
- Environmental issues more important than interests of big business
- Policy required to prevent development to the west of the site
- Noise
- Litter
- Transport Assessment does not include consideration of other sites (including Standard Hill / Highfield Street (ref. 12/00007/OUTM) and the two Ravenstone applications resolved to be permitted by the Planning Committee on 7 January 2014 (refs. 13/00626/OUTM and 13/00780/OUTM))
- Section 106 contributions does not guarantee that monies will be specifically used to improve congestion at Hugglescote Crossroads and is not CIL compliant - sufficient monies will not be found and the contribution eventually refunded to Bloor Homes when the project does not proceed
- Site is unsustainable - only three of the Council's own eight facility categories are met by the site
- Application should be refused on sustainability grounds as per the scheme at Lower Packington Road, Ashby de la Zouch (ref. 13/00694/OUTM) and as per the recommendation in respect of the site at Normanton le Heath which was also on the February 2014 Planning Committee agenda (13/00913/OUT)
- Application vigorously opposed by CPRE and the Leicestershire and Rutland Wildlife Trust as they consider it will be ecologically damaging to Great Crested Newts
- Great Crested Newt mitigation proposed not feasible nor will protect newts as most newts are not currently located within the application site and areas of public open space not suitable or large enough for foraging newts
- Newt survey out of date
- Potential impact on parking if yellow lines were to be introduced
- Land should be transferred to adjacent residents for use as landscaping / residential curtilage

**Andrew Bridgen MP** advises that he has been contacted by several local residents regarding the application and understands that objections have been made by the Campaign to Protect Rural England (CPRE) Leicestershire and that the land is of high agricultural quality. Given that the proposals would be contrary to the adopted Development Plan and given the questions over its sustainability, he asks Members to give careful consideration as to whether they deem this to be an appropriate site for development.

## **5. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework*

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 contains a number of references to the presumption in favour of sustainable development.

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with

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

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

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

Paragraph 14 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 All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. 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."

"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."

"101 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding."

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

"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..."

"124 Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan."

"128 In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more

than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

"129 Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal."

"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 that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use."

"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."

"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."

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

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan.

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

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 others, 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 housing mix, accessibility to centres, design etc. Within Coalville and Ashby-de-la-Zouch town centres, local centres and other locations well served by public transport and accessible to services a minimum of 40 dwellings per ha will be sought and a minimum of 30 dwellings per ha elsewhere (in respect of sites of 0.3 ha or above).

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

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 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, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 requires new development to respect the character of its surroundings.

Policy E6 seeks to prevent development where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part.

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows

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

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting.

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

Policy T8 requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria.

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 Policies**

#### **North West Leicestershire District Council Affordable Housing SPD**

Key Principle AH2 provides that affordable housing will be sought on all sites of 15 or more dwellings in the Greater Coalville Area.

Key Principle AH3 requires a minimum of 20% of residential units to be available as affordable housing within the Greater Coalville area.

#### **North West Leicestershire District Council Play Area Design Guidance SPG**

The District Council's Play Area Design Guidance SPG sets out the relevant requirements in respect of children's play provision required in association with residential development.

#### **Donington le Heath Conservation Area Character Appraisal and Management Plan**

The Donington le Heath Conservation Area Character Appraisal and Management Plan identifies what contributes to the special character of the Conservation Area, and notes that, "Despite its location on the edge of the urban area of 'greater Coalville', the presence of fields and open recreational land round the hamlet reinforce the 'agricultural' character of the settlement".

The Appraisal and Management Plan identifies views to the countryside across the application site as elements making a positive contribution to the special character of the Conservation Area. Other features within the vicinity of the application site specifically identified as making a positive contribution to the special character of the Conservation Area include the existing hedges fronting onto Berry Hill Lane, listed buildings within the curtilage of Donington le Heath Manor House, and unlisted dwellings adjacent to the south eastern corner of the site.

#### **Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville**

On 11 June 2013, and following the completion of consultation on the draft policy, the District

Council's Cabinet approved the revised policy document. The adopted policy states that "Where the Council is satisfied that a major residential development proposal in or around the Coalville area is proven to be unviable as a result of required developer financial contributions (e.g. off site highway works; education provision and affordable housing requirements), the Council will consider relaxing its normal affordable housing requirements proportionately so as to:

- (a) Give highway infrastructure investment the highest priority for funding
- (b) Ensure all other essential infrastructure is provided
- (c) Continue to contribute to affordable housing provision as far as possible whilst ensuring that the development scheme is viable.

For development proposals where the Council accepts no affordable housing or a lower proportion of affordable housing contribution (both on site provision and/or a financial contribution in lieu of provision) the Council will reduce the time period for any planning permission to be commenced to 2 years and shall include in the Section 106 agreement provision to enable the Council to periodically revisit the affordable housing contribution if the economic factors determining the level of affordable housing improves before the development is commenced."

In addition to agreeing the policy, Cabinet agreed that, for major developments in Coalville, the Planning Committee be asked to consider the policy through Section 106 agreements and recommended that Planning Committee, where appropriate, prioritises the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the policy.

### **Submission Core Strategy**

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

## **6. Assessment**

### **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 adopted North West Local Plan, the site is outside 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 proposals would be contrary to the adopted Development Plan, 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 North West Leicestershire 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, and whilst it is outside Limits to Development, it is well related to the existing built up areas of Hugglescote and Donington le Heath. In terms of accessibility generally, the view is taken that, as a site within close proximity of Hugglescote / Coalville and the range of services available therein, it performs relatively well in this regard. Depending on which part of the site the measurement is taken from, the site is between (approximately) 1.2 and 1.6km from the town centre (being the closest point of the Core Town Centre Shopping Area as defined in the adopted Local Plan), and there are regular bus routes serving Station Road / Central Road in Hugglescote (approximately 750m from the Berry Hill Lane end of the site); there are also limited services (two buses in each direction Mondays to Fridays) serving Ashburton Road which would be closer to residents of both the Frearson Road and Berry Hill Lane ends of the proposed development. Further consideration of the accessibility of the site is contained within Means of Access and Transportation below.

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 and Limits to Development*

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 (an approach to assessing land availability also suggested as appropriate within the recently published National Planning Practice Guidance) and that a buffer of 20% should be allowed for. 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 therefore 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.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development would ensure that the scheme would sit well in terms of the economic dimension. Whilst the role played by the proposed development in contributing to housing land supply and its inclusion of appropriate contributions to local services as detailed below would be positive aspects in terms of the social dimension, these factors also need to have regard to the issues in respect of affordable housing as considered in more detail under the relevant section of this report. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of land outside of the defined Limits to Development, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and, by virtue of its location, close to the existing built up area and

associated services, would perform reasonably well in terms of need to travel and the movement towards a low carbon economy, notwithstanding its limited accessibility to frequent public transport services.

*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 as defined in the adopted North West Leicestershire Local Plan and, as such, the scheme would be in conflict with the relevant Development Plan and other policies designed to protect the countryside from inappropriate development, and including Local Plan Policy S3, a policy designed to protect the countryside for its own sake. 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.

However, it is also necessary to consider any other relevant material considerations, including the Government's current intentions in respect of the need to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF), and the current position in the District in terms of housing land supply. An important consideration is that the Council must demonstrate and maintain a five year supply of housing land (with a 5% or 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance.

Having regard to all of the above it is considered overall that the proposed development of the site is acceptable in principle.

**Detailed Issues**

In addition to the issues of the principle of development, consideration of other issues relevant to the application is set out in more detail below.

**Means of Access and Transportation**

As set out above, the application includes for a single principal vehicular access, via the existing Frearson Road estate (i.e. using the junction of Frearson Road with Standard Hill). Other access points include a pedestrian / cycle route from Berry Hill Lane (which would also serve as an alternative point of access for emergency services) and retention of the existing public footpath passing through the site.

In respect of the various access and transportation issues arising with the application, the County Highway Authority advises as follows:

**Points of Vehicular Access:**

The County Highway Authority is content that that the site can be satisfactorily served by the existing access arrangement at Frearson Road, with a secondary point of access for use in emergencies. The County Highway Authority notes that the access would serve a dual purpose providing a pedestrian / cycle link. Whilst not forming part of the application, the applicants' transport consultants have provided the County Highway Authority with a plan detailing the proposed emergency access. This shows a gated 3 metre wide segregated cycleway and footway, with the footway between the access and the eastern edge of the application site

widened to 2 metres. In highway safety terms, the County Highway Authority is satisfied that the proposed arrangement is appropriate, although without segregation of the access which, it considers, can be addressed as part of the Section 38 process. In principle, this access would seem acceptable from a visual amenity point of view (and including in terms of its impact on the existing hedgerow in this area and nearby heritage features); however, more detailed specification of the works would be required prior to installation so as to ensure that the works were appropriate in this regard. The Police Architectural Liaison Officer advises that he has been contacted by a local resident regarding the link and, whilst the scale of the scheme falls below the size thresholds at which design advice is provided by the Police, shares the resident's concerns that, by virtue of its width, it could be used by vehicles (i.e. allowing vehicular permeability through the site). The Police Architectural Liaison Officer therefore suggests that measures be included to prevent unauthorised vehicular use; these concerns would therefore appear to be addressed by the draft scheme prepared by the developer which would only allow pedestrian, cycle and emergency vehicle access.

#### Walking and Cycling:

Whilst the County Highway Authority does not consider that the applicants' 2km walking isochrone as included in the submitted Revised Transport Assessment takes account of available walking routes, it nevertheless accepts that a range of local amenities including schools, convenience stores etc. are within walking distance of the centre of the site. Similarly, whilst the County Highway Authority does not consider that the applicants' 5km cycling isochrones take account of available cycle routes, it is accepted that a range of key local facilities, Coalville town centre, and employment sites are within cycling distance from the centre of the site.

#### Public Transport:

The County Highway Authority accepts that the site is not of a sufficient size to warrant new bus provision, or likely to attract or sustain a diverted bus service. However, the County Highway Authority considers that application forms for two six-month bus passes should be included within Travel Packs to be provided to each dwelling on first occupation so as to encourage use of existing bus services.

#### Travel Plan:

The application is supported by a Travel Plan; the County Highway Authority has no objections per se, but advises that it requires amending to address a number of issues, and that this ought to be achieved by way of a suitably worded condition.

#### Junction Capacity Assessments:

In terms of junction capacity assessments, the County Highway Authority concludes as follows:

##### Leicester Road / Wash Lane / Ibstock Road signalised junction (Ravenstone crossroads):

The County Highway Authority agrees with the submitted LinSig assessment and agrees that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2018 "with development" scenario.

##### Standard Hill / Frearson Road priority junction:

The County Highway Authority agrees with the submitted PICADY assessment and agrees that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2018 "with development" scenario.

##### Standard Hill / Highfield street priority junction:

The County Highway Authority agrees with the submitted PICADY assessment and agrees that

no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2018 "with development" scenario.

Ashburton Road / Manor Road priority junction:

The County Highway Authority agrees with the submitted PICADY assessment and agrees that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2018 "with development" scenario.

Ashburton Road / Fairfield Road priority junction:

The County Highway Authority agrees with the submitted PICADY assessment and agrees that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2018 "with development" scenario.

Hugglescote Crossroads:

The County Highway Authority agrees with the submitted LinSig assessment. In terms of the issue of material impact, the County Highway Authority is of the view that this is a grey area. However, it draws attention to the 2007 DfT / DCLG document "Guidance on Transport Assessment" which provides that "a particular example of material impact would be a worsening of congestion. In congested areas, the percentage traffic impact that is considered significant or detrimental to the network may be relatively low...For the avoidance of doubt, the 1994 guidance regarding the assessment thresholds of 10 per cent and 5 per cent levels of development traffic relative to background traffic is no longer deemed an acceptable mechanism, since it creates an incentive in favour of locating development where high levels of development traffic already exist". The County Highway Authority is of the view that the proposed development would have an adverse impact at the Hugglescote Crossroads junction in terms of capacity and queue lengths, particularly in the pm peak, and that a contribution to the District Council towards improvements to the network would be appropriate as mitigation.

Internal layout:

The County Highway Authority is satisfied with the proposed internal access road arrangement, subject to minor alterations so as to comply with its requirements in respect of Section 38 adoption.

Developer Contributions:

In order to mitigate the impacts of the development on the local highway network, the County Highway Authority considers that the following matters should be secured by way of Section 106 obligations:

- A Construction Traffic Routeing Agreement;
- Provision of Travel Packs informing new residents from what sustainable travel choices are in the surrounding area (which can be supplied by Leicestershire County Council at £52.85 per pack);
- 6 month bus passes (2 per dwelling) (which can be supplied through Leicestershire County Council at (an average of) £325.00 per pass);
- Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development.
- A contribution towards the wider highway network in Coalville as considered appropriate by the District Council

The applicants are agreeable to making the transportation contributions sought by the County Highway Authority as set out above. In terms of the transportation infrastructure contribution, on 15 January 2013, the District Council's Cabinet considered a report relating to Delivering

Growth and Prosperity in Coalville which set out proposals to prioritise highways infrastructure contributions in Coalville above affordable housing contributions given the need for significant transportation infrastructure to be provided so as to enable otherwise stalled development to be delivered. Cabinet resolved to (i) agree to the preparation and consultation of an interim Section 106 policy which establishes the approach towards prioritising highway infrastructure contributions in Coalville, which will be reported back to cabinet after the consultation exercise; (ii) agree that for major developments in Coalville, the Planning Committee be asked to consider the emerging policy through Section 106 agreements; and (iii) to recommend that Planning Committee, where appropriate, prioritise the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the emerging policy proposals. The District Council consulted on a draft policy between 22 February 2013 and 5 April 2013 and, following the conclusion of that consultation, reported back to Cabinet on 11 June 2013. At that meeting, Cabinet resolved to approve the policy.

The report to Cabinet of 15 January 2013 included an indicative list of potential transportation infrastructure measures to which the financial contributions made would be expected to contribute; based on the figures available at that time, the calculations provided to Cabinet suggested a potential contribution of between £4,419 and £4,884 per dwelling. As of the current position, discussions are ongoing with the County Highway Authority and Highways Agency to establish an appropriate mechanism for securing contributions but, as matters stand, having regard to Local Highway Authority and Local Planning Authority officers' assessment of factors such as infrastructure scheme priority in terms of the importance on the wider highway network, estimated date of site delivery, and proximity of the respective potential developments to the relevant junctions / infrastructure schemes, the intention is that this site would need to contribute a sum of £846,000. This sum would, it is considered, represent a reasonable contribution towards those schemes identified as being necessary to enable development to proceed in the Coalville area including those which, insofar as this particular development is concerned, would be necessitated by this development. The intention of the District Council's contributions strategy is that the costs of undertaking improvements to the local and strategic highway networks necessary to accommodate anticipated growth are met by developers in an appropriate and equitable way. The contribution proposed in respect of this application is considered to be commensurate to its anticipated impact and the contribution will be used in line with the approved developer contribution strategy.

It is noted that Hugglescote and Donington le Heath Parish Council has requested a contribution of £1,000 per dwelling be made to the Parish Council to go towards the provision of a new Parish Council owned facility for the conduct of its business; this refers to the potential implications on the existing Community Centre facility at Hugglescote Crossroads which, in the event the Crossroads were upgraded, could be affected. As a final design for the improvement of Hugglescote Crossroads has yet to be decided upon by Leicestershire County Council, however, a specific contribution of this nature would not meet the statutory tests for planning obligations set out in the CIL Regulations, although the officer view is that the County Council should be encouraged to consider design options that retain the existing Community Centre if at all possible. If demolition of the Centre could not be avoided, however, the loss would need to be mitigated by the funding from the Developer Contribution Scheme of suitable replacement community facilities.

As set out in more detail under Affordable Housing below, in order to accommodate the transportation infrastructure contribution within the scheme whilst retaining its viability, and in accordance with the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around*

Coalville policy, the applicants have undertaken a viability assessment (which has been subject to detailed independent assessment by the District Valuer on behalf of the Local Planning Authority) so as to demonstrate the impact that payment of the transportation infrastructure contribution would have on the viability of the scheme. This indicates that the scheme is not viable (when providing for the transportation infrastructure contribution along with other developer contributions and with a full affordable housing contribution as per the District Council's Affordable Housing SPD), and that, furthermore, no affordable housing would in fact be achievable whilst enabling the scheme to be viable; this is discussed in more detail under Developer Contributions below. Whilst, following the previous deferral of the application, the applicants have considered a reduction in developer contributions such as the transportation infrastructure contribution in order to allow for an element of affordable housing, the applicants are concerned as to whether a reduction in, for example, this contribution, could result in additional transportation concerns; the County Highway Authority raises no objection to the application, but this is on the basis that an appropriate contribution towards transportation infrastructure is made.

In terms of the accessibility of the site generally, this is considered in more detail above; also relevant, however, are the proposed non vehicular links to adjacent land. The route of Public Right of Way N81 passes through the western part of the site (connecting Snibston and Ravenstone with Berry Hill Lane), and the proposed layout would provide for a path closely following the line of this route (and including both spurs of the route at its southern end). Various linkages are also shown throughout in addition to the existing Right of Way, and connecting the site to Berry Hill Lane and the Right of Way; it is considered that this represents an appropriate level of accessibility / permeability for pedestrians. In terms of Right of Way N81, Leicestershire County Council's Rights of Way Officer notes that the eastern spur of the definitive map route (which is currently unused) route of the right of way as shown on the submitted layout does not meet with Berry Hill Lane, and recommends imposition of a condition to secure this; this is reflected in the recommendation below.

Insofar as the strategic highway network is concerned, the Highways Agency confirms that it has no objections.

Subject to the various requirements set out above being secured, the proposed development is therefore considered acceptable in terms of Means of Access and Transportation issues.

### **Landscape and Visual Impact**

The application has been accompanied by a Landscape and Visual Impact Assessment, as well as an Arboricultural Assessment.

The Landscape and Visual Impact Assessment considers the site and scheme in the context of six nearby landscape character areas and from 32 viewpoints in the area, both within the immediate vicinity of the site, and from further afield, including from the A447 and Leicester Road in Ravenstone, Richmond Road, Ibstock and Ibstock Road, Ellistown. Following development, the Assessment considers that the impacts from these receptors will, in year 1, vary between moderate adverse and negligible but, by year 15, having regard to factors such as maturing of landscaping etc, none would be subject to an impact beyond slight adverse, and with most receptors' impacts being negligible. Overall, it suggests, the impact would be negligible-slight adverse.

Whilst the submitted Landscape and Visual Impact Assessment predates the amended plans, it is understood that the applicants' views in respect of the impact remain unchanged in this

regard. The Assessment suggests that there are no significant landscape and visual issues that would preclude development and that the site is capable of accommodating development. It also suggests that development would not cause any significant adverse landscape or visual impact on the Conservation Area, the Manor House, nor on the wider landscape. In terms of landscape / visual impact, it is generally accepted that there would be no overriding reason why planning permission should not be granted for the development. No comments have been made by Leicestershire County Council's Landscape Officer; issues in respect of the impact on the Conservation Area and Manor House are assessed in more detail later in this report.

Insofar as trees are concerned, as set out above, the application is supported by an arboricultural assessment. The District Council's Tree Officer raises no concerns in respect of the tree survey, and has no objections, subject to appropriate on-site landscaping being provided (which may, he advises, require more detailed consideration prior to approval of the final landscaping scheme).

In terms of green infrastructure provision, the National Forest Company raises no objections. In particular, it advises that the proposed Forest-related green infrastructure exceeds the expected 20% of the site, and that the proposed creation of additional grassland and Great Crested Newt habitat is welcomed in that, whilst it does not contribute to the woodland character of the development, it adds to the range of conservation habitats in the Forest and, as such, is accepted as an appropriate form of contribution in this case. On this basis, therefore (and as referred to under National Forest Planting below), the scheme is considered acceptable in this regard.

It is noted that the Parish Council had raised concerns regarding the impact of the previously proposed buffer planting adjacent to the eastern boundary, and this was subsequently deleted from the scheme. Similarly, the Parish Council has also expressed concern over the impact of the proposed community orchard / allotments, although has also suggested that this area should be allotments in preference to children's play space. The community orchard / allotment area would appear to be appropriately supervised by adjacent dwellings and, subject to the detailed scheme showing appropriate management of this area, there would appear to be no overriding reason why this area should necessarily become a focus of anti-social behaviour.

Whilst the development would entail the removal of a small section of the existing buffer planting between the site and the Frearson Road development (i.e. to form the proposed site access), it is accepted that this loss would, overall, be minimal, and would be more than off-set by the additional new tree planting proposed.

### **Loss of Agricultural Land**

The site is currently in active agricultural use (including arable crops and grazing) and, insofar as the proposed built development is concerned, this would result in an irreversible loss to non-agricultural use.

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 land outside Limits to Development (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. In terms of the classification of the application site, the applicants have provided an agricultural land assessment suggesting that it falls within Grade 2 (and, therefore, would be BMV).

However, the submitted report suggests that, whilst the site is of Grade 2 quality and suited to agricultural production including a variety of arable cropping, the loss of the land to agricultural use would not be significant, for, amongst others, the following reasons:

- The site comprises a very small parcel of land (in modern agricultural terms) which is virtually surrounded by non agricultural uses or agricultural land in other ownership which is used for different purposes (i.e. rough grazing)
- Case evidence exists that suggests that the loss of an area of up to 20 hectares has the potential to still be considered as insignificant whereas this site is only 9 ha (approx).
- The location of the land and lack of farm buildings renders it of limited agricultural use, which is unlikely to form an independent agricultural holding or a farming base for a business
- The loss of the area for arable and grassland cropping will lead to a requirement for other land to be utilised for similar purposes. However, additional land in the locality is likely to be available to meet any demand arising through displacement.
- As there are no permanent agricultural buildings, the loss of this land will not give rise to additional buildings being required elsewhere.

Whilst the above arguments are appreciated, it is, in particular, 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. This, it is considered, needs to be assessed in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in ensuring the District meets its housing land supply obligations weighed against issues such as the irreversible loss of the developed part of the site to agriculture (i.e. a proportion of the site would be given over to National Forest planting and public open space which, it is considered, would not necessarily preclude its future re-establishment in active agricultural use if circumstances so dictated). In this case, having regard to the extent and permanence of the loss, and to the need to release sites for residential development, it is considered that the agricultural land quality issue is not sufficient to suggest that the development would not be sustainable in this regard and that planning permission should be refused. No comments have been received from DEFRA on this issue.

### **Design**

The application is supported by a Design and Access Statement setting out the applicants' proposals, and explaining the approach taken in terms of design. Having reviewed the proposals and the Design and Access Statement, the District Council's Urban Designer had raised a number of concerns with the proposed scheme but, following the submission of further amendments to address these concerns, raises no objections to the application subject to the attachment of a number of design-related conditions as set out in the recommendation below.

### **Heritage Issues**

A small section of the application site (a narrow strip of land to the frontage of Berry Hill Lane) appears to fall within the Donington le Heath Conservation Area. The remainder of the site lies outside of the Conservation Area but, nevertheless, regard needs to be had to the impacts on the setting of the Conservation Area.

As set out above, the Donington le Heath Conservation Area Character Appraisal and Management Plan identifies the features contributing positively to the character of the Conservation Area. In particular, it indicates that the current views from Berry Hill Lane across the adjacent countryside to the north (i.e. across the application site) are a positive feature of the Conservation Area, and the impact on the openness of this area (and its associated impact



on the Conservation Area) has been raised in its response to the application by English Heritage. In particular, English Heritage has advised that any proposals to develop the site should retain the distinctiveness of the village by retaining the southern end of the site as open space.

In order to seek to comply with these principles, the scheme proposes setting back the new dwellings facing onto Berry Hill Lane by (in general) approximately 20 to 25 metres (albeit varying in extent along the frontage). Whilst it would seem inevitable that the development would prevent more distant views across the countryside, the District Council's Conservation Officer is of the view that the buffer proposed is sufficient and, notwithstanding the impact on this identified feature, the view is taken that the development would preserve the character of the Conservation Area in this regard. In terms of the development's impacts on other features considered to make a positive contribution to the special character of the Conservation Area, it is noted that the site is adjacent to two unlisted buildings of merit (73 Manor Road, one of a terrace of three late Victorian / Edwardian dwellings, and Windycroft, Berry Hill Lane, an early twentieth century single storey dwelling of interest due to its slate roof). Both of these dwellings are adjacent to the south eastern corner, which is also opposite the Donington le Heath Manor House, a Grade II\* listed building, and the former barn (used as a tea rooms, listed as Grade II). Insofar as the design of the dwellings to this area of the site is concerned, the District Council's Conservation Officer is satisfied that the plot at the junction (Plot 32) is suitably detailed, reflecting the importance of views to this corner from the Manor House and Manor Road. On this basis, it is accepted that no harm to these features would result from the proposed development.

Also identified as making a positive contribution to the special character of the Conservation Area are a number of hedges along road frontages within the Conservation Area, including one along the site's Berry Hill Lane frontage. Whilst there are two principal pedestrian links to Berry Hill Lane proposed (one of which would also be used as an emergency access), these links would be in the position of existing breaks in the hedgerow, so no significant harm in this respect would result.

Overall, therefore, it is considered that the proposed development would preserve the character of the Conservation Area, and would not materially harm any features contributing positively to it, and including nearby listed buildings such as the Manor House and barn.

Insofar as archaeology is concerned, the applicants have undertaken an archaeological evaluation of the site. In response to this assessment work, the County Archaeologist notes that a total of 16 trenches were excavated, the majority revealing no significant archaeological remains. However, he also advises that three trenches on the eastern edge of the development area have revealed evidence of an enclosed settlement site with an internal ring ditch, the latter having been interpreted as the site of a former round house, likely to date from the Iron Age. As such, the County Archaeologist recommends that, prior to the commencement of development, an appropriate programme of archaeological investigation should be undertaken, including the completion of a targeted area excavation of the affected enclosure. The County Archaeologist therefore raises no objections subject to the imposition of appropriate conditions to secure this, and the development is considered acceptable on this basis.

## **Ecology**

The application is supported by an Ecological Appraisal. In terms of statutory sites, the appraisal suggests that the Snibston Grange Local Nature Reserve is approximately 600m from the proposed development area and that, given its separation, no significant effects on the

conservation value of the site during or on completion of the proposed development would be expected. In terms of non-statutory sites, one Local Wildlife Site is located approximately 500m from the site, considered to be physically remote from the proposed development area, and separated by intensively managed arable fields from it. As such the appraisal does not anticipate significant effects to the conservation value of that site. The appraisal also notes the presence of what would be potential Local Wildlife Sites, including two ponds with great crested newts. Again, the appraisal considers any impact on these off-site features would not be significant.

In terms of habitats, the appraisal assesses existing features within the site, including hedgerows, previously planted buffer planting to the existing Frearson Road estate (a section of which would need to be removed to facilitate the access road), and an area of improved pasture. In respect of these features, the appraisal concludes that the only affected hedgerow is the one sited centrally within the site (and would partially lost to the development so as to allow access through etc), adequate hedgerow compensation planting would be provided, the loss of approximately 6% of the buffer planting would not have significant impacts, and the area of improved pasture is of low conservation value.

In terms of protected species, the appraisal provides as follows:

#### Great Crested Newts:

A small population of Great Crested Newts (GCN) has been identified approximately 85-95 metres from the site. The County Ecologists advise that, whilst some GCN habitat will be lost, it is mostly arable land and essentially of low suitability for GCN. They also confirm that, should the proposals in the GCN applicants' mitigation strategy be implemented, GCN would be suitably mitigated for. Furthermore, the County Council advises, the enhancements would sufficiently compensate for the loss of low grade GCN habitat (arable fields). In response to County Ecologist concerns regarding the proximity of the originally proposed play area to the GCN mitigation area, the application has been amended to relocate the play area elsewhere within the site. A separate GCN mitigation strategy is contained within the amended Ecological Appraisal; subject to those mitigation measures being secured by condition, the County Council considers the development to be acceptable in this regard. Similarly, Natural England has no objections, although draws attention to the developers' separate obligations to obtain a licence for any works affecting GCN.

#### Bats:

No habitats suitable to support roosting bats were recorded within the site. In terms of foraging habitat, this would comprise the boundary hedgerows and the plantation woodland to the north of the site. However, given the limited impact on these elements, the appraisal suggests that the limited loss of these areas would indicate that impacts on this habitat. Whilst some impacts from street lighting etc could occur, these impacts could, the appraisal suggests, be limited having regard to the type of lighting used. The County Ecologist has no objections subject to the relevant light mitigation measures being implemented.

#### Badgers:

Whilst no evidence of badger activity was recorded during the applicants' original survey, a subsequent one identified some limited foraging activity. However, given its limited extent, it has been concluded that the habitats within the site do not provide a significant proportion of the local clans' foraging habitat and the appraisal suggests that the proposed development is unlikely to result in significant negative effects. Nevertheless, given that badger activity has been identified, the appraisal suggests that, prior to development commencing, a further precautionary walk-over survey should be completed to ensure that badgers have not

established a sett.

**Birds:**

As per bats above, the appraisal suggests that the limited loss of existing vegetation is unlikely to result in material harm to bird habitat. The scheme also suggests that enhancements for breeding birds would be provided within the new housing including the installation of swift boxes and house sparrow terraces.

**Reptiles:**

The appraisal suggests that the application site does not provide particularly suitable habitat for common species of reptiles and that, if reptiles were using the site, it is only likely that small numbers of highly mobile species such as grass snake would be using hedgerows and other boundary treatments around the site as a corridor of movement. As set out in the summary of the representations received above, concern has been expressed over the presence of reptiles and, in particular, a grass snake is understood to have been sighted on the application site. The applicants' ecologists suggest that this sighting indicates that grass snakes may be present locally and could be using the site in small numbers. However, as suggested, they are of the view that the site is only likely to be used as a corridor of movement (including to optimal habitats in the wider countryside west of the site, where ponds and other suitable foraging habitats are present). They also suggest that the proposed Great Crested Newt mitigation would also be suitable for grass snakes if they were using the site and, therefore, no additional mitigation would be required.

It is noted that a number of objections have been received to the application, and including from the Leicestershire and Rutland Wildlife Trust (as set out in more detail under Summary of Representations Received above). The Trust has made a number of representations in respect of the application and, whilst much of its concerns have been addressed by the applicants to the Trust's satisfaction, there are some remaining differences between the Trust's views and those of the applicants' ecologists, who consider that all matters have been resolved. Whilst the Local Planning Authority has sought to ensure that all of the Trust's remaining concerns are addressed, this has not been possible in respect of all of the matters raised. In terms of the independent professional ecological advice sought by the Local Planning Authority, however, this is provided by Leicestershire County Council; as noted, the County Council has no objections to the development, and considers that all matters have been addressed, or are otherwise acceptable by way of the imposition of appropriate conditions. It is also noted that Natural England's various concerns have also been addressed during the course of the application's consideration.

It is therefore considered that, subject to the imposition of suitably-worded conditions, the submitted scheme is acceptable in ecological terms, and would provide suitable mitigation for any anticipated impacts.

**Flood Risk and Drainage**

A Flood Risk Assessment (FRA) has been submitted with the application, confirming that the site lies within Flood Zone 1, and the site is therefore considered suitable for development in principle (and in flood risk sequential terms, would meet the requirements of the NPPF). As set out in the consultee responses above, no objections are raised by the Environment Agency in this regard, subject to the attachment of conditions including, amongst others, in respect of water quality and the implementation of the scheme in accordance with the principles set out in the submitted FRA.

In terms of on-site surface water drainage, the application documents indicate that the development would direct surface water into the a tributary of the River Sence, either by way of a new gravity surface water outfall limited to existing greenfield rates, or via an existing surface water sewer to the north of the site at a rate of no more than 5l/s/ha. A balancing pond would also be provided (located to the north western part of the site) in order to accommodate the surface water prior to discharge to the relevant surface water sewer, designed to accommodate the 1 in 100 year plus 30% storm event. The applicants propose contributions of £15,000 towards adoption of the balancing pond; this would however need to be agreed between the developers and any organisation which the developers were to approach with a view to adopting this feature.

Insofar as foul drainage is concerned, it is proposed to connect to existing foul sewers to the north and south of the site. The Environment Agency had previously raised objections to other development proposals in Coalville due to a lack of capacity in the sewerage networks serving the area and the potential for a negative impact on the water quality of the receiving watercourse, the Grace Dieu Brook, from combined sewer overflows and storm discharges from Snarrows Sewage Treatment Works (STW). In effect, the concerns raised were that, in the absence of additional capacity within the system, the additional flows could, at certain times, be greater than those which could be accommodated, leading to an overflow of untreated foul water into the receiving watercourse, the Grace Dieu Brook, with the resulting implications on the water quality of that watercourse. As a result of proposals by Severn Trent Water to release additional flow capacity in the catchment, however, the Agency's previous concerns regarding major new development have now been addressed, and no objections are raised by either the Environment Agency or Severn Trent Water in this regard subject to conditions.

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development.

### **Residential Amenity**

In terms of amenity issues, the impacts of the proposed development need to be considered both in terms of the impacts on the future living conditions of residents of the proposed development, having regard to the site's location, as well as on existing residents arising from the proposed development. These are considered in turn below.

In terms of future residents' amenities, it is noted that the site is not located in close proximity to any existing incompatible land uses and, in principle, there appears no reason why the development would not be appropriate in this regard, and no objections are raised by the District Council's Environmental Protection team.

Insofar as the impacts on neighbouring occupiers arising from the proposed development are concerned, the principal impacts of the proposed development are considered to be those arising from the proximity of the proposed development to existing residential property, having regard to the relative positions of the dwellings and resulting issues of overlooking, overdominance or loss of light. The site is adjacent to existing dwellings to the north (Frearson Road estate), to the east (St Mary's Avenue / St Mary's Court / Manor Road) and to the south and south west (Berry Hill Lane).

To the north, the application site would be separated from the adjacent estate by the existing established tree planting buffer which (save an area towards its eastern end where there appears to have been some encroachment of gardens into the buffer) is in the order of

approximately 15 metres in depth (albeit varying slightly in extent along the boundary). Notwithstanding the relative levels in this part of the site, material loss of amenity would appear unlikely in this area.

In terms of the eastern boundary, much of the adjacent dwellings are single storey. The proposed dwellings would be set back from the site boundary in this area, although a previously proposed planting strip along the boundary has now been deleted from the scheme in response to concerns over impacts from this landscaping on neighbouring dwellings. Insofar as separation distances are concerned, all the two storey dwellings in this location would be located close to the new estate road frontage so as to maximise separation distances to the existing dwellings to the rear (between 11 and 25 metres approx, save for the south eastern most plot (Plot 32), but this would be positioned at an angle to the nearest neighbour of approximately 45 degrees, thus limiting its overlooking impacts). Whilst some built development would be closer to the boundary, this would be limited to domestic garages, single storey dwellings and a substation. There would be no built development adjacent to the existing flats at St Mary's Court, given the location of the proposed community orchard / allotments. To the southern end of this boundary, three no. two storey dwellings would be located backing onto the rear gardens of adjacent dwellings on Manor Road. Whilst there would be likely to be an impact on the amenities of the existing occupiers in that views into their gardens would be possible from the new dwellings, given the distances involved (i.e. having regard to the length of the new dwellings' back gardens) and the relative angle of Plot 32 as discussed above, an unacceptable loss of amenity would be difficult to demonstrate. Whilst anticipated relative levels of proposed and existing dwellings vary along this boundary (i.e. based on detailed information provided in respect of earlier iterations of the layout), none are considered of such a significant extent so as to render their relationships unacceptable.

Insofar as the impact on properties on Berry Hill Lane is concerned (both to the south of application site, on the opposite side of the road, and to the south west, on the same side as the development), the separation distances would be significant given the proposed open area fronting onto Berry Hill Lane (required to accommodate the development in this Conservation Area setting, as discussed above) and the retention of the two arms of the Public Right of Way (with open space retained between). As such, no material loss of amenity would be likely to result.

It is noted that the proposed development would result in the accessing of the new dwellings via Frearson Road, and this would therefore lead to a material increase in the use of this road such that residents of existing dwellings on or adjacent to this road would be subject to additional vehicular movements passing their dwellings. Whilst the increased use of this road over and above existing levels of traffic is likely to be significant (proportionally), having regard to the nature of the existing road, the number of dwellings in question, and the nature of the types of vehicles likely to be using the road on a day-to-day basis, it is not however considered that an undue loss of amenity to occupiers of existing dwellings could be demonstrated.

### **Geo-Environmental Conditions**

A preliminary ground investigation report has been submitted with the application which provides an assessment of the site's ground conditions, and indicates that there are no impediments to the site's development in terms of contamination or general ground conditions. The District Council's Environmental Protection team raises no objections.

## Other Matters

### 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.

The relevant developer contributions are (save for those already referred to above) listed below.

### *Affordable Housing*

When the application was originally submitted an affordable housing contribution of 20% (i.e. 43 of the then proposed 215 dwellings) was proposed as per the Local Planning Authority's current requirements for the Coalville area for a scheme of this scale. However, in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, and further to a reduction in the total number of dwellings proposed on the site, no affordable housing is now proposed to be provided. As set out above, the applicants have undertaken viability calculations, and these indicate that, when allowing for the other required contributions (and including the transportation infrastructure contribution as set out under Means of Access and Transportation above), the scheme would be unviable with any affordable housing.

Clearly the absence of an affordable housing contribution would fail to comply with the provisions of the District Council's Affordable Housing SPD which seeks to secure a minimum 20% contribution from new housing development in Coalville. However, this needs to be considered in the context of the approach suggested in the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, which provides that, where a proposal is proven to be unviable as a result of required developer financial contributions, the Council will consider relaxing its normal affordable housing requirements proportionately so as to prioritise highway infrastructure investment, then all other essential infrastructure, and then contribute to affordable housing provision as far as possible whilst ensuring that the development scheme is viable. As set out under Relevant Planning Policy above, the policy does not set a minimum level to which affordable housing contributions in the Coalville area can be reduced, even in cases such as this whereby no contribution at all would be achievable financially.

In terms of the impacts of the non-provision of affordable housing, this was assessed in more detail when the *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy was introduced. A significant housing need already exists within the District, and the last housing needs study for the District which undertaken in 2008 as part of the Strategic Housing Market Assessment (SHMA) indicated that the level of affordable housing provision within the district required to meet the identified need was at least 355 new affordable dwellings per annum. In the years 2010/11, 2011/12 and 2012/13, the numbers of affordable houses built in the District were 42, 57 and 82 respectively, representing approximately 25% of all dwellings completed and, therefore, even at current levels of provision, and notwithstanding an increase in 2012/13, the housing needs of many people within the District are not being met, and not securing a

contribution in this instance would not assist. A lack of affordable housing in the District would be likely to impact upon some of the most vulnerable people within the District and has the potential to increase the number of homelessness cases. However, this needs to be balanced against the Government's support for Local Planning Authorities taking a proportionate approach to developer contributions and viability (and as indicated in Paragraph 173 of the NPPF) so as to enable development to come forward to meet market (if not affordable) housing needs, and the need to consider the potentially harmful impact on other service areas were the shortfall in viability to be addressed by way of reductions in contributions to other areas of infrastructure.

As set out above, the NPPF contains a presumption in favour of sustainable development, the dimensions of which include a social dimension, with the planning system's role being to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. It is considered that, in this sense, the scheme would not perform well. On balance, however, whilst the contribution proposed would be substandard vis-à-vis the current affordable housing standards set out in the District Council's SPD, given that the applicants have been able to demonstrate to the District Valuer's satisfaction that no contribution could be provided from a viability point of view, it is considered that the omission of affordable housing would not be unacceptable in this case, and when balanced against all other viability considerations and other aspects of sustainable development.

Following the deferral of the application at the February 2014 Planning Committee meeting, the applicants have engaged with housing and planning officers with a view to establishing whether any affordable housing contribution could in fact be made; in particular, discussions have taken place seeking to determine what form an on-site contribution could make (i.e. in terms of number, size and tenure of any affordable dwellings provided as part of the development). In addition, the applicants have undertaken initial calculations seeking to demonstrate the impact of, for example, approximately 5% and 10% on-site contributions on the viability of the scheme (and, hence, the likely reductions to other contributions). These indicate that significant reductions to other contributions would be required to accommodate the affordable housing; in the case of a 5% contribution, the figures indicate that the contribution could be made but with, for example, the transportation infrastructure contribution being reduced from £846,000 to £49,510. However, as set out above, the applicants have nevertheless confirmed that they wish to have the application determined as submitted, and these potential alternative viability figures have not therefore been assessed independently by the District Valuer.

As a result of the applicants' confirmation that they do not now intend to amend the application, therefore, the position (and, hence, officer recommendation) remain unchanged from that reported to the Planning Committee in February 2014. Government guidance as set out in the recently issued Planning Practice Guidance advises that, where an applicant is able to demonstrate that a planning obligation would cause a development to be unviable, the Local Planning Authority should be flexible in seeking planning obligations, and that affordable housing contributions in particular should not be sought without regard to individual scheme viability. However, it also clarifies that the NPPF provides that, where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development. Whilst the negotiations that have taken place subsequent to the February 2014 Planning Committee have not resulted in an amended scheme to include for a contribution towards affordable housing, and whilst the concerns regarding whether the development would constitute sustainable development (and, in particular, in terms of its social dimension) remain, this needs to be considered in the context of the Local Planning Authority's own policy (which has been

adopted since the publication of the NPPF) which indicates that the District Council will consider relaxing its normal affordable housing requirements where necessary in viability terms, so as to prioritise firstly highway infrastructure investment and secondly all other essential infrastructure; the Policy also clearly anticipates that, in certain circumstances, this may result in no affordable housing being provided in order to meet the prioritised contribution requirements. As such, notwithstanding the adverse impacts of the scheme's failure to accommodate any affordable housing, it is accepted that the submission accords with the approach set out in the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy and, on balance, would not be unacceptable.

Should Members be minded to permit the application, given the under-provision of affordable housing vis-à-vis the adopted Affordable Housing SPD, and having regard to the approach set out in the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, it would be considered appropriate to limit the implementation period of any planning permission granted accordingly to two years, and to also ensure that the Section 106 agreement included for a periodic review mechanism so as to ensure that, should economic conditions change over the build period such that some affordable housing could be rendered viable, this would be secured.

#### *Play and Public Open Space*

The proposed layout shows a significant extent of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space; the open space includes an on-site equipped children's "natural" play area, an area of woodland planting, an off-site conservation grassland zone (adjacent to Standard Hill), landscaped open space / pedestrian routes along the western and southern site boundaries, a community orchard / allotment area, a "village green" and other incidental open space within the development. In terms of the extent of the proposed on-site play area, on the basis of the illustrative plan, this would be in the order of 1,130 square metres. Under the Local Planning Authority's Play Area Design Guidance SPG, children's play areas should be provided at a rate of 20 square metres per dwelling and, therefore, for a development of 188 dwellings, an area for children's play of 3,760 square metres would normally be required. Whilst this represents a shortfall in this regard, the extent of the "play area" in its general terms (which is the figure to which the SPG relates) is normally calculated in its wider sense and, when taking into account the other landscaped open space proposed as part of the application, the minimum requirements of the SPG would be comfortably met. Whilst the submitted detailed landscaping plans indicate limited equipment being provided to the centrally located play area, a suitable specification of equipment would need to be agreed in respect of the Section 106 obligations. The total proportion of the site proposed to be given over to green space (excluding private gardens) would be in the order of 25% and, having regard to this, and additional off-site green space of 1 hectare (approx) the overall contribution towards green infrastructure would be considered acceptable.

In terms of the range of equipment necessary for the on-site play area, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG require that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity, as well as a "kickabout" area. In addition, formal recreation open space (e.g. sports pitches) should also be provided for. Whilst on-site "kickabout" and formal recreational open space provision is not proposed, the applicants propose to make a financial contribution in this regard. In order to seek to establish the need for such facilities in the surrounding area, the applicants have commissioned an open space assessment by consultants specialising in leisure



development so as to establish the availability of existing facilities within the area and, hence, the level of contribution required to accommodate the development. This assessment concludes that, whilst the application proposals would include for sufficient open space, having regard to the nature of the open space, additional contributions towards other types of open space (i.e. youth / adult recreation) are required. The applicants therefore propose a contribution of £53,397 towards a new multi use games area (MUGA) at the Ashburton Road recreation ground which, it is considered, would represent a reasonable contribution from a development of this nature and the likely level of use of such facilities generated by the development. In coming to this figure, the applicants' consultants have sought figures from an equipment supplier and included provision for a ball court of 18.6m x 25m (costed at £23,543) and groundworks (£25,000) plus 10% contingency, equating to £53,397 (excluding VAT).

In response Hugglescote and Donington le Heath Parish Council advises that it does not accept the amount offered, but no alternative evidence as to the ability or otherwise of existing facilities to accommodate the development in this context has been provided. As set out under Summary of Representations Received above, significantly larger contributions are requested by the Parish Council but, in the absence of evidence to support these figures, it is not considered that the Local Planning Authority would be able to demonstrate that such contributions were justifiable in terms of the tests set out in the CIL Regulations and NPPF, and would appear to be significantly beyond what would be likely to be necessary to accommodate the additional youth / adult recreation requirements of the proposed development. It is acknowledged that, on the basis that the Ashburton Road recreation ground is currently in private ownership, it may not be considered appropriate by the Parish Council to direct the funds towards this particular location, and it is therefore recommended that any contribution be flexible in terms of its location of spend; ideally this would be within the Parish of Hugglescote and Donington le Heath but, potentially, given the site's close proximity to the unparished area of Coalville, could also be within that area as well if needs be whilst still being used for the benefit of residents of the new residential development.

#### *Leisure*

In addition to the recreation requirements set out above, a separate contribution (£181,250) is sought by the District Council's Leisure and Cultural Services towards a new fitness suite and studio at the Hermitage Leisure Centre; detailed information setting out existing capacity together with anticipated increased levels of use by occupiers of the proposed development have been provided which, it is considered, demonstrate that the contribution would be necessary to ensure that an appropriate level of service would continue to be provided by the Leisure Centre, and that the sum sought is commensurate to the additional facilities necessary to accommodate the development. The applicants have confirmed that they are agreeable to making the contribution sought.

#### *National Forest Planting*

The applicants' proposals show the provision of on-site National Forest planting as part of their wider landscaping and public open space proposals as set out and under Play and Public Open Space above. For its part, the National Forest Company notes that the 20% minimum Forest-related green infrastructure requirements would be exceeded by the development. It also advises, however, that some substitution of proposed species / tree sizes would be appropriate and that more planting would be required to some of the landscaped areas so as to achieve the "formal parkland" feel aspired to in the submitted Design and Access Statement.

Various amendments to the planting proposals are suggested but, subject to these, the National

Forest Company raises no objections to the application and the proposals are considered appropriate in this regard.

### *Education*

In respect of the proposed education contributions, Leicestershire County Council comments as follows:

#### Primary School Requirements:

The site falls within the catchment area of Hugglescote Primary School. The School has a number on roll of 423 and 653 pupils are projected on the roll should the development proceed; a deficit of 230 places (of which 185 are existing and 45 would be created by this development). There are 5 other primary schools within a two mile walking distance of the development, namely Belvoirdale Community Primary School, Ellistown Community Primary School, Woodstone Community Primary School, All Saints Church of England Primary School and Broom Leys School, and the overall deficit including all schools within a two mile walking distance of the development is 207 places. The 45 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution of 45 pupil places in the primary sector is sought. In order to provide the additional primary school places anticipated by the proposed development the County Council requests a contribution for the Primary School sector of £534,050.30. As set out above, the site currently falls within the catchment area of Hugglescote Primary School and the intention would therefore be for the contribution to be spent on improving, remodelling or enhancing facilities at that school. Leicestershire County Council also advises however, that, as catchment areas may be reviewed in this area in the future having regard to the effects of this and other proposed residential development, should the site fall within a different catchment as a result of any changes to catchments, the contribution would be used to accommodate the capacity issues created by the proposed development at the primary school that the children from the development would be expected to attend. Catchment areas will, the Local Education Authority advises, be reviewed when it is clearer which applications are proceeding, and how many houses are to be built.

#### High School Requirements:

The site falls within the catchment area of Newbridge High School. The School has a net capacity of 530, and 656 pupils are projected on roll should this development proceed; a deficit of 126 pupil places (of which 107 are existing and 19 would be created by this development). However, taking the two other high schools into account within a three mile walking distance of the development, namely Ibstock Community College and Castle Rock High School, there is an overall surplus for the area of 27 places, and no contribution request is therefore made in respect of this sector.

#### Upper School Requirements:

The site falls within the catchment area of King Edward VII College. The College has a net capacity of 1,128, and 1,100 pupils are projected on roll should this development proceed; a surplus of 128 places after taking into account the 19 pupils generated by this development, and no contribution request is therefore made in respect of this sector.

Overall, therefore, the County Council's contribution requests are limited to the primary sector, and the applicants are agreeable to the requests made.

*Civic Amenity*

A contribution of £13,361 is proposed to be made by the developer for Civic Amenity facilities in accordance with the requirements of Leicestershire County Council.

*Library Services*

A contribution of £11,870 is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council.

*Healthcare*

NHS England requests a developer contribution of £103,164 in respect of healthcare as set out in the consultation response above. This request has been supported by detailed information setting out the projected impacts on capacity arising from the proposed development (with the principal impacts being on Hugglescote surgery) together with commensurate costs of mitigation. It is considered that this request would meet the relevant CIL and NPPF tests, and the applicants have confirmed that are agreeable to making the contribution sought.

*Contributions sought by Leicestershire Police*

Leicestershire Police requests a developer contribution of £606 per dwelling in respect of policing as set out in the consultation response above which, the Police advises, would be used for extensions to local premises and communications infrastructures, to provide equipment for additional staff, and to contribute towards additional vehicles and local CCTV cover. As such, it is assumed that the total sum sought in respect of the current scheme would equate to £113,928.

Insofar as this specific contribution request is concerned, it would appear that request has been based upon a flat rate per dwelling which would subsequently be allocated to different policing proposals, and the request is not therefore considered to demonstrate that it has taken account of the specific infrastructure requirements the development would generate.

With regard to the acceptability of police contributions per se, however, the issue is not one of principle. The issue is, rather, whether Leicestershire Police can demonstrate that either on-site or off-site infrastructure is necessary and directly related to the impact of the development which is being granted consent, and that any contribution would in fact be used in order to pay for infrastructure which would actually be delivered. It is in this respect that officers remain to be persuaded that such requests are CIL compliant.

Whilst officers acknowledge that such requests have been accepted by Inspectors and the Secretary of State as being CIL compliant in some recent appeal decisions in Leicestershire, and indeed the District (although Inspectors and the Secretary of State have also reached a contrary view on other occasions), and that consistency in decision making is desirable as a matter of policy, a decision as to whether an obligation is directly related to a particular development is one that can only be made on its individual merits.

The continuing controversy surrounding policing contributions is, however, itself undesirable as it creates uncertainty both for Leicestershire Police and developers / landowners as to whether a request for a contribution is likely to be supported in any given case. The Leicestershire Authorities have therefore agreed jointly to seek an independent legal opinion as to the correct approach to be adopted by Local Planning Authorities to such requests. It is expected that this opinion will be received shortly.

Pending the receipt of Counsel's Opinion, it is not possible to reach a conclusion on whether a policing contribution of some description (assuming more robust supporting evidence were provided) would meet with the CIL tests at this particular time. Should Counsel advise that Leicestershire Police requests such as this would be CIL compliant then the principle of requiring such contributions to be secured by way of Section 106 planning obligations would be accepted by the Council and the amount, if any, of such contribution would be determined by the Council having regard to all relevant considerations including any issues of viability that may be raised. Should the inclusion of policing contributions, when considered alongside other contributions, render a scheme unviable (or more unviable if already so), then a judgement will need to be made as to which contributions or proportions thereof are most required in order to deliver a viable development which is still acceptable in overall planning terms

Insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations.

### **Conclusions**

As set out in the main report above, whilst the site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, and constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Whilst the site is located outside of Limits to Development, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall (and notwithstanding the non-provision of affordable housing), be considered to constitute sustainable development as defined in the NPPF and, as such, would benefit from a presumption in favour of such development as set out in that document. The scheme is considered to be acceptable in terms of access and transportation issues, landscape and visual impact, design, heritage issues, ecological issues, flood risk and residential amenity; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities, albeit with no contribution to affordable housing required so as to ensure the development remains viable whilst making appropriate contributions to highways and transportation infrastructure.

### **RECOMMENDATION- PERMIT, subject to Section 106 Obligations, and subject to the following condition(s):**

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

*Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended), and to accord with the requirements of the Local Planning Authority's policy relating to developer contributions.*

- 2 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
  - Site location plan (EMS.2198\_05-4 C) deposited with the Local Planning Authority on 1

June 2012

- Site layout (ME-0006-11-001\_W) deposited with the Local Planning Authority on 11 December 2013
- Plans in respect of the proposed house types, garages and car ports as set out in the Schedule of Drawings dated June 2013 attached to and forming part of this permission

*Reason - To determine the scope of this permission.*

- 3 Unless a written statement to the effect that a phased form of development is not proposed has been submitted to the Local Planning Authority, no work shall commence on site until such time as a schedule of the phasing of the development has been submitted to and agreed in writing by the Local Planning Authority. No phased development shall be undertaken at any time other than in accordance with the submitted schedule unless an alternative schedule has first been agreed in writing by the Local Planning Authority.

*Reason - To ensure the development takes place in an appropriate manner, in the event that details for approval of different phases of development are submitted after the commencement of development on the site as a whole.*

- 4 No development shall commence on the site until such time as an infiltration removal strategy has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Environment Agency and Severn Trent Water Ltd. The strategy shall include an implementation programme for the timing and provision of the infiltration removal. No development shall be undertaken nor thereafter occupied at any time other than in accordance with the agreed scheme and implementation programme.

*Reason - To ensure the protection of the environment and in particular that there is no deterioration in the water quality of the receiving watercourse, and in accordance with the Water Framework Directive.*

- 5 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a scheme of foul and surface water drainage for the site (or, where applicable, the relevant phase), and including a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall demonstrate that any additional flows discharging into the surface water and foul sewerage drainage network will not cause deterioration in the operation of any Combined Sewer Overflows (CSOs) either upstream or downstream on the network and that there will not be an increase in spill frequency or volume from any CSOs affected by the increase in volume within the sewerage network. The scheme shall also be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, and shall include:
  - Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
  - Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm;
  - Detailed design (plans, cross sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
  - Details of how the scheme shall be maintained and managed after completion.

The development shall be carried out in accordance with the agreed scheme and timetable.

*Reason - To ensure that the development is adequately drained, to reduce the risk of creating or exacerbating a flooding problem, to minimise the risk of pollution to the water environment, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the surface water drainage system.*

- 6 The development hereby permitted shall only be carried out in accordance with the submitted Flood Risk Assessment (FRA) dated 20 April 2011 Revision Issue 3, dated 29 November 2011, Ref: 11024, undertaken by Banners Gate Engineers and the following mitigation measures detailed within the FRA:
- Sections 14.1, 15.8, 15.9 and 15.13. Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
  - Section 15.10. Provision of a minimum of 1600 cubic metres of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm, on the site in the form of an open water retention basin; and
  - Sections 10.2 and 14.2. Finished floor levels set no lower than 150mm above proposed external finished ground levels.

*Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, and to reduce the risk of flooding to the proposed development and future occupants.*

- 7 No development shall commence on the site until such time as a scheme to treat and remove suspended solids from surface water run-off during construction works, together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No works shall take place at any time unless all of the measures as required under the agreed timetable are provided in full.

*Reason - To minimise the risk of pollution of the environment.*

- 8 No development shall commence on the site until such time as a programme of archaeological work including a Written Scheme of Investigation has first been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
- The programme and methodology of site investigation and recording;
  - The programme for post-investigation assessment;
  - Provision to be made for analysis of the site investigation and recording;
  - Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - Provision to be made for archive deposition of the analysis and records of the site investigation; and
  - Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation
- No development (or, in the case of phased development, no development in respect of the relevant phase) shall take place at any time other than in accordance with the agreed Written Scheme of Investigation. None of the dwellings (or, in the case of phased

development, none of the dwellings within the relevant phase) shall be occupied until such time as the site investigation and post investigation assessment has been completed in accordance with the programme set out in the agreed Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason - To ensure satisfactory archaeological investigation and recording.*

- 9 No development shall commence on site until such time as precise details of all mitigation and management measures set out within Section 4.0 of the Ecological Appraisal (Rev A, dated May 2012, prepared by FPCR) and Section 7.0 of Appendix A to that document (GCN Mitigation Strategy (Rev A, dated May 2012, prepared by FPCR)), and including timetables for their implementation, have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative mitigation and management measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetables.

*Reason - In the interests of nature conservation.*

- 10 Notwithstanding the submitted details, nor Condition 9 above, no development shall commence on the site until such time as a timetable for the undertaking of updated surveys in respect of badger and Great Crested Newts in relation to commencement of site works on the relevant phase (and including the specification of maximum periods between undertaking of surveys and commencement of work on the relevant phase) has been submitted to and agreed in writing by the Local Planning Authority. No development shall thereafter be undertaken at any time unless the relevant surveys have been undertaken and the results (including any amended mitigation and management measures, and including timetables for their implementation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority. Unless any further alternative mitigation and management measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with any such amended measures and timetables.

*Reason - In the interests of nature conservation.*

- 11 Notwithstanding the submitted details, nor Condition 9 above, no work shall commence on site until such time as precise details of all measures proposed in respect of the enhancement of the biodiversity of the area, including proposals in respect of future maintenance and a timetable for the implementation of the relevant measures have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be undertaken and occupied in accordance with the agreed measures and timetable unless otherwise agreed in writing with the Local Planning Authority.

*Reason - To ensure the development contributes to the meeting of BAP and LBAP priorities.*

- 12 Notwithstanding the submitted details, nor Condition 2 above, no development shall commence on the site until such time as open space landscaping schemes for all areas of the application site identified on drawing nos. JBA 13/32-02 Rev B, 13/32-03 Rev B, JBA 13/32-04 Rev B and JBA 13/32-05 Rev B (and including a timetable for their implementation and future maintenance and management measures, together with

detailed proposals for the reinforcement of existing hedgerows) have been submitted to and agreed in writing by the Local Planning Authority. The approved schemes shall be implemented and thereafter be so maintained in accordance with the agreed details and timetable.

*Reason - To ensure satisfactory landscaping is provided within a reasonable period, and to comply with Policies E2, E4 and E7 of the North West Leicestershire Local Plan.*

- 13 Notwithstanding the submitted details, nor Condition 2 above, no development shall commence on the site until such time as a landscaping scheme (and including a timetable for its implementation and future maintenance and management measures) of all areas of the application site not shown hatched in blue on drawing no. JBA 13/32-01 Rev B has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented and thereafter be so maintained in accordance with the agreed details and timetable.

*Reason - To ensure satisfactory landscaping is provided within a reasonable period, and to comply with Policies E2, E4 and E7 of the North West Leicestershire Local Plan.*

- 14 Any tree or shrub planted in respect of the landscaping schemes referred to in Conditions 12 and 13 above which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

*Reason - To ensure that the site landscaping is maintained for a suitable period, and to comply with Policies E2, E4 and E7 of the North West Leicestershire Local Plan.*

- 15 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site until such time as precise details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative timescale is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as evidence to demonstrate the relevant dwelling's compliance with the relevant criteria has been submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure the scheme provides for a sustainable form of development.*

- 16 No development shall commence on site until such time as precise details of the proposed floor levels of the proposed buildings in relation to neighbouring land / buildings have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interests of amenity, and to comply with Policies E3, E4 and H7 of the North West Leicestershire Local Plan.*

- 17 No work shall commence on site (or, in the case of phased development, on the relevant phase of the development) until such time as precise details of all external materials to be used in the construction of the dwellings within the site or phase have been submitted



to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed details.

*Reason - To enable the Local Planning Authority to retain control over the external appearance, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 18 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site (or, in the case of phased development, on the relevant phase of the development) until such time as precise details of all doors and windows (including door and window styles, porches and door surrounds, doors to proposed garages, and headers and cills) within the site or phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 19 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on the site (or, in the case of phased development, on the relevant phase of the development) until such time as a detailed scheme for the boundary treatment of the site or phase has been submitted to and agreed in writing by the Local Planning Authority. None of the dwellings within the site or the relevant phase shall be occupied until the relevant dwelling's boundary treatment as denoted on the agreed scheme has been implemented in full. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no gates, fences, walls or other means of enclosure (other than any approved pursuant to this condition, or as a replacement of such in the same location, constructed in the same materials, and at a height not exceeding that which it replaces) shall be erected, unless planning permission has first been granted by the Local Planning Authority.

*Reason - To preserve the amenities of the locality, in the interests of highway safety, to ensure that there is a clear and robust demarcation between public and private spaces, to ensure an appropriate form of design, to protect the special character of the adjacent Conservation Area, and to comply with Policies T3, E3, E4 and H7 of the North West Leicestershire Local Plan.*

- 20 No work shall commence on site (or, in the case of phased development, on the relevant phase of the development) until such time as precise details of all proposed timber features (including lintels) within the site or relevant phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 21 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site (or, in the case of phased development, on the relevant phase of the

development) until such time as precise details of the treatment of verges, eaves, midcourse and rainwater goods (and including all barge or fascia boards) within the site or relevant phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

22 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence in respect of the construction of Plot 48 until such time as precise details of the treatment of the arch above the first floor window to the front elevation have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

23 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site (or, in the case of phased development, on the relevant phase of the development) until such time as precise details of the positioning and treatment of utility boxes to individual units within the site or relevant phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

24 None of the dwellings (or, in the case of phased development, none of the dwellings within the relevant phase of the development) shall be occupied until such time as precise details (including positioning) of all street name plates within the site or relevant phase have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

25 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence in respect of the construction of Plots 89, 98 and 137 until such time as precise details of the elevations and floor plans and parking arrangements in respect of the dwellings have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, to ensure that adequate provision is made for off-street car parking in accordance with Leicestershire County Council standards, and to comply with Policies E4, T8 and H7 of the North West Leicestershire Local Plan.*

26 Notwithstanding the submitted plans, nor Conditions 2, 16 and 19 above, no retaining

walls / structures shall be erected unless in accordance with precise details (including in respect of external materials of construction) first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, to ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

27 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence in respect of the construction of the proposed substation until such time as precise details of the substation have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design, in the interests of the amenities of the area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

28 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on site (or, in the case of phased development, on the relevant phase of the development) until such time as precise details of the treatment of all hard surfaces (including all access roads, footways, drives and parking / manoeuvring areas) within the development (or for that phase of the development, where applicable) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, to ensure an appropriate form of design, in the interests of the amenities of the area, to protect the special character of the adjacent Conservation Area, in the interests of highway safety and to comply with Policies E4, T3 and H7 of the North West Leicestershire Local Plan.*

29 Notwithstanding the submitted plans, nor Condition 2 above, no more than 99 dwellings within the application site shall be occupied until such time as the proposed emergency access (including pedestrian and cycle facilities) has been implemented in full and is available for use in accordance with precise details first submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed scheme shall thereafter be so maintained and available for its intended uses at all times.

*Reason - To provide vehicular access to the site in the event of an emergency, to ensure that unfettered pedestrian and cycle linkages are available at all times, to ensure that the proposed access is appropriate to its surroundings, and to comply with Policies H7, E4 and T3 of the North West Leicestershire Local Plan..*

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

*Reason - To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic associated with the development does not lead to on-street parking problems in the*

area.

- 31 Notwithstanding the submitted plans, nor Conditions 2 and 18 above, no garage doors shall be installed within 6.5 metres of any public highway from which the relevant garage's drive is accessed unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To enable a vehicle to stand clear of the highway whilst the garage doors are opened / closed and protect the free and safe passage of traffic, including pedestrians, in the public highway, and to comply with Policy T3 of the North West Leicestershire Local Plan.*

- 32 Notwithstanding the submitted plans, nor Condition 2 and 16 above, no access drive served directly from a public highway shall exceed a gradient of 1:12 for the first 5.5 metres behind the highway boundary.

*Reason - To enable vehicles to enter and leave the highway in a slow and controlled manner, in the interests general highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.*

- 33 Notwithstanding the submitted plans, nor Conditions 2 and 28 above, none of the dwellings hereby permitted shall be occupied until such time as any relevant access drive, turning space or parking space (including garage space) serving that dwelling has been provided in full and is available for use. Once provided, the relevant facilities shall remain available for such use in association with the occupation of the relevant dwelling(s).

*Reason - To ensure the provision of appropriate access, turning or parking facilities to serve the development, in the interests of highway safety and to comply with Policies T3 and T8 of the North West Leicestershire Local Plan.*

- 34 Notwithstanding the submitted plans, nor Condition 2 above, no dwelling shall be occupied until such time as 1.0 metre by 1.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of any relevant access drive serving that dwelling with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway in accordance with the current standards of the Local Highway Authority and, once provided, shall thereafter so be maintained.

*Reason - In the interests of pedestrian safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.*

- 35 Notwithstanding the submitted details, none of the dwellings hereby permitted shall be occupied until such time as a Residential Travel Plan for the development as a whole, and including a timetable for its implementation and ongoing monitoring / review, has been submitted to and agreed in writing by the Local Planning Authority. The plan shall be implemented in accordance with the relevant approved details and timetable.

*Reason - To ensure that adequate steps are taken to provide a transport choice / a choice in mode of travel to and from the site.*

- 36 Notwithstanding the submitted plans, nor Conditions 2 and 28 above, no development shall commence until such time as details of all works in respect of the routes of Public

Right of Way N81 within the application site (and including of its means of connection to adjacent land and Berry Hill Lane), together with a timetable for their provision, have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable and, once provided, shall thereafter so be maintained.

*Reason - To ensure the appropriate treatment of existing Public Rights of Way.*

- 37 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence in respect of the erection of any dwelling to Plots 18, 27, 34, 68 and 149 until such time as precise details of the relevant dwelling's elevations and floor plans have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority having regard to minor discrepancies between the submitted house type plans and site layout, to ensure an appropriate form of design, in the interests of the amenities of the area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 38 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence in respect of the erection of any dwelling to Plots 36, 38, 80, 160, 176 and 186 until such time as precise details of the relevant dwelling's elevations have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority having regard to minor discrepancies between the submitted elevations, to ensure an appropriate form of design, in the interests of the amenities of the area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 39 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on the site until such time as precise details of all proposed waste / recycling bin collection points have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To enable the safe and efficient collection of household waste, to ensure an appropriate form of design, in the interests of the amenities of the area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future.

These hazards include:

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heating and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

- 3 Your attention is drawn to the attached report of Severn Trent Water Limited.
- 4 Your attention is drawn to the attached report of the Environment Agency.
- 5 Your attention is drawn to the advice contained within the attached report of

**PLANNING APPLICATIONS- SECTION A**

- Leicestershire County Council's Director of Environment and Transport. Attention is drawn in particular to the advice regarding compliance with relevant County Council criteria for adoption of roadways, the County Highway Authority's requirements in respect of the setting out of the proposed emergency access, and SUDS adoption.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer.
- 7 The applicants are advised that, for the purposes of complying with Condition 18 above, the Local Planning Authority would expect all doors to be coloured black.
- 8 Your attention is drawn to the attached report of the National Forest Company, and the applicants are advised that the Local Planning Authority would expect the detailed planting schemes to have regard to this advice.
- 9 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk)
- 10 This decision is in accordance with the resolution of the Planning Committee of 6 May 2014 and is subject to a Section 106 Obligation.