

Residential development of up to 135 dwellings including the demolition of 138,140 and 142 Bardon Road along with new access and highway improvements to Bardon Road and associated open space and landscaping (Outline - All matters other than part access reserved)

Report Item No  
A5

Land Rear Of 138 Bardon Road Coalville Leicestershire

Application Reference  
13/00818/OUTM

Applicant:

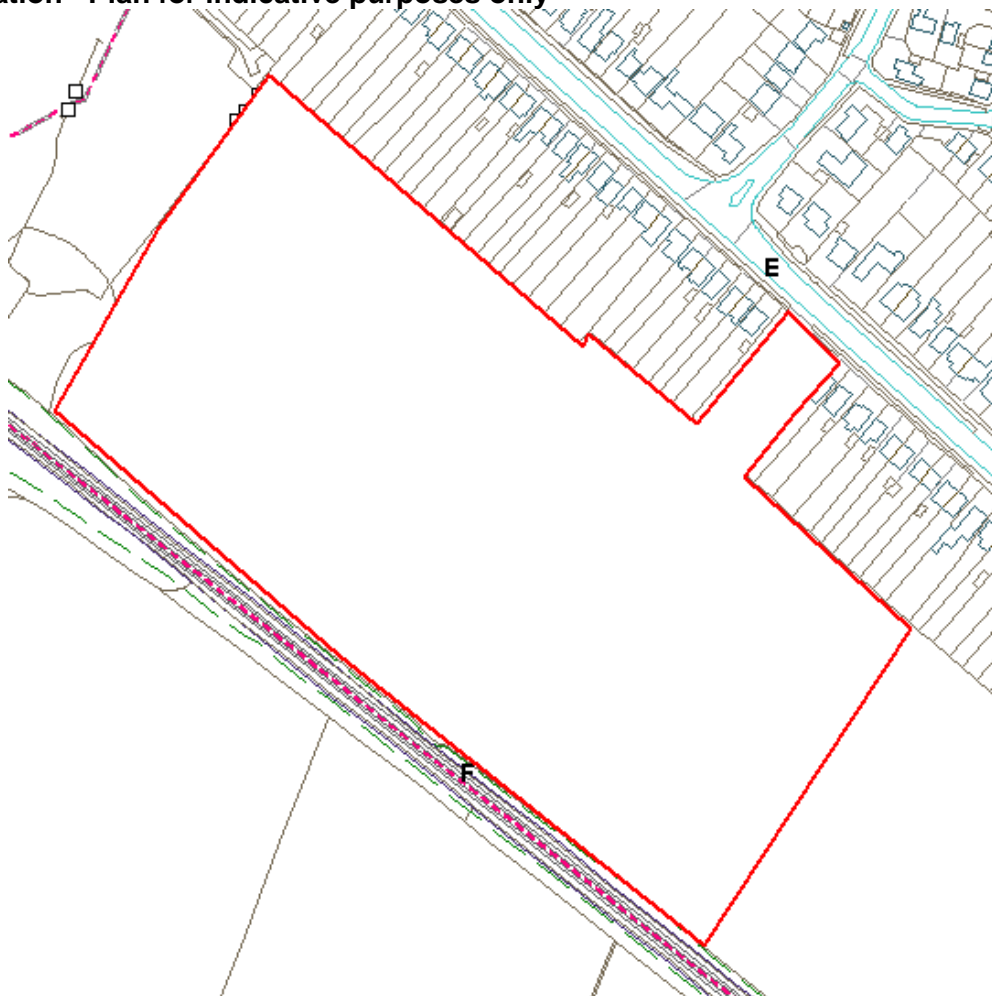
Date Registered  
16 October 2013

Case Officer:  
James Mattley

Target Decision Date  
15 January 2014

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Reasons for Approval**

### **Proposal**

This application seeks outline planning permission for residential development of up to 135 dwellings including the demolition of 138,140 and 142 Bardon Road along with new access and highway improvements to Bardon Road and associated open space and landscaping. The application is identical to planning application 13/00218/OUTM that was refused at the Planning Committee in September 2013 on highway safety grounds based on the local knowledge of the Local Planning Authority.

This application was heard at the Planning Committee in December 2013 where it was resolved to grant planning permission subject to the signing of a legal agreement once a formal viability appraisal had been carried out. The report at this time stated that: *"regardless of the outcome of the viability assessment work, they would anticipate that a minimum contribution of 10% (affordable housing) would be provided."*

The applicants have now undertaken their viability appraisal which indicates that the scheme would not be able to afford to pay any contribution towards affordable housing when having regard to the range of other contributions requested on the site. This is considered to be a material change to the application and, therefore, it is being brought back to the Planning Committee.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals (and including from the neighbouring Hugglescote and Donington le Heath Parish Council); no other objections are raised by statutory consultees.

### **Planning Policy**

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

### **Conclusion**

Whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, such general policies that restrain the supply of housing are to be considered as not up-to-date given the inability of the Council to demonstrate a five-year supply of deliverable housing land. Thus the site's release for housing is considered suitable and will contribute towards meeting the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Having regard to this and the sites 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 relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved

once the connection to the Bardon link road has been provided. The applicants are agreeable to providing a financial contribution towards the capital cost of delivering this connection.

The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. The development is considered to be acceptable in terms of access issues and this has been ratified by an independent transport consultant. The scheme is considered to be acceptable in terms of 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.

It is therefore recommended that outline planning permission be granted.

**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 recommended reasons for approval, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission is sought for a residential development of up to 135 dwellings including the demolition of 138,140 and 142 Bardon Road along with new access and highway improvements to Bardon Road and associated open space and landscaping. The site measures 6.18 hectares and is located to the south of existing properties along Bardon Road. Whilst all matters other than part access are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings, together with a central area of children's play and landscaping and on site National Forest planting.

Vehicular access is proposed onto Bardon Road and would necessitate the demolition of 138, 140 and 142 Bardon Road. The proposal includes a new right hand turn lane on Bardon Road in order to access the development. Existing residential development is located to the north of the site, the land to the south of the site is subject to proposed residential development. The National Forest Railway line is located adjacent to the southern boundary of the site. The proposed Bardon link road would be located to the north-west of the application site and the applicants are agreeable to providing a contribution for the capital cost of constructing an access road from the application site to the new Bardon link road.

The previous planning application on the site (13/00218/OUTM), which is identical to the current planning application, was called to the Planning Committee by Councillor Specht due to local concern and highway issues. That application was refused at the Planning Committee in September for the following reason:

*Policy T3 of the North West Leicestershire Local Plan requires development to make adequate provision for vehicular access, circulation and servicing arrangements. The proposed scheme is considered by the Local Planning Authority, based on its local knowledge, to be unacceptable from a highway safety perspective and, therefore, would not be in accordance with Policy T3 of the Local Plan.*

The applicants have appealed against this planning decision and a hearing date is expected in July 2014.

This application was heard at the Planning Committee in December 2013 where it was resolved to grant planning permission subject to the signing of a legal agreement once a formal viability appraisal had been carried out. The report at this time stated that: *"regardless of the outcome of the viability assessment work, they would anticipate that a minimum contribution of 10% (affordable housing) would be provided."*

The applicants have now undertaken their viability appraisal which indicates that the scheme would not be able to afford to pay any contribution towards affordable housing when having regard to the range of other contributions requested on the site. This is considered to be a material change to the application and, therefore, it is being brought back to the Planning Committee.

### 2. Publicity

157 neighbours have been notified (Date of last notification 2 January 2014)

Press Notice published 30 October 2013

### 3. Consultations

Hugglescote And Donington Le Heath Parish Council consulted 22 October 2013  
County Highway Authority consulted 23 October 2013  
Environment Agency consulted 23 October 2013  
Severn Trent Water Limited consulted 23 October 2013  
Head of Environmental Protection consulted 23 October 2013  
Natural England consulted 23 October 2013  
NWLDC Tree Officer consulted 23 October 2013  
County Archaeologist consulted 23 October 2013  
LCC ecology consulted 23 October 2013  
Airport Safeguarding consulted 23 October 2013  
NWLDC Urban Designer consulted 23 October 2013  
HM Railway Inspectorate consulted 23 October 2013  
Highways Agency- affecting trunk road consulted 23 October 2013  
LCC Development Contributions consulted 23 October 2013  
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 23 October 2013  
DEFRA consulted 23 October 2013  
Development Plans consulted 23 October 2013  
Head Of Leisure And Culture consulted 23 October 2013  
Manager Of Housing North West Leicestershire District Council consulted 23 October 2013  
Police Architectural Liaison Officer consulted 23 October 2013  
National Forest Company consulted 23 October 2013  
FRCA (MAFF)- loss of agricultural land consulted 23 October 2013  
LCC Fire and Rescue consulted 23 October 2013  
Network Rail consulted 23 October 2013

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

**Environment Agency** has no objection subject to the inclusion of relevant conditions.

**Highways Agency** has no objection to the planning application subject to the inclusion of relevant conditions.

**Hugglescote and Donington Le Heath Parish Council** note that the application site is located within a neighbouring parish but does not support the application due to the access and exit arrangements.

**Leicestershire County Council Ecologist** states that the ecologist report is satisfactory and raises no objections to the proposal subject to conditions.

**Leicestershire County Council Highway Authority** states that it cannot be demonstrated that there are any highway safety implications associated with this proposal and raises no objections subject to conditions and obligations.

**Leicestershire County Council Highway Transportation & Waste Management Authority** requests a developer contribution of £9,381 in order to mitigate the impact on civic amenity waste facilities in the local area.

**Leicestershire County Council Library Services Development Manager** requests a contribution of £7,730.

**Leicestershire County Council Local Education Authority** requests a contribution of £36,297.03.

**Leicestershire Police** requests a contribution of £55,174.

**National Forest Company** welcomes the level of strategic landscaping and raises no objection to the proposed condition subject to the inclusion of relevant planning conditions.

**NHS England (Leicestershire and Lincolnshire Area)** requests a developer contribution of £22,945.72.

**North West Leicestershire District Council Environmental Health** has no objections subject to the recommendations contained within the submitted noise report.

**North West Leicestershire District Council Contaminated Land Officer** has no objections subject to relevant conditions.

The following consultees have not responded to the current application but the comments that they made for planning application 13/00218/OUTM have been repeated.

**Leicestershire Fire and Rescue Service** has concerns regarding the design of internal roads within the development.

**Leicestershire County Council Archaeologist** raises no objection to the proposal subject to the imposition of archaeology conditions.

**Natural England** supports the recommendations made in the submitted ecology report and raises no objections to the proposed development.

**Network Rail** has no objection in principle to the development subject to a number of requirements including a developer contribution of £8,500 towards improvement works at an existing level crossing.

**Severn Trent Water** has no objection to the proposal subject to the inclusion of drainage conditions.

### **Third party representations:**

A total of 17 representations have been received which object to the application on the following grounds:

- \_ The proposal will increase traffic along Bardon Road which cannot cope with the amount of traffic that already uses it;
- \_ The access arrangements are unsafe and there have already been accidents along Bardon Road;
- \_ No dwelling should be allowed to be built unless the Bardon Link Road has been constructed;
- \_ Traffic calming measures should be provided;
- \_ Proposal would bring further traffic through smaller streets such as Botts Way and Waterworks Road;
- \_ Existing traffic calming measures are ineffective;
- \_ The proposal would create a staggered crossroads with the Botts Way junction;
- \_ The proposed right turn lane will conflict with the existing right turn filter lane;
- \_ Traffic from the proposed development should be forced to turn left;

- \_ No mention of how traffic will be able to turn right when exiting the proposed development;
- \_ Construction vehicles would struggle to leave the site given the volume of traffic along Bardon Road;
- \_ No traffic calming on Botts Way which will become a rat run should this development be approved;
- \_ Proposal would result in increased pedestrian traffic crossing Bardon Road;
- \_ The local infrastructure and services cannot cope with additional housing;
- \_ This proposal has already been refused planning permission once;
- \_ Proposal would bring further noise pollution and vibration;
- \_ Plans do not take into account the views of local residents;
- \_ Vehicles exiting the site will illuminate habitable rooms and infringe on privacy;
- \_ The proposal has unacceptable drainage arrangements;
- \_ The proposal would impact upon existing flood plain;
- \_ Proposal would lead to increased air pollution;
- \_ The proposal would not be well related to the wider south-east Coalville area;
- \_ The indicative masterplan shows back gardens on new properties butting up to the rear of existing gardens and many of these gardens have access directly onto the application site;
- \_ Dwellings would be located in close proximity to the existing railway line serving Bardon Quarry;
- \_ Proposal would result in suburban development with no suitable access to the natural environment;
- \_ The site is sectioned off from the wider Pegasus area by the railway line that would prevent interaction and the sharing of amenities between the sites;
- \_ New residents would be reliant on the private car;
- \_ Impact upon ecology.

## 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 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."

[Further advice on flooding is contained within the DCLG's Technical Guidance to the National Planning Policy Framework.]

"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."

"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)**

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.

### **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.

### **South East Coalville Development Brief**

A Development Brief for the South East Coalville Strategic Development Area has been prepared by consultants on behalf of the developers' consortium with interests in the land in conjunction with the Local Planning Authority, and including input from other professional consultants, stakeholders and members of the local community, in order to inform the process of planning and development of land at South East Coalville.

The draft Development Brief was considered by the District Council's Cabinet at its meeting of 23 July 2013 where it was resolved that the production of the Development Brief for South East Coalville be noted, that regard be had to the Development Brief when negotiating on and

determining planning applications in the South East Coalville Broad Location, and that the Development Brief form part of the evidence base for the [then] submission Core Strategy.

### **Submission Core Strategy (April 2012)**

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

### **6. Assessment**

The only amendment to the proposal since it was heard at the December Planning Committee relate to developer contributions. Therefore changes and updates have been made to the 'Principle of Development', 'Means of Access and Transportation', 'Developer Contributions' and 'Conclusions' sections of this report and all other sections remain unchanged (but have been included for completeness).

#### **Principle of Development**

In terms of the principle of development, 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.

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.

Whether or not this site would be considered "appropriate" is a matter of judgement; having regard to its location outside Limits to Development. This policy nevertheless sets out criteria relevant to release of land. 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 area and included within the South East Coalville Draft Development Brief. In terms of the sustainability credentials of the site, the site is located the following (approximate) distances away from a range of services:

Newsagent - 320 metres  
Petrol Station (with shop) - 500 metres  
Post Office - 1000 metres  
Broom Leys Primary School - 850 metres  
Newbridge High School - 1400 metres

Co-Op Mini Supermarket - 1000 metres  
 Bus Stop - 150 metres

The 29/29A bus service provides a regular bus service (runs every 30 minutes) and would be located in close proximity to the site access which would allow future residents an alternative to using a private car. In addition, within approximately 2km walking distance of the site are a range of shops and services located in Coalville Town Centre as well as potential employment destinations such as Bardon Industrial Estate, Whitwick Business Park and Bardon Hill Quarry. The application site is located in fairly close proximity to the range of services/facilities listed and would also be in close proximity to other services and facilities that are proposed to be provided in the future as part of the wider South-East Coalville area. Taking these matters into account, it is considered that the site would be located within a sustainable area.

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 Local Plan. Furthermore in respect of Policy H4/1, this would represent a policy relating to the supply of housing and, as such, its relevance also needs to be considered in the context of Paragraph 49 of the NPPF (considered in more detail under Housing Land Supply below).

*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 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 (based on the "Sedgefield" approach and a 20% buffer) which represents a shortfall in relation to 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, 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.

One of the main principle issues with the application is whether this proposal would be well connected and has a functional relationship with existing and proposed development in the area, particularly as the applicants have not joined the consortium of developers that are working on a masterplan for the wider area. In relation to this matter, the indicative masterplan shows that the main access point to the development would be from Bardon Road but the indicative layout would not prevent the adjacent land being developed and the applicants have agreed to provide the capital cost of constructing an access road from the application site to the new link road (when the link road has been constructed). This would help to ensure that the

proposal links in with the wider south east Coalville Area. It is further noted that the indicative masterplan also includes a possible future pedestrian connection from the site to the land to the south of the railway line. In addition, the applicants have confirmed that they would not include any ransom strips either side of the development. Whilst this would not strictly be a planning matter it could be controlled to some extent by an obligation in the legal agreement to ensure that there is unfettered access to the land to the east and west of the application site. Indeed, this has been requested by the County Highway Authority and the applicants are agreeable to this obligation.

It is clear that the proposed future connection between the application site and the proposed Bardon link road would not be provided immediately (as the applicants do not control the land and the link road has yet to be constructed) and it is unclear as to whether the proposed pedestrian link over the railway is deliverable. These matters impact on whether the scheme can be considered to be well connected and have a functional relationship with both existing and proposed development in the area. However, the pedestrian link over the railway is not included in the current South East Coalville Draft Development Brief and, on this basis, it is difficult to argue that this is essential to make the proposed development acceptable in planning terms. Therefore, it is considered that refusal of the scheme on this basis would not be warranted; particularly as the reserved matters scheme could be designed for this link to connect into the site should Network Rail (or any other body) decide to construct a pedestrian bridge over/under railway line. On the basis of these matters, it is considered the scheme would be relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved to proposed development should the connection be provided to the Bardon Link Road.

Policy E6 of the existing local plan states that development will not be permitted where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part. Taking into account the range of measures proposed, such as the agreement that there would be no ransom strips included as part of the development, it is not considered that the granting of this planning application would impact on the comprehensive planning of the wider south east Coalville area and, therefore, the scheme is considered to be compliant with Policy E6 of the Local Plan.

The range of infrastructure expected to be delivered to accommodate growth in the south-east Coalville area includes a range of measures, contributions to various of which are proposed (such as off-site highway works), and are as set out in the relevant sections below. It is clear that this application on its own could not provide for the full range of infrastructure but it would contribute towards some of the measures and more importantly, it would not prevent the full range of measures being provided as part of the comprehensive planning for the wider area.

*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.

### **Means of Access and Transportation**

All matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned). The points of access proposed show vehicular access via a new junction to Bardon Road. Whilst the illustrative layout shows internal access roads and pedestrian links through the site, these would be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility and connectivity of the site still ought to be considered).

The application is accompanied by a Transport Assessment as well as a Travel Plan. The Transport Assessment indicates that, in the applicants' consultants' opinion, the development is located within a comfortable walking distance of a range of local amenities. It also comments that there are several existing bus services operating from Coalville Town Centre to the north of the site with bus stops in close proximity along Bardon Road. The County Highway Authority advises that various measures to encourage public transport use should be secured by way of a Section 106 obligation.

The Transport Assessment also concludes that the development would exacerbate existing capacity issues at the following junctions:

- A511 Hoo Ash Roundabout;
- A511 Thornborough Road Roundabout;
- A511 Whitwick Road/Hermitage Road Roundabout;
- A511 Broom Leys Road Signals;
- A511 Bardon Road/Bardon Roundabout
- Hugglescote Crossroads

However, the assessments presented in the report demonstrate that the impact on these junctions is minor and, therefore, no off-site junction improvements are considered to be justified. The County Highway Authority do not disagree with these findings in the Transport Assessment.

Other mitigation proposals outlined in the Transport Assessment and Travel Plan include various measures designed to encourage walking / use of public transport by residents. The relevant measures are included within the County Highway Authority's requested contribution / Section 106 requirements below:

1. A Construction Traffic Routeing Agreement to be submitted to and approved in writing by the Leicestershire County Council. During the period of construction, all traffic to and from the site shall use the agreed route at all times.

Justification: To ensure that all construction traffic associated with the development does not



use unsatisfactory roads to and from the site.

2. One Travel Pack per dwelling; can be provided through LCC at a cost of £52.85 per pack/dwelling. If not supplied by LCC, a sample Travel Pack shall be submitted to and approved in writing by LCC.

Justification: To inform new residents from first occupation what sustainable travel choices are available in the surrounding area.

3. Two six-month bus passes per dwelling; can be provided through LCC at an average cost of £325.00 per pass.

Justification: To encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation.

4. Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development.

Justification: To ensure effective implementation and monitoring of the site wide Travel Plan submitted in support of the Planning Application.

5. An iTrace monitoring fee of £6000.00.

Justification: To enable Leicestershire County Council to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated planning enforcement.

6. A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council.

Justification: To accommodate the wider growth in Coalville, including the impact from this development, as per NWLDC Cabinet Report dated 15 January 2013 entitled 'Delivering growth and prosperity in Coalville'.

7. A contribution towards the design and construction of a vehicular connection between the application site and the Bardon link road.

Justification: To accommodate the wider growth in Coalville, including the impact from this development, as per NWLDC Cabinet Report dated 15 January 2013 entitled 'Delivering growth and prosperity in Coalville'.

8. The downgrading of the vehicular access to Bardon Road to pedestrian/cycle/emergency use only following the opening of the Bardon link road between Bardon Road/Stephenson Way and the connection to the application site and including that connection.

Justification: To accommodate the wider growth in Coalville and in the interests of highway safety to prevent traffic rat running to avoid the proposed signalised junction at Bardon Road/Stephenson Way.

9. Unfettered access to the land to the immediate east and west of the application site so

as not to prejudice future development of these land parcels, including for vehicular access to the Bardon link road.

Justification: To accommodate the wider growth in Coalville.

In respect of the proposed access arrangements, the County Highway Authority comments that the proposed access arrangement include for a ghost island junction on Bardon Road which has been subjected to an independent Stage 1 Road safety Audit. No road safety issues were identified and, on this basis, the County Highway Authority raises no highway safety objections to the proposed access arrangements. It is noted that the application was refused at the Planning Committee in September 2013 on highway safety grounds and the applicants have appealed this decision. On learning that the appeal had been lodged, the Local Planning Authority sought independent advice from a transport consultant on the acceptability of the access arrangements. The transport consultant has assessed the design of the site access junction against the DMRB standards and has found to comply in most respects. Whilst some concerns were originally expressed regarding the ability of the junction to accommodate HGVs this has now been addressed following the submission of swept path analysis and is not raised as an issue in the Stage 1 RSA. The Stage 1 RSA has also been reviewed and the transport consultant concurs with its conclusions. The overall conclusions of the independent transport consultant are that, *"The TA and access arrangements have been assessed in relation to highway safety and no significant concerns have been identified"*.

The County Highway Authority notes that this application is in outline only and, therefore, the proposed indicative internal layout as shown on the submitted Indicative Masterplan has not been checked in terms of its suitability for adoption by the Highway Authority (and would need to include various details including traffic calming measures). However, it is not clear from the submitted masterplan how the indicative alignment of the proposed internal access road would allow for connection to the proposed Bardon link road. This would need to be addressed at the reserved matters stage and suitable notes to applicant are recommended in respect of this.

The County Highway Authority require that a vehicular connection should be provided between the application site and the proposed Bardon link road. This vehicular connection should be available for use at the same time as the Bardon link road and the applicant should contribute to the design and construction of this connection. As stated previously, this could be secured by a suitably worded legal agreement. The County Highway Authority also require that at such time as the Bardon link road between Bardon Road/Stephenson Way and the vehicular connection to the application site and the connection itself is available for use by vehicular traffic, the proposed vehicular access at Bardon Road should be downgraded to a pedestrian/cycle/emergency access only. This is required on highway safety grounds to prevent traffic 'rat running' through the site to avoid the proposed signalised junction at Bardon Road/Stephenson Way. The applicants are agreeable to paying this contribution subject to undertaking future viability assessment work.

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 be likely to need to contribute towards the proposed Bardon Grange link (i.e. linking the allocated housing site on land north of Grange Road with the A511 Stephenson Way), and an appropriate contribution of £600,000 has been calculated. The applicants are agreeable to paying this contribution subject to undertaking future viability assessment work.

As set out in more detail under Affordable Housing below, in order to accommodate this sum 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 no affordable housing would in fact be achievable whilst enabling the scheme to remain viable. This matter is discussed in more detail in the 'Developer Contributions' section of this report.

The contribution sum proposed towards off-site highway infrastructure would, it is considered, represent a reasonable and essential contribution towards 'kick starting' 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. This scheme is also likely to be one of the first to contribute towards prioritising highway infrastructure contributions in accordance with the cabinet resolution of June 2013. Separate contributions are also proposed in respect of other highways works which would be required to accommodate this development.

The Highway Agency has been consulted on the application and considers that the proposed development is not expected to have a material impact on the closest strategic route (M1 motorway). To reiterate, the County Highway Authority raise no highway safety objections to the proposed scheme subject to the inclusion of relevant conditions and obligations. Taking these matters into account, therefore (and including the applicants making an appropriate contribution towards transportation infrastructure), the proposed development is considered acceptable in terms of Means of Access and Transportation issues.

### **Neighbours' and Future Occupiers' Amenities**

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves are concerned, this would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 135 units could not be provided on the site in a manner which would not adversely impact upon neighbours' amenities.

In terms of the impacts on existing and future occupiers the main issues are considered to be that of air quality, vibration and noise arising predominantly from Bardon Road and the nearby railway line. The application is accompanied by a Noise, Vibration and Air Quality Assessment.

With regard to road noise, the new dwellings located along the north eastern site boundary (closest to Bardon Road) would be most affected and there would need to be sound reduction mitigation carried out to ensure that noise standards are satisfied. Appropriate sound reduction can be achieved by the use of thermal double glazing to these units and passive acoustic ventilators can be installed to allow for windows to open on those properties that are located closest to Bardon Road. With regards to railway noise impacting on future occupiers, dwellings located on the southern boundary would also have to use similar sound reduction mitigation to ensure that appropriate noise standards are reached.

In terms of additional traffic noise affecting existing properties, the main area of concern would be the section of access directly onto Bardon Road. The indicative proposals indicate that there are potentially four dwellings proposed to the west of this access road and these would screen some of the existing dwellings and gardens from vehicles using the new access. There are no dwellings proposed on the indicative masterplan on the other side of the access but the erection of a 1.8 metre high acoustic barrier would ensure against any significant noise impacts.

With regards to railway vibration, the submitted report indicates that given the low incidence of train movements coupled with the low likelihood of complaint that no specific vibration control measures would be required to the proposed dwellings. In terms of air quality issues, the site is not located within the Coalville Air Quality Management Area. The report concludes that there would be no significant change to the air quality adjacent to Bardon Road and, therefore, it is not considered that the proposal would cause significant air quality issues to either existing or proposed dwellings.

On the basis of the mitigation measures proposed (which can be secured by way of planning conditions), the Environmental Services Manager has no objections and it is not considered that the proposal would result in significant adverse impacts on health or quality of life. Accordingly, the requirements Policy E3 of Local Plan are considered to have been met by the scheme and the proposal would not conflict with paragraph 123 of the NPPF.

A letter of objection has stated that vehicles exiting the site would illuminate habitable rooms and infringe on privacy. As already stated it is considered that the proposed new dwellings and acoustic barrier would protect properties to the south of Bardon Road. In terms of vehicles headlights shining into properties over the road from vehicles exiting the site this would be no different to the existing situation from vehicles exiting Botts Way (located around 50 metres away). Taking this into account, and that the Council's Environmental Services Manager does not raise concerns surrounding this matter, then this is not considered to be a significant issue that would warrant a reason for refusal.

## **Design**

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABE's new Building for Life criteria which scores on the basis of red/amber/green rather than a points based scoring system. The Council's Urban Designer has reviewed the proposals and considers that the scheme offers the potential to perform well against Building for Life. Given the outline nature of the application, and the scope that the Urban Designer considers there to be for building on the scores achieved thus far on the illustrative layout at the reserved matters stage(s), the Urban Designer raises no objection to the scheme.

However, he advises that, a key challenge for any future reserved matters application relates to the creation of character and how a place with a local or otherwise distinctive character can be created by drawing influence from the positive and distinctive characteristics of the local area and/or the National Forest. It would be possible to draw from selected local characteristics in terms of building form and materials without resorting to a pastiche approach, combining these with a strong landscape character and in turn create a locally distinctive or National Forest inspired identity.

Therefore, whilst the scheme is not sufficiently advanced to be assessed fully against Building for Life, it is considered that it has been demonstrated that, in principle, an appropriate scheme could be secured at the reserved matters stage(s), and would comply with the relevant Development Plan policies and advice in the NPPF.

## **Density**

Local Plan Policy H6 provides that, for sites of 0.3 hectares and above, residential development should meet a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services, and a minimum density of 30 dwellings per hectare elsewhere. The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. The former advice in PPS3 provided that net dwelling density includes those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas. Whilst this has now been superseded in the NPPF the methodology contained within it for working out net dwelling density would, in the absence of any other guidance in the NPPF or the Local Plan, still be relevant.

The application site area is given as 6.18 hectares and the maximum of 135 dwellings proposed by the developers would therefore equate to a maximum density of 21.8 dwellings per hectare, which would fall short of the requirements set out in Policy H6. However, when considering that significant parts of the site would be taken up by the creation of strategic landscape and habitat areas and public open space, the net dwelling density would be in the region of 32 dwellings per hectare. This is considered to be an acceptable density in relation to the advice in Policy H6 of the Local Plan. In coming to this conclusion it is also recognised that the Council's Urban Designer raises no objection to the density and layout of the development on the site.

## **Landscape and Visual Impact**

The application has been accompanied by a landscape and visual impact assessment.

The site is not protected by any national landscape designations. The application site is located

on the south eastern edge of Coalville and would be confined between existing residential properties fronting onto Bardon Road and the railway embankment along the south west boundary. The surrounding landscape is characterised by large industrial development and Bardon Quarry as well as plans for further housing development to the south of the railway line in addition to the already approved Bardon Grange scheme. Taking into account the nature of the surrounding area, the report indicates that the landscape is low/medium sensitivity to the type of development proposed and could absorb suitably designed development without causing any significant detrimental harm to the wider landscape.

The visual impact assessment considers the impacts of the proposed development from a total of eight viewpoints, including points in the immediate vicinity of the application site, as well as from more distant viewpoints. In terms of the anticipated impacts on public views, the most significant effects would be limited to properties on Bardon Road whose rear gardens back onto the site and a public footpath close to the north-west boundary of the site. However, the visual impact arising from the proposal would be at worst moderate and slightly adverse respectively.

These conclusions are considered reasonable, and it is accepted that, subject to appropriate landscaping, the visual impacts of the proposals would be reasonable and that, notwithstanding the site's location outside Limits to Development, unacceptable impacts on the amenities of the surrounding area would not be likely to arise. Overall, therefore, and subject to an appropriate form of development being proposed at the reserved matters stage(s), it is considered that the landscape and visual effects of the proposed development are acceptable.

### **Ecology and Trees**

The application is supported by an ecological appraisal. This concludes that the site is dominated by poor semi-improved grassland, scrub and ornamental communities of negligible nature conservation value along with some mature trees and hedges.

The appraisal concludes that there are no statutory designated sites within or in close proximity to the site boundary, the closest non-statutory designated sites are located 50m to the west and 208m to the north and would be highly unlikely to be affected by the proposed development. The site is considered to be of low biodiversity value. Some of the habitats provide interest to wildlife, in particular the trees provide potential habitats for invertebrates, nesting birds and other wildlife. It is noted that the majority of the trees on the site would be retained as part of the proposal. The hedgerows are considered to be of low to moderate nature conservation and some of these would be cut through and some would be completely lost in order to provide the access into the site. The report accepts that this hedgerow loss would result in a minor negative impact but this can be compensated for through the use of suitable planting within the area of public open space.

In response to the application, Leicestershire County Council's ecologist considers that the report is satisfactory and no species or habitats of more than local significance were identified. The ecologist considers that the indicative masterplan is good in terms of protection of existing habitat feature and enhancements and the two SUDS features have the potential to provide wetland/marshy grassland habitats. Overall, the Leicestershire County Council's ecologist raises no objections subject to the inclusion of relevant planning conditions.

For its part, Natural England does not consider, subject to conditions, that protected species or landscapes would be impacted upon. Natural England makes suggestions in relation to nature conservation enhancements, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes, which would need to be addressed at the reserved matters stage.

As noted above, the majority of the trees on the site would be retained as part of the proposal and the Council's Tree Officer raises no objection to the proposal. The tree officer notes that a TPO tree (T1 Hawthorn) within the curtilage of 138 Bardon Road would be removed but this is not a prime specimen and mitigation planting at the proposed entrance would offset its loss. A tree protection plan is recommended as a condition and recommendations for the layout of dwellings are suggested in relation to the submission of future reserved matters applications.

Therefore, subject to the imposition of suitably-worded conditions and notes to applicant the submitted scheme is considered acceptable in ecological terms and in terms of the impact upon trees.

### **Flood Risk and Drainage**

A Flood Risk Assessment (FRA) and associated documents have been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within Flood Zone 1, and on this basis the site would appear suitable for development in principle (and in flood risk sequential terms, would meet the requirements of the NPPF).

It is proposed that the surface water drainage system for the proposed development will be split into two separate eastern and western systems due to the topology of the site. This drainage strategy would result in the creation of two attenuation ponds in the south-west corner of the site and a separate attenuation pond in the south-east corner of the application site.

In terms of foul water drainage, this would also be split into two separate systems. The eastern system would drain via gravity to the south east of the application site where it would be pumped via a rising main to a Severn Trent Water sewer in Bardon Road. The western system would drain via gravity to the west of the application site where it would be pumped via a rising main to a Severn Trent Water sewer in Bardon Road. In order to facilitate the flows in Bardon Road, it is understood that Severn Trent Water would undertake some minor improvement works to the existing Bardon Road pumping station to increase available capacity. It is also understood, due to the wider development proposals in the area, Severn Trent Water consider it likely they would need to provide a new foul gravity sewer to the west of the development site which would drain south and, therefore, Severn Trent Water would look to remove the pumping station on site and enable the site to drain by gravity to this new sewer line.

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. In coming to this conclusion it is noted that the Environment Agency and Severn Trent Water raise no objections to the proposed development subject to the inclusion of relevant planning conditions.

### **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 listed below.

### *Affordable Housing*

The development originally proposed to provide 20% of the scheme as affordable housing (i.e. 27 units, assuming the construction of the maximum 135 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 79% social rented and 21% intermediate housing will be sought.

However, in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, 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.

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 there are some concerns regarding whether the development would constitute sustainable development (and, in particular, in terms of its social dimension), 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.

#### *Transportation Contributions*

As set out under Highway Safety above, the County Highway Authority has requested the following developer contributions, required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, reducing car use and highway safety:

- \_ A Construction Traffic Routeing Agreement;
- \_ One Travel Pack per dwelling; can be provided through LCC at a cost of £52.85 per

pack/dwelling. If not supplied by LCC, a sample Travel Pack shall be submitted to and approved in writing by LCC;

\_ Two six-month bus passes per dwelling; can be provided through LCC at an average cost of £325.00 per pass;

\_ Improvements to one bus stop on Bardon Road (including raised and dropped kerbs to allow level access) at a cost of £3263.00;

\_ Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development;

\_ An iTrace monitoring fee of £6000.00;

\_ A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council;

\_ A contribution towards the design and construction of a vehicular connection between the application site and the Bardon link road;

\_ The downgrading of the vehicular access to Bardon Road to pedestrian/cycle/emergency use only following the opening of the Bardon link road between Bardon Road/Stephenson Way and the connection to the application site and including that connection;

\_ Unfettered access to the land to the immediate east and west of the application site so as not to prejudice future development of these land parcels, including for vehicular access to the Bardon link road.

The applicants are agreeable to making the majority of these contributions but state that the requirement for free bus passes must be based on formal application for those passes (i.e. not simply handed out to all 135 households).

### *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 Coalville Broom Leys Primary School. The School has a net capacity of 595 pupils and 598 pupils are projected on roll should this development proceed; a deficit of 3 places (a surplus of 27 is existing and a deficit of 3 is created by this development). There are four other primary schools within a two mile walking distance of the development and the 3 deficit places created by this development can therefore not be accommodated at nearby schools. In order to provide the additional primary school places anticipated by the proposed development the County Council request a contribution of £36,297.03. The applicant's are agreeable to making this contribution.

#### *High School Requirements:*

The site falls within the catchment area of Castle Rock High School. The school has a net capacity of 600 pupils and 529 pupils are projected on roll should this development proceed; a surplus of 71 places after taking into account the 13 pupils created by this development. Therefore, no education contribution is requested in respect of the High School sector.

#### *Upper School Requirements:*

The site falls within the joint catchment area of Coalville King Edward V11 Science and Sport College. The College has a net capacity of 1193 pupils and 1103 pupils are projected on roll should this development proceed; a surplus of 90 places after taking into account the 13 pupils created by this development. Therefore, no education contribution is requested in respect of the Upper School sector.

### *Play and Public Open Space*

The indicative masterplan shows that provision is proposed to be made for 0.78ha of public open space on site that would be located centrally and includes a children's equipped play area. Taking into account the overall size of the recreation area, a suitable sized children's equipped play area could be provided at the reserved matters stage. Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the Play Area Design Guidance SPG.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG requires 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 no on-site "kickabout" area is proposed, the applicants are of the view that they are nevertheless providing for a significant on-site contribution to what they consider to be both formal and informal public open space within the development as a whole. As set out under Landscape and Visual Impact above, the total proportion of the site proposed to be given over to green space (excluding private gardens) is in the order of approximately one third of the total application site and, having regard to this, the overall contribution of public open space is considered acceptable. In this regard, whilst the full requirements of the District Council's SPG would not be met, it is accepted that, in view of the design approach employed in this case, the applicants' proposals are appropriate in terms of provision of formal public open space.

However, the Council's Leisure Service team consider that an off-site contribution would be applicable in this instance and request a developer contribution of £135,000. The leisure request is, at the current time, not sufficiently evidenced nor based on an assessment of capital project expenditure that would be required as a direct result of this development. Therefore, it is concluded that the leisure request cannot be considered CIL compliant, and will therefore not be secured by the Section 106 Agreement. The Council's Leisure Service team has been asked to provide more details on their submitted request and any response will be reported to members on the update sheet.

### *National Forest Planting*

The applicants propose 1.2ha of strategic landscaping which is considered to meet the National Forest Company's Planting Guidelines. The National Forest Company welcomes the commitment to meet the planting guidelines and requests that the reserved matters application(s) show significant areas of tree planting, which along with the retained trees, would help create a wooded character to the development. Subject to the inclusion of relevant conditions which include, amongst other things, tree protection measures, drainage and management plans the National Forest Company raise no objection to the proposed development.

### *Civic Amenity*

The nearest civic amenity site is located at Coalville and residents of the proposed development are likely to use this site. Therefore, a civic amenity contribution of £9381 is requested.

### *Library Services*

The proposed development on Bardon Road is within 1.7km of Coalville Library and the proposal would impact on local library services in respect of additional pressures on the

availability of local library facilities. Therefore, a library contribution of £7890 is requested.

*Healthcare*

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £22,945.72 based upon a contribution commensurate to the anticipated increased population arising from this development. The applicants are agreeable to making this contribution.

*Network Rail*

Network Rail consider that the proposed development could potentially increase the use of an existing level crossing (Bardon Hill No.1) and that improvement works should be carried out to improve the safety of this level crossing. A developer contribution of £8,500 is sought in respect of this matter. The applicants have considered this request and state that the crossing has no relationship to the proposed development. The proposals provide no direct link to this route and in order to access the crossing a pedestrian would need to walk around 750m from the centre of the site. They estimate that the site would generate around 50 walking trips per day and most of these would be consumed by trips to the schools and local amenities. Based on the fact the crossing and public footpath provides access to no facilities it seems unlikely this will be used to any significant degree.

On the basis of the information submitted, it is not clear how the requests are directly associated with the proposed housing scheme and not clear as to why, if not provided, this would make the scheme unacceptable in planning terms. Therefore, it is not considered that the requested contributions comply with Regulation 122 of the CIL Regulations, and it would therefore not be lawful for such contributions to be taken into account as a reason for granting planning permission.

*Contributions sought by Leicestershire Police*

Leicestershire Police requests a developer contribution of £55,174 in respect of policing as set out in the consultation response above. This money is requested in relation to staff, equipment, , police vehicles, improving force communications and database capacity, CCTV, contribution towards vehicles and extension to premises in Coalville, Enderby and Loughborough.

With regard to the acceptability of police contributions, 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 the requests in this case 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.

Pending the receipt of Counsel's Opinion, it is not possible to reach a conclusion on whether the proposed policing contribution would meet with the CIL tests at this particular time. Should Counsel advise that Leicestershire Police requests (such as this) are CIL compliant then the principle of requiring such contributions to be secured by way of S.106 planning obligations would be accepted by the Council and required to be paid, subject to any issues of viability being raised. Should the inclusion of policing contributions, when considered alongside other contributions, render a scheme unviable (or more unviable if already so), then the importance of these contributions would need to be considered alongside other material considerations (including, where applicable, relevant planning policies including those within the NPPF and other infrastructure requirements) and a view reached as to whether or not it would be appropriate to secure them by way of a planning obligation.

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 Circular 05/2005 and the CIL Regulations and are in accordance with paragraph 204 of the NPPF which states that planning obligations should only be sought where they are 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.

#### **Other**

The proposal would result in the demolition of three properties along Bardon Road but the dwellings are not considered to be of such amenity value that they should be retained. It is noted that the indicative masterplan includes for a replacement dwelling (specified as a feature building) along Bardon Road and the design of this dwelling would need to be assessed at the reserved matters stage.

Letters of objection have been received raising concern that the proposal would result in increased levels of pedestrian traffic crossing Bardon Road. The County Highway Authority do not consider this to be a significant issue. It is also noted that an existing pedestrian crossing is located around 150 metres to the east of the site access which would allow for the safe crossing of pedestrians.

In terms of issues with construction vehicles accessing and exiting the site, the County Highway Authority request a condition in relation to a construction management plan as well as a construction traffic routing agreement that would have to be included within the legal agreement. Subject to these matters it is considered that issues regarding construction vehicles would be adequately addressed and, in any case, this construction traffic would be temporary in nature.

With regards to neighbour concerns raised but not addressed above, issues regarding property values, financial compensation, private access and maintenance are not planning matters and, therefore, should not be considered in the determination of this planning application. The application specifies that the proposal would relate to a residential scheme of up to 135 dwellings; the precise number of dwellings would be specified at the reserved matters stage(s). The proposed children's play area would be available to the wider community.

## 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 as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as set out in that document.

The scheme is considered to be relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved once the connection to the Bardon link road has been provided. The applicants are agreeable to providing a financial contribution towards the capital cost of delivering this connection.

The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. The development is considered to be acceptable in terms of access issues and this has been ratified by an independent transport consultant. Whilst the proposed development would, for viability reasons, be unlikely to be able to support the full range of infrastructure requirements necessary to accommodate the development (and, in particular, the necessary improvements to local transportation infrastructure), the applicants are proposing to address this by way of making a reduced contribution to affordable housing, 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, thus ensuring that appropriate infrastructure contributions are made. Whilst this would result in a reduced affordable housing contribution, an appropriate contribution would nevertheless be made, when having regard to the approach taken in the District Council's financial contributions priorities policy. It is therefore recommended that outline planning permission be granted.

## **RECOMMENDATION - PERMIT, subject to the following conditions and the completion of a Section 106 legal agreement;**

- 1 Save for the details of vehicular access into the site from Bardon Road, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins in respect of the relevant phase.

*Reason - This permission is in outline only.*

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access (save for the details of vehicular access into the site from Bardon Road), appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

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

- 3 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission and the development hereby permitted shall begin before the expiration of one year from the date of approval of the last of the reserved matters to be approved.

*Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended), and to accord with the requirements of the Local Planning Authority's emerging policy relating to developer contributions.*

- 4 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 (5195\_L\_101\_A) deposited with the Local Planning Authority on 16 October 2013;
  - Proposed site access arrangements (20337\_03\_002) deposited with the Local Planning Authority on 16 October 2013.

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

- 5 Notwithstanding Conditions 1, 2 and 3 above, the first reserved matters application shall include a masterplan for the whole of the site setting out indicative details of site layout, areas of open space / children's play, landscaping, density parameters and scale, as well as details of any proposed phasing of development. All subsequent reserved matters applications shall be in accordance with the approved masterplan unless any alteration to the masterplan is first agreed in writing by the Local Planning Authority. All development of the site shall thereafter be undertaken in accordance with the agreed phasing and timetable details (or any alternatives subsequently agreed in writing by the Local Planning Authority).

*Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner.*

- 6 A total of no more than 135 dwellings shall be erected.

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

- 7 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 for the disposal of foul and surface water drainage has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented as approved.

*Reason - To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.*

- 8 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated March 2013, Ref: 20337/PH/03-13/3318 undertaken by M-EC and the following mitigation measures detailed within the FRA:

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 - Sections 7.0, 8.0 and 9.0

(specifically Paragraphs 7.3, 8.6 (Table 2), 8.7, 9.3 to 9.5 and 9.7 to 9.10);

Provision of compensatory flood storage for any raising of land currently below 151.45m AOD - Paragraphs 6.10 and 9.14, and as outlined on Drawing No. 20337 02 003 revision F;

Finished floor levels are set no lower than 151.55m above Ordnance Datum (AOD) - Paragraphs 6.11 and 9.13. Please Note: The Environment Agency recommend internal finished floor levels are set a minimum of 600mm above the predicted flood level of 151.45m, at 152.05m AOD.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

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

- 9 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall also include:

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.
- Limiting the discharge rate and storing 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, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

*Reason - To prevent the increased risk of flooding, to improve and protect water quality and improve habitat and amenity.*

- 10 No development approved by this planning permission shall take place until such time as a scheme to provide compensatory flood storage on a like for like level basis, has been submitted to, and approved in writing by, the local planning authority. The scheme shall



be fully implemented at the ground works phase of the development, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

*Reason - To prevent an increase in the risk of flooding to the proposed development, adjacent properties, land and infrastructure.*

- 11 No development shall take place until a construction working method statement to cover the compensatory flood storage works has been submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority.

*Reason - To ensure against significant risks of damage to water dependent species and habitat and to diffuse pollution of the water environment arising from ground works.*

- 12 No development shall commence on the site until such time as a programme of archaeological work, commencing with an initial phase of geophysical survey and trial trenching, has been detailed within a Written Scheme of Investigation first 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 (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme);
- 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 shall take place at any time other than in accordance with the agreed Written Scheme of Investigation. None of the dwellings 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, and to comply with the NPPF.*

- 13 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) at any time after 1 May 2015 unless, within a period of not more than two years prior to the commencement of development, a survey of badgers present on and using the site has been undertaken and the results (together with precise details of any associated mitigation measures and a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with any agreed mitigation measures and timetable.

*Reason - In the interests of nature conservation, and to comply with the NPPF.*

- 14 No work shall commence in respect of the erection of any dwelling until such time as precise details of all measures proposed in respect of protection of occupiers of the relevant dwelling from noise (based on the conclusions contained in Paragraph 8 of the 'Noise, Vibration and Air Quality Assessment') and a timetable for their implementation have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in full in accordance with the agreed details, and in accordance with the agreed timetable.

*Reason - To ensure that occupiers of the proposed dwellings are protected from noise, in the interests of amenity.*

- 15 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 site specific tree protection plan has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details.

*Reason - As the existing tree protection measures are not considered satisfactory and to ensure that existing trees are adequately protected during construction in the interests of the visual amenities of the area.*

- 16 Save for any works associated with the formation of the access as shown on M-EC drawing no. 20337\_03\_002 rev B, no development shall commence on the site until such time as the Bardon Road site access junction as shown on M-EC drawing no. 20337\_03\_002 rev B has been provided in full and is available for use by vehicular traffic.

*Reason - To provide vehicular access to the site, including for construction traffic, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.*

- 17 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 approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

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

- 18 Notwithstanding the submitted Residential Travel Plan, 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 measures to reduce the amount of single occupancy car journeys to/from the site, including a timetable for their implementation, has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with the submitted details and timetable.

*Reason - To ensure that adequate steps are taken to provide a transport choice/a choice in*

*mode of travel to/from the site.*

- 19 All reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes. 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 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.*

- 20 The first reserved matters application in respect of the matter of landscaping shall provide for an ecological / landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), together with a timetable for its implementation. The development shall be carried out in accordance with the landscape management plan, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure the protection of wildlife and supporting habitat, to secure opportunities for the enhancement of the nature conservation value of the site in line with National planning policy and to provide for an appropriate form of development.*

#### **Notes to applicant**

- 1 This is an Outline application with all matters (except access) reserved. Therefore, the suitability of the proposed indicative internal layout has not been checked in terms of its suitability for adoption by the Highway Authority.

The Applicant should be advised to refer to Leicestershire County Council's adopted highway design guidance 'The 6C's Design Guide'. Table DG1 of that Guide provides details of the general geometry of internal residential roads, including design speed, and the criteria for shared surfaces.

- 2 All works within the limits of the public highway shall be carried out to the satisfaction of the Highway Area Manager (telephone 0116 305 2202).
- 3 The Developer will be required to enter into an Agreement with the Highway Authority under s278 of the Highways Act 1980 for works within the highway and detailed plans shall be submitted and approved in writing by the Highway Authority. The s278 Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 4 C.B.R tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements.
- 5 All street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the Developer, who shall first obtain separate consent of the Highway Authority.
- 6 If you intend to provide temporary directional signing to your proposed development, you must ensure that prior approval is obtained from the County Council's Area Manager for the size, design and location of any sign in the highway. It is likely that any sign erected in the highway without prior approval will be removed.

Before you draw up a scheme, the Area Manager's staff (telephone 0116 305 2104) will

be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable.

- 7 Provision of on-site affordable housing (level to be agreed)
- National Forest Planting
  - Financial contribution in respect of healthcare
  - Financial contribution in respect of education
  - Financial contribution in respect of libraries
  - Financial contribution in respect of civic amenity
  - Provision / maintenance of a children's play area
  - Provision of travel packs to first occupiers of the new dwellings
  - Provision of bus passes to first occupiers of the new dwellings
  - Improvements to the nearest bus stop
  - Construction traffic routeing
  - Appointment of a travel plan co-ordinator
  - An 'i-trace' monitoring fee
  - Off-site highway infrastructure contributions
  - Contribution towards the design and construction of a link road between the application site and the Bardon link road
  - Unfettered access to the land to the immediate east and west of the application site
  - Downgrading of the Bardon Road access following the opening up and connection being established to the Bardon link road
  - Section 106 monitoring
- 8 At the reserved matters stage, the Local Planning Authority and County Highway Authority would expect the internal access roads to be compatible with the proposed Bardon link road. At this stage it is anticipated that the main highway through the site would have to be re-positioned further to the south along the western boundary.
- 9 The Council's Urban Designer advises the following:
- That any future RM will be required to meet 'Building for Life 12', i.e. secure 12 green indicators.
  - That any future RM application adheres to the Development Framework submitted (Figure 10, Design and Access Statement, p.30) guided by the street typology characteristics detailed on pages 35-39 of the submitted Design and Access Statement.
  - That sufficient budget provision is allocated for hedgerow boundary treatments to all plots, allowing for a strong landscape character to be established throughout the development.
  - That the trees along the main street network are arranged to create a formal avenue, with trees semi-mature standard planted, i.e. min height 5.5m and girth of 25-30cms. The applicant will be expected to consult with the Council's Tree Officer at an early stage when preparing any future reserved matters application.
- 10 In relation to Condition 11 the Environment Agency would expect the method statement to cover the following requirements:
- \_ timing of works;
  - \_ methods used for all channel, bankside water margin works;
  - \_ machinery (location and storage of plant, materials and fuel, access routes, access to banks etc);
  - \_ protection of areas of ecological sensitivity and importance
  - \_ site supervision

- 11 Under the terms of the Land Drainage Act 1991, the prior written consent of Lead Local Flood Authority (Leicestershire County Council) is required for any proposed works affecting the flow of any ordinary watercourse or to any existing or proposed structure forming part of the ordinary watercourse drainage system.
- 12 The 1200mm and 900mm diameter culverts and 750mm diameter surface water sewers may need trash or security screens installing as part of this development. Any such screens should be designed in accordance with the Trash Screen Guidance 2009 (available from the EA on request).
- 13 According to the OS map the head of a watercourse lies adjacent to the railway at grid reference SK 43868 13098, the Environment Agency therefore recommend further investigations are undertaken at this location, because should an additional culvert exist passing from the site underneath the railway, then this may provide an alternative discharge point for surface water from the eastern part of the site.
- 14 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.
- 15 It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.
- 16 In relation to condition 20, it is recommended that details of biodiversity enhancements (such as roosting opportunities for bats and/or the installation of bird nest boxes) are included.
- 17 Your attention is drawn to the comments of Network Rail in their e-mail response of 25 April 2013 15:38.
- 18 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and 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).