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Residential development of up to 90 dwellings (Outline - all matters other than part access reserved)

Report Item No  
A6

Land To The West Of 164- 222 Bardon Road Coalville  
Leicestershire

Application Reference  
13/00991/OUTM

Applicant:  
Mr John Deakin

Date Registered  
29 November 2013

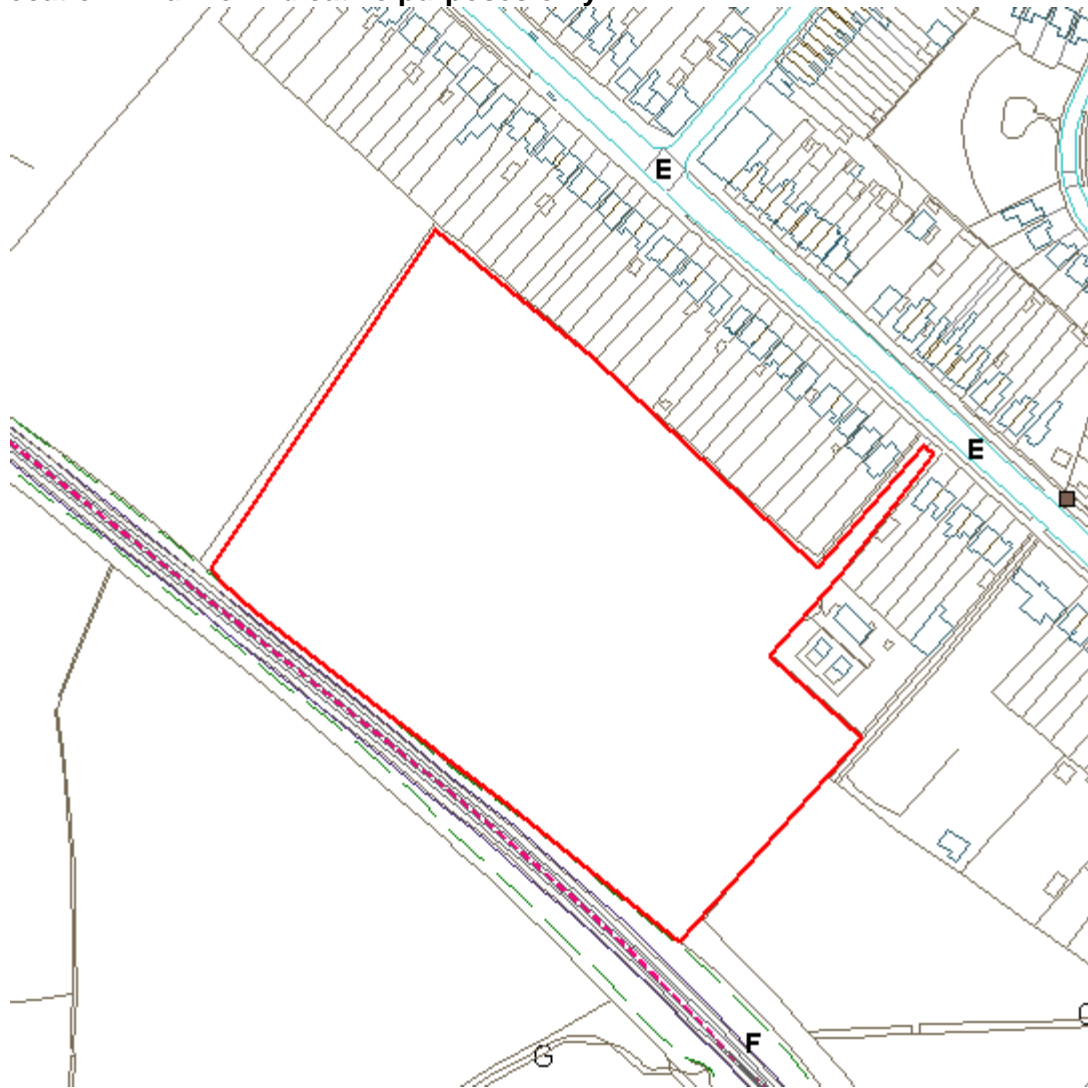
Case Officer:  
James Mattley

Target Decision Date  
28 February 2014

Recommendation:  
PERMIT Subject to a Section 106 Agreement

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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 90 dwellings along Bardon Road. All matters are reserved for future approval apart from the access into the site from Bardon Road.

### **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 reduction in 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 (through the Barwood site) 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, 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 a reduction to affordable housing 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 90 dwellings. The site measures 3.6 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 public open space, landscaping, on site National Forest planting and an area designated as a 'village square'.

Vehicular access is proposed onto Bardon Road via the upgrading of an existing access point. 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 illustrative masterplan indicates that the application site would link in with the adjacent site that has a resolution to grant planning permission under reference 13/00818/OUTM.

The application has not been called in by any Councillor but is reported to planning committee as a legal agreement is required.

### 2. Publicity

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

Press Notice published 18 December 2013

### 3. Consultations

Hugglescote And Donington Le Heath Parish Council  
County Highway Authority  
Environment Agency  
Severn Trent Water Limited  
Head of Environmental Protection  
Natural England  
NWLDC Tree Officer  
County Archaeologist  
LCC ecology  
DEFRA  
NWLDC Urban Designer  
LCC Development Contributions  
Leicester, Leicestershire And Rutland Facilities Managme  
Development Plans  
Head Of Leisure And Culture  
Manager Of Housing North West Leicestershire District Council  
Police Architectural Liaison Officer  
LCC/Footpaths  
Highways Agency- affecting trunk road  
HM Railway Inspectorate  
Network Rail  
LCC Fire and Rescue  
National Forest Company

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

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

**Highways Agency** has no objection to the planning application.

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

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

**Leicestershire County Council Ecologist** states that the ecologist report is satisfactory and raises no objections to the principle of the application. However, objections are raised to the proposed illustrative planning layout.

**Leicestershire County Council Footpath Officer** raises concerns over an increased use of the existing public footpath that crosses the railway line and requests that it be diverted within the application site.

**Leicestershire County Council Highway Authority** states that they have no objection subject to the inclusion of relevant planning conditions and legal obligations.

**Leicestershire County Council Highway Transportation & Waste Management Authority** requests a developer contribution of £6,396 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 £74,890.

**Leicestershire County Council Local Education Authority** does not request a contribution.

**Leicestershire Fire and Rescue Service** does not wish to comment at this stage as the application is only at the outline stage.

**Leicestershire Police** requests a contribution of £35,371.

**Natural England** state that the nearby SSSI's do not represent a constraint in determining this application and advises the Local Planning Authority to consider standing advice in relation to protected species.

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

**Network Rail** has no objection in principle to the development subject to a number of requirements including a developer contribution of £15,000 towards improvement works at an existing level crossing.

**NHS England (Leicestershire and Lincolnshire Area)** requests a developer contribution of

£15,033.40.

**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.

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

**Third party representations:**

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

- \_ already live on a very busy and noisy road and do not wish for further development behind;
- \_ Bardon Road will become a traffic jam.

**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.

The policies of the North West Leicestershire Local Plan as set out in more detail in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application. In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The NPPG does not change National Policy but provides practical guidance as to how such policies should be applied.

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**

**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 - 200 metres
- Petrol Station (with shop) - 300 metres
- Post Office - 1300 metres
- Broom Leys Primary School - 1000 metres
- Newbridge High School - 1600 metres
- Co-Op Mini Supermarket - 1100 metres
- Bus Stop - 50 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 a reduction in 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. 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. This 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 (through the Barwood site) would not be provided immediately (as the applicants do not control the land and the link road has yet to be constructed). However, 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, including unfettered access to the land to the east and west, 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 the upgrading of an existing access onto 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 Highway Authority has reviewed the Transport Assessment submitted in support of the application, which examined the impact at the following junctions:

- Bardon Road/Site Access
- A511 Bardon Road/Botts Way
- A511/Bardon Road
- A511/Birch Tree

The County Highway Authority conclude that as the development is relatively small with reasonably low development flows there are no significant impacts on the network. As such, any mitigation would be so minor that it would not be cost effective to pursue. The Highway Authority is therefore content to accept that specific mitigation is not required, but that a contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council is sought instead.

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 proposal includes for a ghost island junction, with access taken from the existing track between No 208 and 214 Bardon Road. The proposal has been subjected to an independent Stage 1 Road Safety Audit. Four issues were identified which have been addressed/considered to the satisfaction of the Highway Authority and, on this basis, the County Highway Authority raises no highway safety objections to the proposed access arrangements.

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 connection to the link road from the Barwood site) and the applicant should contribute to the design and construction of this connection. 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 (through the Barwood 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 £450,000 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 some initial calculations (which would need more detailed independent assessment 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 the quantum of affordable housing would need to be reduced so as to render the scheme viable.

Whilst there would be officer concerns in respect of a number of applications for major development in Coalville without full assessment in accordance with the recently agreed approach towards infrastructure provision, it is accepted in this case that, given that all other matters are now essentially resolved, the Local Planning Authority is now in a position wherein it can make a reasoned assessment of the application. The sum proposed 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 90 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 and Air Quality Assessment.

With regard to road and railway noise, appropriate sound reduction can be achieved by the use of specialist glazing and passive acoustic ventilators to certain plots. However, the precise mitigation measures would need to be detailed at the reserved matters stage once the precise location of the plots is established.

In terms of additional traffic noise affecting existing properties, the main area of concern would be the section of access directly onto Bardon Road. However, given that this access road is already used by vehicles and subject to any additional boundary treatments that are considered necessary at the reserved matters stage it is considered that the additional impact would not be significant.

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.

### **Design**

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABI'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 has some concerns over the illustrative layout that has been

submitted as part of the application. These concerns include issues regarding parking provision, garden sizes, lack of tree lined principle routes and limited space to plant hedgerows alongside plots.

The comments have been raised with the applicants and they consider that all of these matters would be addressed as part of the reserved matters application and stress that the layout submitted with this outline application is illustrative only. Suitable notes to applicant can be provided to the applicant to indicate that the design concerns would need to be addressed as part of any future reserved matters application(s).

Therefore, whilst the scheme is not sufficiently advanced to be assessed fully against Building for Life, it is considered that 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 3.6 hectares and the maximum of 90 dwellings proposed by the developers would therefore equate to a maximum density of 25 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 34 dwellings per hectare. This is considered to be an acceptable density in relation to the advice in Policy H6 of the Local Plan.

### **Landscape and Visual Impact**

The application has not been accompanied by a landscape and visual impact assessment but this matter is addressed in the submitted Design and Access Statement.

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, it is considered that the landscape could absorb suitably designed development without causing any significant detrimental harm to the wider landscape.

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. The appraisal concludes that there are no statutory designated sites within or in close proximity to the site boundary. However, adjacent to the site, is the Coalville Scrubby Grassland which is a proposed Local Wildlife Site. This is considered to be important at the local level and, therefore, during construction no access should be allowed into this area and fencing should be installed along this boundary.

There are limited trees or hedges within the body of the application site although they are found on the site boundary. The mineral railway which borders the site and connects the site to the wider landscape to the west supports trees and secondary broad leaved woodland. The ecology report concludes that the trees and woodland along the mineral railway would be protected during construction to prevent damage to roots during construction.

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. However, the ecologist considers that the illustrative layout is not satisfactory as it shows back gardens and in some cases buildings going right up the railway line to the south. This is an important wildlife corridor, currently partly wooded, and the houses and properties are considered to be too close. The ecologist states that the layout must be reconfigured to allow a reasonable buffer alongside this railway line and the tree line and there should be no gardens or buildings under the trees and in the branch 'drop-zone'. Similar concerns have also been made by the Council's Tree Officer. Whilst the concerns of the County Ecologist and the Council's tree officer are noted, the submitted plan is illustrative only and these issues can be satisfactorily resolved at the reserved matters stage. It is also noted that the applicants have stated that they would address these matters as part of any reserved matters application(s).

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.

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

The illustrative layout indicates that a balancing lagoon would be positioned in the south-east corner of the site. The submitted FRA indicates that there is a local watercourse to the south of the site which is controlled by a culvert under the railway embankment. If this were to become

blocked it could result in localised flooding to the south of the site and, therefore, the FRA recommends that any new dwellings within the site are elevated to a certain level. This could be secured by a suitably worded condition.

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 and notes to applicant.

### **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 Council's SPD on affordable housing indicates that for developments of this scale in Coalville 20% of the units should be provided as affordable housing (i.e. 18 units, assuming the construction of the maximum 90 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 70% affordable rented and 30% intermediate housing would be sought.

However, in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, this would now appear likely to be reduced, as the applicants would need to provide an off-site highway contribution. The applicants originally indicated that, regardless of the outcome of the viability assessment work, they would anticipate that a minimum contribution of 10% affordable housing on-site would be provided. However, the developers have now indicated that an off-site contribution of £100,000 is proposed. The applicants have been asked to provide information as to why an off-site contribution is now being offered. They have indicated that their viability appraisal is still being prepared but at this stage, given the findings of the Barwood appraisal (also being considered at this Planning Committee), they would anticipate that 10% would prove to be too prohibitive and an offsite contribution is more viable for the development as a whole than on site provision.

An off-site contribution of £100,000 would fall below the minimum contribution the District Council's Affordable Housing SPD seeks to secure from new housing development in Coalville but, for the reasons as set out under Means of Access and Transportation above, it is accepted that some sites are likely to result in reduced contributions of Affordable Housing provision. The Council's Housing Officer has been consulted on the revised contribution which now seeks to provide an off-site rather than an on-site contribution. Whilst no response has been received at the time of writing this report, any response will be reported on the update sheet. Having regard to the approach suggested in the emerging Priorities for Developer Financial Contributions for

infrastructure provision relating to Major Residential Development Proposals in and around Coalville policy, and given the under-provision of affordable housing vis-à-vis the adopted Affordable Housing SPD, it would be considered appropriate to limit the implementation period of any planning permission granted accordingly.

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;
- \_ 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 these contributions.

#### *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 590 pupils are projected on roll should this development proceed; a surplus of 5 places after taking into account the 22 pupils generated by this development. An education contribution will therefore not be requested for this sector.

*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 526 pupils are projected on roll should this development proceed; a surplus of 74 places after taking into account the 9 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 1115 pupils are projected on roll should this development proceed; a surplus of 78 places after taking into account the 9 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 0.92ha of public open space on site (0.35ha of formal public open space and 0.57ha of informal open space) 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.

*National Forest Planting*

The applicants propose 0.92ha of open space which has the potential to meet the expected National Forest planting on-site of 20%. 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 would help create a wooded character to the development. Subject to the inclusion of relevant conditions 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 £6396 is requested. The applicants are agreeable to making this contribution.

*Library Services*

The proposed development on Bardon Road is within 2.0km 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 £4890 is requested. The applicants are agreeable to making this contribution.

*Healthcare*

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £15,033.40 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 £15,500 is sought in respect of this matter. The proposals are located in close proximity to this route and the proposals could lead to an intensification of use of this crossing. Taking this matter into account, and that this matter is also raised by the Leicestershire County Council Footpaths Officer, it is considered that the request made by Network Rail would be CIL compliant. The applicants are agreeable to making this contribution.

*Contributions sought by Leicestershire Police*

Leicestershire Police requests a developer contribution of £35,371 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 County Footpath Officer has requested that the public footpath (that falls outside of the application site) is diverted within the application site in order to enable a new footbridge over the National Forest railway line. This request is not considered reasonable or necessary although it is noted that the applicants have agreed to provide £15,500 in order to improve the safety of the existing level crossing.

### **Conclusions**

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 reduction in 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 (through the Barwood site) 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, 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 a reduction to affordable housing 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 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 (EMS.2473-001) deposited with the Local Planning Authority on 29 November 2013;
  - Proposed site access arrangements (ADC1010/001) deposited with the Local Planning Authority on 29 November 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 90 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 (based on sustainable drainage principles) 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 November 2013 undertaken by EWE Associates Ltd and the mitigation measures contained within Section 5 of the FRA. 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 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.*

- 10 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 and vibration (as appropriate) 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 and vibration, in the interests of amenity.*

- 11 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 and retention 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 and retained during construction in the interests of the visual amenities of the area.*

- 12 Save for any works associated with the formation of the access as shown on ADC Infrastructure Drawing No. ADC1010/01, no development shall commence on the site until such time as the Bardon Road site access junction as shown on ADC Infrastructure Drawing No. ADC1010/01 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.*

- 13 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.*

- 14 Notwithstanding the submitted Residential Travel Plan, a scheme of measures to reduce the amount of single occupancy car journeys to/from the site, including a timetable for their implementation, shall be submitted to and approved in writing by the Local Planning Authority before development commences on site. The measures shall be implemented in accordance with the submitted details and timescales, unless otherwise agreed in writing with the Local Planning Authority.

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

- 15 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.*

- 16 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.*

- 17 No development (except any demolition permitted by this permission) shall commence on site until Further Risk Based Land Contamination Assessment (as recommended by section 4 of RSK Environment Limited report Bardon Road, Coalville Preliminary Risk Assessment Project No. 301316 dated OCTOBER 2013) has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
- BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
- BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- The Verification Plan shall be prepared in accordance with the requirements of:
- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
  - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

*Reason - To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.*

- 18 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
  - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
  - Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
  - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
  - Demonstrate the effectiveness of the approved Remedial Scheme; and
  - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

*Reason - To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.*

### **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 A Section 106 agreement would be required and would need to include the following:

- 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
- Financial contribution in respect of affordable housing
- Financial contribution in respect of improving the safety of the level crossing
- 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
- 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
- Periodic review of viability
- 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 and the adjacent Barwood site.

9 The illustrative layout is not acceptable and the following issues would need to be resolved at the Reserved Matters stage:

- That any future RM will be required to meet 'Building for Life 12', i.e. secure 12 green indicators.
- 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.
- Additional parking provision, wider car parking spaces (in places) and ensuring that remote parking is addressed.
- Garden sizes should be equal to the footprint of the dwelling.
- A tree lined principle route should be provided through the site. These trees should be 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.
- Additional spaces should be provided to allow for hedgerow treatments to front boundaries.

- A buffer should be provided alongside the railway line and there should be no gardens or buildings under the trees and in the branch 'drop-zone'.
- 10 In relation to condition 16, it is recommended that details of biodiversity enhancements (such as roosting opportunities for bats and/or the installation of bird nest boxes) are included.
- 11 Your attention is drawn to the comments of Network Rail in their e-mail response of 27 January 2014 09:07.
- 12 Your attention is drawn to the comments of the Environment Agency in their e-mail response of 4 February 2014 10:23.
- 13 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).