

Erection of 166 dwellings with associated public open space, infrastructure and National Forest planting approved under reserved matters approval 17/01326/REMM (outline planning permission 17/00433/VCUM) without complying with condition nos. 2, 3 and 8 so as to allow for a revised scheme of landscaping and retained trees

Report Item No  
A1

Land Off Greenhill Road Coalville Leicestershire

Application Reference  
18/00705/VCUM

Applicant:  
Mrs Amy Gilliver

Date Registered:  
24 April 2018

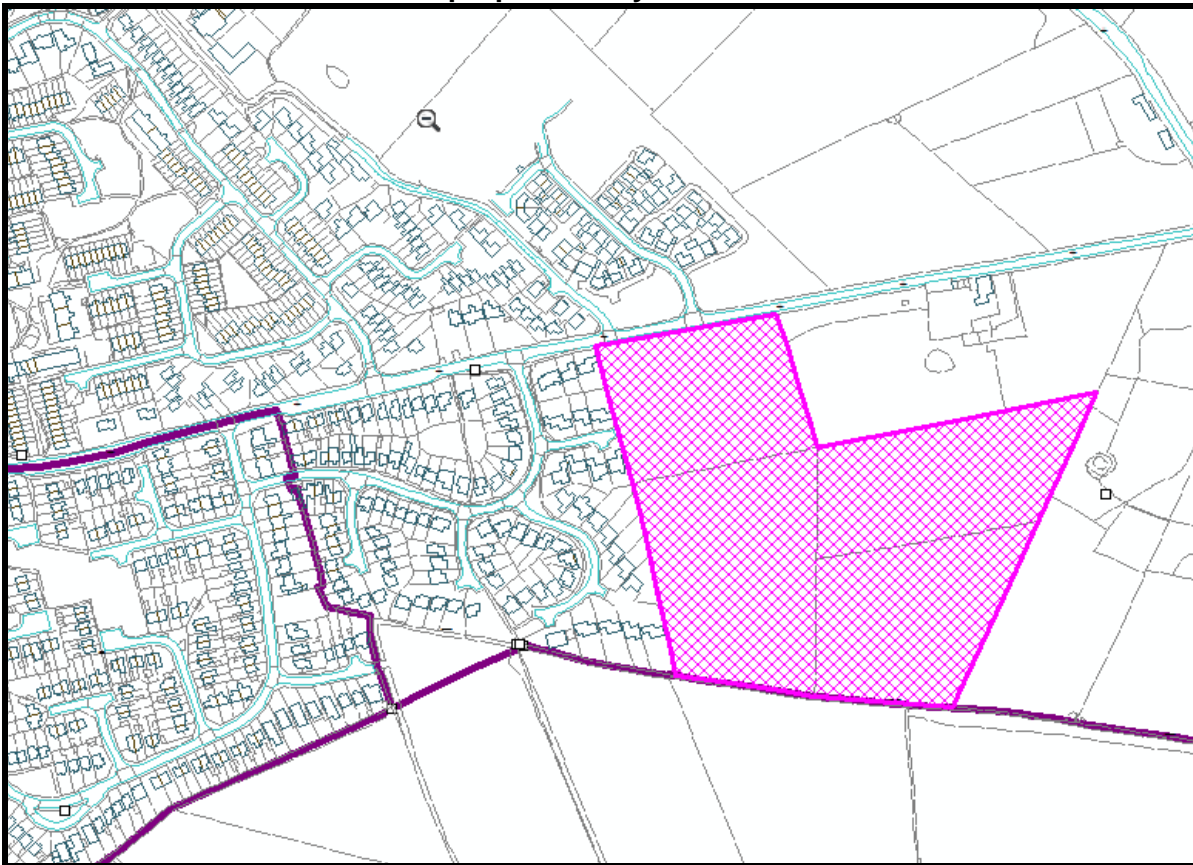
Case Officer:  
James Knightley

Consultation Expiry:  
12 June 2018  
8 Week Date:  
24 July 2018

Recommendation:  
PERMIT subject to S106 Agreement

Extension of Time:  
None Agreed

Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Recommendation**

### **Call In**

The application is called in to Planning Committee by Councillor Wyatt on the basis of impact on the local community and breaches of conditions.

### **Proposal**

This is an application to "vary" conditions attached to a reserved matters application for the erection of 166 dwellings.

### **Consultations**

Objections have been received from a number of third parties in respect of the proposals; no objections have been received from statutory consultees.

### **Planning Policy**

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

### **Conclusion**

The principle of residential development is already established and cannot be reconsidered by this application. The key issue is considered to be whether the proposed amendments to the scheme arising as result of the proposed revised conditions would be harmful to the amenities of the area; the officer view is that the proposed amended impacts would not result in unacceptable harm to amenity, and approval is recommended.

## **RECOMMENDATION:-**

### **PERMIT, SUBJECT TO CONDITIONS AND SUBJECT TO PLANNING OBLIGATIONS (OR SIMILAR)**

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

## MAIN REPORT

### 1. Proposals and Background

In January 2016, outline planning permission was granted on appeal for up to 180 dwellings, including a retail unit, access and associated infrastructure (appeal ref. APP/G2435/W/15/3005052; Local Planning Authority ref. 14/00614/OUTM). In August 2017, a Section 73 application to "vary" a condition attached to the original outline planning permission relating to the approved illustrative development framework plan was granted (ref. 17/00423/VCUM). In February 2018, a reserved matters approval for 166 dwellings submitted in respect of that Section 73 outline planning permission was resolved to be permitted and, following the completion of legal agreements, the reserved matters approval was issued in April 2018 (ref. 17/01326/REMM). Both the Section 73 outline planning permission and the reserved matters approval were granted subject to conditions (and including some requiring approval of details prior to commencement).

In April 2018, the District Council's Environmental Protection team was notified of works being undertaken on the site (including earth moving and works to trees), and requested that those works cease pending discharge of all relevant pre-commencement conditions. All works on the site subsequently stopped and, as of the time that this report was prepared, have not recommenced.

Those conditions included Conditions 2, 3 and 8 of the reserved matters approval which respectively related to the list of plans approved under that consent, the proposed site landscaping, and tree protection fencing. The developer no longer proposes the retention of the trees shown as retained on the drawings referenced in those conditions and, as such, this application seeks to "vary" those conditions to relate to revised drawings updated to reflect the trees' removal.

### 2. Publicity

9 neighbours notified.

Site Notice displayed 21 May 2018.

Press Notice published Leicester Mercury 23 May 2018.

### 3. Summary of Consultations and Representations Received

#### Third Party Representations

32 representations have been received, objecting on the following grounds:

- Trees removed deliberately
- Works commenced without consent
- Site now left in a mess
- Existing approval should be revoked
- Trees should be replanted (and at a ratio of 1,000 to 1 for every tree removed)
- Replacement planting should be mature trees
- Removed trees were Category B and therefore worthy of retention
- Legal action should be taken by the District Council and the developer fined
- Unsafe / unsuitable drainage
- Insufficient infrastructure / services to support the development (including in respect of policing, healthcare, transportation and education)
- Emergency service bases should be on the Coalville bypass rather than in the town

- centre
- Coalville becoming a brick and concrete jungle
- Loss of greenfield site
- Impact on wildlife
- Noise
- More affordable housing required
- Insufficient highway capacity
- Adverse impact on highway safety
- Too many dwellings proposed
- Development previously refused
- Stone walls removed
- Trees removed to provide additional space for more housing
- Overlooking from proposed public open space
- Planting of ivy would cause inconvenience to neighbours
- Proposed pedestrian link to Jacquemart Close would encourage trespass
- Additional trees should be provided
- House types should be amended
- Green screen should be provided prior to any further development
- Drainage easement should not prevent tree retention
- Ground instability
- Meadow planting now proposed near open space
- Applicant has previously confirmed that the previously indicated "viewing platform" would not be provided
- Incorrect site cross section plans
- Proposed surface water attenuation area not suitable for use as public open space
- Site location plan omits neighbours' extension
- Proposed levels details requested from developer
- Site should be subject to regular unannounced checks by Health and Safety and the Planning department to ensure compliance
- Site no longer required to meet housing targets

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

##### **National Policies**

###### *National Planning Policy Framework (2012)*

The following sections of the National Planning Policy Framework (NPPF) are considered relevant to the determination of this application:

Paragraph 14 (Presumption in favour of sustainable development)

Paragraph 17 (Core planning principles)

Paragraph 61 (Requiring good design)

Paragraph 203 (Planning conditions and obligations)

###### *Draft National Planning Policy Framework (2018)*

In March 2018, the Ministry of Housing, Communities and Local Government commenced consultation on a draft revised NPPF. In view of the early stage of this consultation process, it is considered that only limited weight may be attached to the policies of the draft NPPF at this time, and greater weight should be attached to the 2012 version. Notwithstanding the limited weight to be attached at this stage, however, the following sections of the draft NPPF are considered relevant to the determination of this application:

Paragraphs 8, 11 and 12 (Achieving sustainable development)  
Paragraphs 48, 55 and 57 (Decision-making)  
Paragraphs 126 (Achieving well-designed places)

### **Adopted North West Leicestershire Local Plan (2017)**

The application site lies within Limits to Development as defined in the adopted Local Plan. The following adopted Local Plan policies are considered relevant to the determination of this reserved matters application:

Policy D1 - Design of new development  
Policy D2 - Amenity

### **Other Policies**

Good design for North West Leicestershire SPD

## **5. Assessment**

### **Approach to Determination**

The principle of development on this site for residential purposes along with any issues associated with the development of the site in principle (e.g. the suitability of the site generally for residential development, and the impacts of the development on the wider highway network) was established by the grant of the original outline planning permission in January 2016. In terms of the detailed layout of the scheme, this is as per that approved under the existing reserved matters approval in April 2018.

The principal changes vis-à-vis the reserved matters scheme approved under 17/01326/REMM are in respect of the non-retention of trees previously shown as retained. In particular, these include a small group of trees (comprising oak, silver birch, sycamore, hazel, eucalyptus, Leyland cypress and yew) close to the western boundary of the site (in an area adjacent to no. 180 Greenhill Road and no. 5 Jacquemart Close). This area of the site is proposed to remain undeveloped, and would act as an easement for proposed drainage. Whilst these trees were previously indicated as to be retained, the developer now advises that they would be required to be removed in order to satisfy adoption requirements of Severn Trent Water. In addition, trees indicated as retained at the time of the reserved matters approval in the vicinity of the proposed site access onto Greenhill Road are also now shown as being removed.

Given the removal of the trees previously shown as retained and to be protected, the developer would no longer be in a position to comply fully with the requirements of the conditions attached to reserved matters approval ref. 17/01326/REMM set out under Proposals and Background above (and, hence, the need to submit a Section 73 application).

In view of the above, it is considered that the key issue to be considered in this case is whether, in the absence of the trees previously indicated as retained, the scheme would remain acceptable (or could be rendered acceptable by way of alternative mitigation). Whilst a number of representations have been received raising concerns at the non-compliance with the conditions originally imposed, the appropriateness or otherwise of taking formal enforcement action is not a matter for this application which must be dealt with purely on its own merits; the fact that work had previously commenced in breach of conditions is not directly relevant to the decision to be made on this revised reserved matters application.

### **Assessment of Implications of Proposed Amendments**

As set out under Approach to Determination above, the key issue to be considered is whether, in the absence of the trees previously indicated as to be retained, the scheme would be rendered unacceptable.

Under the provisions of the conditions attached to the existing reserved matters approval, precise details of the development's proposed landscaping will need to be submitted to the Local Planning Authority for approval under the relevant condition in the usual manner. Nevertheless, the applicant has provided some details (and including in respect of the western boundary) at this stage. This indicates that, for the area affected by the drainage easement, a range of shrub planting (including hazel, hawthorn, wild privet, blackthorn and elder) would be provided. The applicant has considered additional tree planting within this area but, given the presence of the easement, advises that it would not be able to do so. However, it has suggested that it would be able to provide enhanced (semi-mature) tree planting to the south western area of the site. A previously proposed "green screen" along the whole of the western boundary (originally proposed at the time that the reserved matters application was considered) is still intended to be provided.

Whilst it is considered that the retention of the removed trees would have been preferable in terms of providing appropriate landscaping to the residential development (and particularly given their level of maturity), it is accepted that, in their absence (and bearing in mind the continued provision of shrub planting and the green screen), the reduced degree of screening and landscaping that would still be achieved would not be so significant as to warrant a refusal. Insofar as the amenities of nearby occupiers are concerned, whilst the reduction in screening afforded by the removed trees would increase inter-visibility between proposed and existing dwellings (and whilst the applicant proposes erecting the dwellings in this area at a higher finished floor level than the existing adjacent properties), by virtue of the separation between proposed and existing dwellings, the configuration / orientation of the proposed plots, and the retention of the green screen to this boundary as previously proposed, the scheme would be considered to remain acceptable in residential amenity terms, and to comply with Local Plan Policy D2.

Insofar as the trees adjacent to the site access are concerned, whilst some of these were indicated at the time of the reserved matters approval as being retained, their merits (and the desirability to retain) were nevertheless considered at the time that the original outline application was considered (i.e. by virtue of being affected by the proposed site access which was included for consideration at the outline stage). Their removal in order to accommodate the required visibility splays was in effect approved at the time of the outline planning permission, and the current plan simply therefore reflects this position.

On this basis, it is therefore concluded that the proposals would remain as sustainable development overall, and approval is recommended.

At the time that the previous reserved matters approval was issued, the developer entered into a Section 106 agreement to ensure that the proposed estate roads (which are not intended to be offered for adoption by the County Highway Authority) function in an equivalent manner as adopted highways (with public rights of access etc.). As such, in the event that this application is resolved to be permitted, it is recommended that a deed of variation (or similar) be entered into so as to ensure that the previously agreed obligations would continue to apply in respect of this updated reserved matters approval.

**RECOMMENDATION- PERMIT, subject to Section 106 Obligations (or any alternative form of legal agreement as advised as appropriate by the District Council's Head of Legal and Commercial Services), and subject to those conditions previously attached to reserved matters approval ref. 17/01326/REMM (albeit amended to cross reference to any details approved under the equivalent condition attached to reserved matters approval ref. 17/01326/REMM), and as modified below:**

- 2 Approved Plans (to include reference to the amended indicative landscaping and buffer planting plans)
- 3 Landscaping (including future maintenance and management, and including reference to the amended indicative landscaping and buffer planting plans)
- 8 Tree Protection (to include reference to the amended landscaping and buffer planting plans)