

Employment development incorporating a mix of B1(c), B2 and B8 use including new access roads, footpaths, cycleways and green infrastructure (outline - all matters other than part access reserved)

Land East Of Carnival Way Castle Donington Leicestershire

**Report Item No
A1**

**Application Reference
17/01136/OUTM**

Grid Reference (E) 445163

Grid Reference (N) 328432

Date Registered:

14 August 2017

Consultation Expiry:

26 December 2018

8 Week Date:

13 November 2017

Applicant:

Mr Stephen Pedrick-Moyle

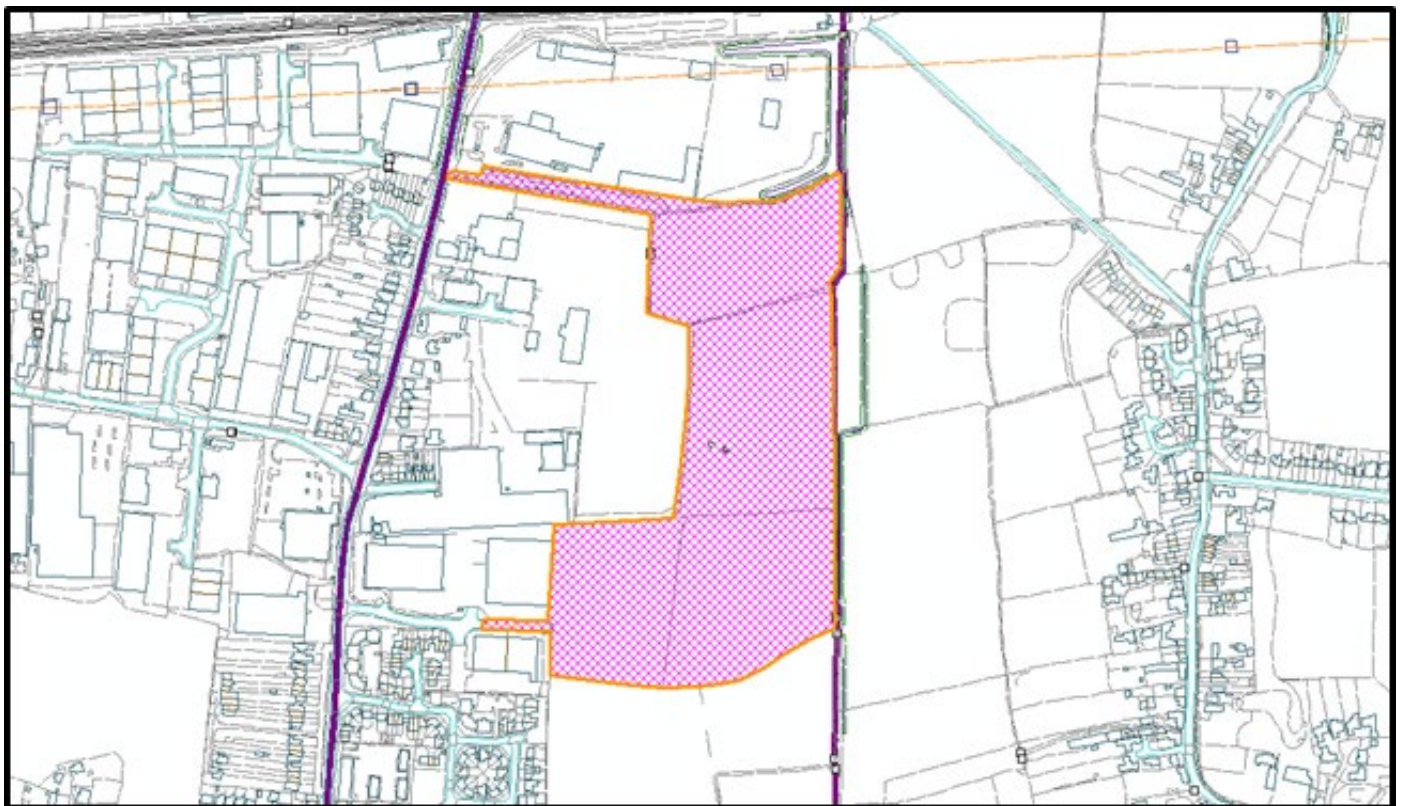
Case Officer:

James Knightley

Recommendation:

REFUSE

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application is brought to the Planning Committee for a decision as the District Council's Strategic Director of Place considers that the application raises matters which should be referred to the Committee for determination.

Proposal

This is an outline planning application for employment development falling within Classes (B1(c) (light industrial), B2 (general industrial) and B8 (storage or distribution) of the Town and Country Planning (Use Classes) Order 1987 (as amended) on the eastern edge of Castle Donington.

Consultations

Objections have been received from Castle Donington and Lockington cum Hemington Parish Councils in respect of the proposals, as well as from a number of local residents. There are no unresolved objections from other statutory consultees.

Planning Policy

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

Conclusion

Whilst there is an overall shortage in employment land on allocated sites within the District compared with identified need (and, therefore, some land outside Limits to Development is likely to be required in order to help meet that shortfall), the proposed scheme would result in the development of land within a relatively narrow gap between the settlements of Castle Donington and Hemington, contrary to the criteria set out within Policy S3 of the adopted North West Leicestershire Local Plan which apply to development outside Limits to Development.

RECOMMENDATION:-

REFUSE

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

This is an outline planning application for employment development (B1(c) (light industrial), B2 (general industrial) and B8 (storage or distribution) on a site of approximately 8.75 hectares to the east of Carnival Way, currently used for agricultural purposes. The site is adjacent to a number of other land uses, including other employment development, land in agricultural use and car sales.

Whilst some matters are reserved for subsequent approval, and following amendment of the proposals, an illustrative masterplan has been submitted which shows seven units of varying sizes served from an extension to the existing cul-de-sac at Carnival Way and with additional pedestrian access from Station Road.

As set out above, the application is in outline. All matters are reserved save for the access (insofar as it relates to the proposed vehicular access into the site from Carnival Way). The remainder of the "access" matters (i.e. including circulation routes through the site itself) are reserved for subsequent approval.

In terms of the scale of the development, following amendment, the application documents indicate that the proposed buildings would have a total floorspace of 23,838sqm (and, individually, ranging between 1,031sqm and 5,704sqm). Prior to amendment of the proposed masterplan, indicative material indicated maximum building ridge heights of 8 metres on the eastern side of the site, and 10 metres adjacent to the vehicular access in the south western part.

2. Publicity

44 neighbours notified.

Site Notice displayed 24 August 2017.

Press Notice published Derby Evening Telegraph 30 August 2017.

3. Summary of Consultations and Representations Received

Castle Donington Parish Council objects on the following grounds:

- Site outside Limits to Development
- Within an Area of Separation
- Would result in a reduction in the separation between the built up areas of Castle Donington and Hemington
- Flood zone
- Land to the east of Owen Brown only has permission for outside storage
- Adverse impact on the countryside
- Contrary to Local Plan policy
- Existing vacant small industrial units and sites with outline planning permission for employment development in Castle Donington
- HGV route would require right turns given location of weight limits
- Very low unemployment levels in Castle Donington
- Increased traffic

- Locating employment development in this area would conflict with aims of proposed Castle Donington relief road
- Transport Assessment undertaken on day which does not reflect normal traffic conditions
- Approval would undermine aims of the new North West Leicestershire Local Plan
- Exacerbation of existing air quality issues within the Castle Donington Air Quality Management Area caused by breaches of weight limits by HGVs

Environment Agency has no objections subject to conditions

Highways England has no objections subject to conditions

Leicestershire County Council Archaeologist advises that additional field investigation be undertaken prior to determination

Leicestershire County Council Ecologist has no objections subject to conditions

Leicestershire County Council Lead Local Flood Authority has no objections subject to conditions

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

Leicestershire County Council Rights of Way Officer has no objections subject to conditions

Lockington cum Hemington Parish Council objects on the following grounds:

- Site outside Limits to Development
- Within an Area of Separation
- Would result in a reduction in the separation between the built up areas of Castle Donington and Hemington
- Flood zone
- Land to the east of Owen Brown only has permission for outside storage
- Adverse impact on the countryside
- Contrary to Local Plan policy and the NPPF
- Existing vacant small industrial units and sites with outline planning permission for employment development in Castle Donington and Cavendish Bridge
- Very low unemployment levels in the DE74 postcode area
- Increased traffic, including HGVs (and contrary to weight restrictions)
- Approval would undermine aims of the new North West Leicestershire Local Plan
- Lockington and Hemington being encroached upon by large development, including East Midlands Gateway (including its associated disturbance from goods trains)
- Impact on air quality
- Light pollution
- No local support

North West Leicestershire District Council Environmental Protection has no objections subject to conditions

Third Party representations

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

Principle of Development / Planning Policy / Countryside Impacts

- Site outside Limits to Development / within the countryside
- Would lead to coalescence of Castle Donington and Hemington
- Contrary to Local Plan policy
- Unnecessary development
- Site is not an infill plot
- Site is in the Green Belt
- Inaccurate Landscape and Visual Appraisal
- Adverse visual impact
- Loss of agricultural land
- Adverse impact on the character of the village and its setting
- Castle Donington and the District already have sufficient employment provision and with further development permitted
- Existing employment sites are not occupied
- Job types not aligned to local need
- Sufficient job opportunities already exist in the area
- Development should be in Coalville

Transportation Issues

- Access from Carnival Way of insufficient width
- Adverse impact on highway safety (including in respect of cyclists and pedestrians)
- Increased traffic congestion
- On-street car parking would affect emergency services' ability to serve the site
- Increased HGVs would result in an adverse impact on the efficient operation of nearby businesses
- Insufficient infrastructure to support the development
- Increased disturbance from traffic
- Would require HGVs to enter a weight restricted area, and cross a weight restricted bridge to access the site
- Compliance with the weight limit would require a significant diversion

Other Environmental Issues

- Pollution / adverse impact on air quality
- Site within the flood plain
- Development would result in increased flooding elsewhere
- Adverse impact on nature conservation / habitat
- Noise
- Too close to residential areas

Full details of the comments are available on the public file.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework 2019

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

Paragraphs 7, 8, 11 and 12 (Achieving sustainable development)

Paragraphs 47, 54, 55 and 56 (Decision-making)
Paragraphs 80, 82 and 83 (Building a strong, competitive economy)
Paragraphs 102, 106, 107, 108, 109, 110 and 111 (Promoting sustainable transport)
Paragraphs 124, 127, 128, 130 and 131 (Achieving well-designed places)
Paragraphs 155, 157, 158, 159, 160, 161, 163 and 165 (Meeting the challenge of climate change, flooding and coastal change)
Paragraphs 170, 175, 176 and 177 (Conserving and enhancing the natural environment)
Paragraphs 189, 190, 192 and 197 (Conserving and enhancing the historic environment)

Further advice is provided within the MHCLG's Planning Practice Guidance.

Adopted North West Leicestershire Local Plan (2017)

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S1 - Future housing and economic development needs
Policy S3 - Countryside
Policy D1 - Design of new development
Policy D2 - Amenity
Policy Ec2 - New Employment sites
Policy Ec5 - East Midlands Airport: Safeguarding
Policy IF1 - Development and Infrastructure
Policy IF4 - Transport Infrastructure and new development
Policy IF7 - Parking provision and new development
Policy En1 - Nature Conservation
Policy En6 - Land and Air Quality
Policy He1 - Conservation and enhancement of North West Leicestershire's historic environment
Policy Cc2 - Flood Risk
Policy Cc3 - Sustainable Drainage Systems

Other Policies

Good Design for North West Leicestershire SPD

Leicestershire Highway Design Guide (Leicestershire County Council)

5. Assessment

Principle of Development

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan; the site is located outside of the Limits to Development as defined in the Local Plan.

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; insofar as employment development is concerned, the *principle* of such uses is allowed for where it would comply with Policy Ec2.

Policy Ec2 (subsection (2)) provides that *"Where evidence indicates an immediate need or demand for additional employment land (B1, B2 and B8) in North West Leicestershire that cannot be met from land allocated in this plan, the Council will consider favourably proposals that meet the identified need in appropriate locations subject to the proposal:*

- (a) Being accessible or will be made accessible by a choice of means of transport, including sustainable transport modes, as a consequence of planning permission being granted for the development; and*
- (b) Having good access to the strategic highway network (M1, M42/A42 and A50) and an acceptable impact on the capacity of that network, including any junctions; and*
- (c) Not being detrimental to the amenities of any nearby residential properties or the wider environment."*

As such, in order to comply with the *principle* of development requirements of Policy S3, it would be necessary to demonstrate that there was an immediate need or demand for additional employment land within the District that could not otherwise be met by allocated sites (and, if that could be shown, that the criteria in (a), (b) and (c) above would also be met).

Should Policy Ec2 be satisfied (and, hence, the *principle* of development element of Policy S1 be satisfied), it will also then be necessary to consider the proposals' compliance with criteria (i) to (vi) within Policy S3. Of particular relevance to this application are considered to be criteria (i), (ii), (iv) and (vi), as follows:

- "(i) the appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern, rivers, watercourses, field patterns, industrial heritage and local distinctiveness is safeguarded and enhanced. Decisions in respect of impact on landscape character and appearance will be informed by the Leicester, Leicestershire and Rutland Historic Landscape Characterisation Study, National Character Areas and any subsequent pieces of evidence; and*
- (ii) it does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open undeveloped character between nearby settlements either through contiguous extensions to existing settlements or through development on isolated sites on land divorced from settlement boundaries; and...*
- ...(iv) built development is well integrated with existing development and existing buildings, including the re-use of existing buildings, where appropriate; and...*
- ...(vi) The proposed development is accessible, or will be made accessible, by a range of sustainable transport."*

Policy Ec2 (2) - Need / Demand

Under Policy Ec2, the first requirement to be met for new employment sites on sites not allocated in the adopted Local Plan is that there is an immediate need or demand for additional employment land within the District that could not otherwise be met by allocated sites.

The application is accompanied by a Market Overview document which assesses the current employment land supply position in the Castle Donington area, and notes that it is broadly aimed at either larger distribution focussed occupiers, or those associated with the operation of East Midlands Airport. It also suggests that there are low vacancy rates and a lack of choice of premises in the area. Additional information has also recently been received providing details of businesses expressing an interest in the area (within Castle Donington in particular or within the wider area - e.g. accessible to the M1 etc.).

When strategic scale B8 use is excluded, the Housing and Economic Needs Development

Assessment (HEDNA) for the Leicester and Leicestershire Housing Market Area identified a total requirement for North West Leicestershire for the period 2011-2031 of 64.8ha of employment land. The HEDNA breaks this down in to 44.7ha for B1(a) / B1(b), 3.3ha B1(c) / B2 and 16.8ha small B8 (i.e. units of less than 9,000sqm). For the period 2011-2036 the figures are 55.9ha B1(a) / B1(b), 4.1ha B1(c) / B2 and 21.0ha small B8, and resulting in an overall requirement of 81.0ha for the period to 2036. The HEDNA advises that the requirements should be regarded as minimum figures.

When assessed against the overall employment land requirements identified in the HEDNA, the Local Planning Authority currently has a shortfall of approximately 17.0ha (to 2031, which is the end of the Plan period for the adopted Local Plan), or 33.2ha (to 2036, the alternative end date used in the HEDNA). This figure includes allocations, completions, sites under construction and sites with planning permission. An allowance is also made for potential loss of employment land to alternative uses. Whilst it is noted that there is an overall shortfall of 17.0ha (2031) / 33.2ha (2036), the relevant figures for B1(c), B2 and (small) B8 are a "surplus" of 11.1ha (2031) / 10.3ha (2036) of B1(c) and B2, and a "surplus" of 7.4ha (2031) / 3.2ha (2036) of small B8 when compared to the (minimum) requirements. In contrast, there is a shortfall in the B1(a) / B1(b) category of between 24ha (2031) and 36ha (2036). The proposed uses would not directly address this specific shortfall. However, this needs to be balanced against the fact that, as noted above, the HEDNA requirements are to be regarded as a minimum whilst there is also no guarantee that those sites with permission or allocated will come forward as currently projected.

Whilst the type of employment use that this application proposes would not directly address the specific identified area of shortfall (and whilst this factor should be taken into account in the planning balance), it is nevertheless accepted that it would make a contribution towards the employment land provision of the district when compared to the overall employment land needs identified in the HEDNA. Furthermore, whilst it is the case that there is a significant amount of employment development in and around Castle Donington, the vast majority of this is of a strategic nature. What is being proposed would provide smaller scale opportunities and so provide a more balanced employment land supply.

A Sequential Assessment report has also been produced in support of the application, assessing the availability of alternative sites to meet (and also relevant to the flood risk issues as set out in more detail under the relevant section below). The submitted document refers to a high level of demand for suitable modern business premises and an identified local need for smaller premises but, whilst a market overview of existing supply is provided, the application does not appear to include any detailed market evidence to demonstrate any specific need. Also relevant to the flood risk sequential test below are the applicant's site search parameters, and which include a requirement for the site to be in the Castle Donington area and to be available immediately. Given that the need for employment land identified in the HEDNA refers to the District as a whole, it would seem appropriate to consider sites beyond the immediate Castle Donington area; similarly, the need is for a period running to 2031 (or 2036) and, as such, the requirement for an "immediate" need is unclear. However, this would need to be considered alongside the more recently submitted information identifying specific businesses who have expressed an interest in relocating to new accommodation within the area, and a letter of support submitted by the applicant from a third party who advises that he / she is the managing director of a business in Castle Donington with 56 employees that has been searching for larger premises (15-20,000sqft (1,393-1,858sqm approx.)) for two years.

In terms of the sites assessed under the applicant's sequential approach, the conclusions are set out in more detail below. In terms of the applicant's sequential options generally, it is noted that these are limited to sites set out in the District Council's Strategic Flood Risk Assessment;

whilst there would appear to be no particular justification for limiting the sites considered in this way, it is acknowledged that the MHCLG's Planning Practice Guidance advocates a pragmatic approach to applying the sequential test. Insofar as the area of search is concerned, the Planning Practice Guidance suggests that the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. In this case, given the fact that the employment requirements in the HEDNA are identified at a District-wide level, a District-wide search could be considered appropriate. Again, however, a proportionate approach is considered reasonable.

Land at EM Point (M1 Junction 23A):

The applicant rules this out on the basis that the site is too small for the development proposed. Whilst it also suggests it is unsuitable due to what it suggests was a previous refusal of planning permission, the site has the benefit of a Certificate of Lawful Proposed Development and, in effect, has a "live" planning permission for a roadside services, a previous scheme having been commenced within the statutory time limit; the site is also the subject of a current application for development within Classes B1(a) and B1(b) (ref. 18/02227/FULM). However, the comments on size are nevertheless accepted (although this is predicated on the need for all units to be located on the same site whereas, particularly if a number of separate units are proposed, there would appear to be scope for a more flexible approach on size of site), and it is also considered that, given the site's prominent location adjacent to the motorway, industrial type units of the kind indicated would be unlikely to be appropriate from a design perspective.

Land at East Midlands Airport (adjacent to Donington Park Motorway Services):

Again this is ruled out on size (see comments under the M1 Junction 23A site above). The site is however also not currently being marketed, so its availability is uncertain.

Land at Donington Park:

The site is within the East Midlands Airport Public Safety Zone and is therefore unsuitable (given the policy presumption against new development within Public Safety Zones leading to increased numbers of visitors etc).

Land at Derby Road, Kegworth:

Whilst the applicant's information rules this out on the grounds of the site not being marketed, it would in any event appear to be affected by the proposed route of HS2.

Land at A50 / Trent Lane, Castle Donington:

This site is being marketed, but is within Flood Zone 3b of the Environment Agency flood risk map identification.

Land at Sawley Marina:

This site is within Flood Zone 3b of the Environment Agency flood risk map identification.

Land at Sawley Crossroads:

Whilst the assessment refers to the site's location within Flood Zones 3a and 3b of the Environment Agency flood risk map identification, the site is, in practice, not subject to flooding due to historical raising of land levels. Nevertheless, it is accepted that, given Aldi's proposed development (and future expansion space), it would not in any event appear to be available for the applicant's use.

Plots 2B and Plots 4B and 4D Willow Farm, Castle Donington:

Whilst the assessment refers to the sites' location within Flood Zone 3b of the Environment Agency flood risk map identification, the sites are, in practice, not subject to flooding due to

historical flood protection works. They are also within a Primary Employment Area allocated in the Local Plan. Regardless, however, the sites are ruled out on size grounds.

East Midlands Gateway site:

Use of this site is ruled out on the basis that the scheme is being targeted towards large space occupiers.

Plots 1 and 3, East Midlands Distribution Centre, Castle Donington:

Whilst there would appear to be no overriding planning reason why some of the remaining plots could not end up being made available for smaller units (and a number have already been provided to Plot 6), the applicant advises that the developer has indicated that it wishes to reserve the remainder of the site for national level operators. It is also noted that reserved matters approvals for larger scale units have been granted for these two plots.

It is noted that no reference is made within the applicant's sequential approach to the site on land to the south of Park Lane, Castle Donington, and which has outline planning permission for employment use as part of the wider mixed use development (although it is acknowledged that that scheme would have been taken into account when assessing overall supply as set out above). However, subsequently received supplementary information has indicated that, whilst the proposed relief road is due for completion during 2019, it will not provide immediate access into the employment site, and that third party issues need to be resolved. The information also indicates that the owners of the site would normally develop on a design and build basis, and would not consider a sale to a competitor.

Policy Ec2 (2) (a), (b) and (c)

Having regard to the conclusions above, it is accepted that, overall, some weight could reasonably be attributed to the opportunity to help meet the overall unmet employment land HEDNA requirement (albeit that unmet requirement relates to employment uses as a whole rather than the specific types of employment uses proposed under this application, with the more significant shortfall being in the B1(a) and B1(b) categories). It would also help to provide a more balanced employment land supply in terms of unit sizes. In terms of the criteria in the following sections of Policy EC2 (2) (i.e. criteria (a), (b) and (c)), the following conclusions are reached:

(a) Being accessible or will be made accessible by a choice of means of transport, including sustainable transport modes, as a consequence of planning permission being granted for the development

The site is located adjacent to the existing built up area of Castle Donington which has a good range of bus services, with regular buses from the nearest bus stops on Station Road to Nottingham, Derby, Leicester and East Midlands Airport.

(b) Having good access to the strategic highway network (M1, M42 / A42 and A50) and an acceptable impact on the capacity of that network, including any junctions

Castle Donington is, in general, considered to have good access to the strategic highway network (and, in particular, to the A50 at Sawley Crossroads). However, given the 7.5 Tonne weight limit along Station Road between its junctions with Broad Rushes and Trent Lane, in order to reach the site from the A50, HGVs would need to route via Broad Rushes / Back Lane / Trent Lane (adding approximately 1.2km to the route). Whilst this increases the travel distance between the site and the nearest point on the strategic highway network (i.e. Sawley Crossroads) to approximately 3.1km, it is still considered that this represents an acceptable

degree of accessibility to the strategic highway network.

Given the additional distance HGVs would need to travel to comply with the weight limit, concerns have been raised that approval of the scheme would encourage HGV drivers to breach it. Whilst it is accepted that such an eventuality could not be ruled out, any breach of highway legislation would need to be dealt with by the appropriate authority at that time; no concerns are raised in this regard by the County Highway Authority.

In terms of the capacity of the strategic highway network (and its junctions), it is noted that Highways England is satisfied that the existing network (and including the Sawley Crossroads junction) can accommodate the proposed development, and no objections are raised.

(c) Not being detrimental to the amenities of any nearby residential properties or the wider environment

Residential Amenity:

For the reasons set out in more detail below, the scheme is considered acceptable in terms of its impacts on the amenities of nearby residents (and would comply with Local Plan Policy D2).

Wider Environment:

Further assessment of this issue is set out under Countryside, Landscape and Visual Impact below.

Detailed Issues

For the reasons set out above, the assessment of the principle of development (and, in particular, how it performs against the requirements of Local Plan Policies S3 and Ec2) is, to an extent, also dependent on the consideration of other issues and, in this case, therefore, there is an element of overlap between issues of principle and detail. Further assessment of these issues of detail is set out below.

Means of Access, Highways and Transportation Issues

As set out in the introduction above, the application is in outline with all matters reserved save for the proposed vehicular access into the site from Carnival Way. Given the interrelationship between means of access, highways and transportation issues and Policy Ec2 (and, hence, Policy S3) of the Local Plan, assessment of some of these issues is already set out under Principle of Development above. In terms of other issues relating to means of access, highways and transportation, however, the following conclusions are reached, having regard to the advice of the Local and Strategic Highway Authorities:

Site Access:

The proposed vehicular access would be via a continuation of Carnival Way, an existing industrial service road comprising of 6m wide carriageway with adjacent footways on both sides. At the point of access under the applicant's control, it is proposed that the road be widened to 7.3m with the continuation of footways on both sides of the carriageway ensuring that the existing pedestrian connections tie in with the development proposals. The County Highway Authority confirms that vehicle tracking has been undertaken by the applicant so as to demonstrate that two HGVs can pass satisfactorily within the highway.

Highway Safety

The County Highway Authority confirms that it accepts the submitted personal injury collisions information, and considers that there are no issues that could be exacerbated by traffic associated with the proposed development.

Impact on the Wider Highway Network

Assessment of the impact of the development on a number of junctions in the vicinity of the site has been undertaken using TRICS data, and the following conclusions area reached by the County Highway Authority:

Carnival Way and Station Road:

Following the introduction of development traffic, it is anticipated that the Carnival Way / Station Road junction would operate within capacity.

Station Road, Trent Lane and Victoria Street:

As part of the approved retail development proposal for the Duflex site (13/00702/FULM), it is proposed to signalise the Station Road / Trent Lane / Victoria Street junction, and provide a new priority junction just to the south to form the site access (should that development proceed). The junction is anticipated to operate over capacity in all tested scenarios (and including in the without development scenario); with the development traffic included, the County Highway Authority advises that the increase in the degree of saturation on the most critical arm (Station Road (north)) is 8.4% in the AM peak hour and 2.7% in the PM peak hour, and which would not be considered by the County Council to constitute severe harm such that it would warrant additional physical improvements, but would nevertheless require mitigation in accordance with the NPPF. The County Highway Authority considers that "soft" measures as part of the submitted Travel Plan would be appropriate, to be secured by way of a planning obligation to ensure the delivery of proposed measures / targets.

Station Road and Broad Rushes:

The County Highway Authority advises that the junction is predicted to operate over capacity in the future year scenario in 2022, and following the introduction of development traffic the ratio of flow to capacity (RFC) would increase by 3% resulting in a maximum RFC of 104%. However, following the end of the peak period, there would be no residual queuing and delays, and which would not be considered to be a severe impact.

Junction 1 of the A50 (Sawley Crossroads):

The County Highway Authority advises that the applicant has engaged with both the County Council and Highways England with regards to the impact of development traffic at the junction. The results of the testing show that the development traffic could be accommodated by the existing junction layout prior to the Park Lane development exceeding 350 dwellings. Therefore, the County Highway Authority advises, the proposed Carnival Way development traffic would not trigger a requirement for the mitigation scheme in its proposed opening year (originally identified as 2019). On this basis, and in compliance with DfT Circular 02/2013, Highways England raises no objection to the proposals.

Public Rights of Way

A public right of way (footpath L80) abuts the application site, passing along its eastern boundary. Given that it does not pass through the site itself, it would appear that its route would be unaffected by the proposed development. There would however be likely to be some impacts on the amenity value of the right of way as a leisure / recreational route as a result of the development of the currently undeveloped countryside to its west, and which would also need to be taken into account in the assessment of the environmental impacts of the scheme (and including those issues relating to countryside, landscape and visual impact as assessed in more detail below). No objections are raised by the County Council's Rights of Way team.

On the basis of the above, therefore, neither the County Highway Authority nor Highways England raise objections to the scheme, and the proposals are considered acceptable in terms of means of access, highways and transportation issues.

For its part, the County Highway Authority recommends the attachment of conditions in respect of the formation of the access and the implementation of a construction traffic management plan; no conditions are sought by Highways England. In terms of developer contributions, Leicestershire County Council seeks the provision of a Travel Plan monitoring fee (to enable monitoring of the effectiveness of the Travel Plan measures), and provision of travel packs including six month bus passes for employees.

Paragraph 56 of the NPPF sets out the Government's policy in respect of planning obligations and, in particular, provides 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 Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

It is considered that the contributions sought by Leicestershire County Council in this regard would meet the relevant policy and legislative tests above.

Flood Risk and Drainage

The application is accompanied by a Flood Risk Assessment and Drainage Strategy (FRA), setting out how surface water is proposed to be accommodated, and assessing the existing flood risk to the site along with any resulting flood risk associated with the proposed development. As referred to above, a separate Sequential Assessment document has also been provided. Insofar as river flooding is concerned, the application site lies within Flood Zone 3a (i.e. high probability - having a 1 in 100 year or greater annual probability of flooding). The submitted FRA also indicates that the application site is defended from flooding in up to a 1 in 200 year flood event.

In terms of the sequential approach (and as set out in more detail above), whilst it is considered that an argument could be made that the area of search for sequentially preferable sites (i.e. those at a lower risk of flooding) ought to be District-wide (given the justification for the proposals on a need for additional employment development within the District), it is again accepted that a pragmatic approach ought to be taken as per the advice within the Planning Practice Guidance. On this basis, it is considered appropriate to progress to the exception test.

Given the range of uses proposed under the application, the scheme would fall within the "Less Vulnerable" category; under the Planning Practice Guidance, "Less Vulnerable" uses are appropriate within Flood Zone 3a, and the exception test would therefore be met.

In terms of surface water flooding, the FRA indicates that the proposed development's surface water discharge rate and volume would be controlled to be less than the existing site use and, therefore, would not increase or exacerbate any flooding problems in this respect.

Following receipt of additional information in respect of flood risk and drainage, no objections have been raised by either the Environment Agency or the Lead Local Flood Authority (subject to conditions) and, notwithstanding the issues set out above in terms of the sequential approach, it is considered that the proposed scheme would be acceptable in flood risk and drainage terms.

Countryside, Landscape and Visual Impact

The application is accompanied by a Landscape and Visual Appraisal (LVA), and which concludes that the application site and receiving landscape have the capacity to accommodate the proposals, and that the proposed development could be successfully integrated in this location with limited adverse impact upon the wider landscape character and visual amenity. In particular, the Landscape and Visual Appraisal concludes that the development would incorporate an appropriate landscape design solution (including conservation and reinforcement of the existing planted boundaries); that the development would not cause a noticeable change or departure from the intrinsic characteristics of the relevant landscape character area; that the character of the site is unremarkable and indistinct from the local or wider context; that the development proposals are sensitive to the visual and landscape issues raised by the North West Leicestershire Settlement Fringe Assessment; and that there would be a minor / moderate adverse effect after completion, falling to minor adverse after planting matures. This Landscape and Visual Appraisal (and as amended by a subsequent update) has been assessed by a landscape consultant on behalf of the Local Planning Authority. In terms of National Character Areas (NCAs), the site is located within NCA 70 (Melbourne Parklands), but is also located close to NCA 69 (Trent Valley Washlands); the LVA suggests that the site's characteristics are more akin to NCA 69 than NCA 70.

As set out above, the site is located outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Where development outside Limits to Development is acceptable *in principle* under Policy S3 (i.e., in the case of employment development, where the provisions of Policy Ec2 (2) are satisfied), it is then necessary to demonstrate compliance with criteria (i) to (vi) of Policy S3. In particular, the policy provides that development will be supported where the appearance and character of the landscape is safeguarded and enhanced (criterion (i)), and where it does not undermine (either individually or cumulatively with existing or proposed development) the physical and perceived separation and open undeveloped character between nearby settlements (criterion (ii)).

The site lies to the east of the existing settlement of Castle Donington, and within an area of currently undeveloped countryside between the villages of Castle Donington and Hemington. The application site is approximately 450m in length along a north-south axis. The existing east-west separation between the two settlements varies along this axis, and is typically in the region of approximately 375 to 500m (albeit, within part of the area adjacent to the northern and central sections of the application site, the area within Limits to Development in Castle Donington includes land in use as car parking / sales rather than buildings). As referred to above, a public right of way (Footpath L80) runs north-south approximately halfway between the two villages,

passing close to the application site.

The landscape consultant engaged by the District Council to assess the submissions notes that the proposed development would extend roughly half way (at its southern end) across the presently undeveloped gap between Castle Donington and Hemington and that, whilst there would still be a gap, the two settlements would, in effect, come much closer together. The consultant takes the view that the proposed development would involve a significant extension of the urban edge of Castle Donington, involving the loss of the presently open fields and two hedgerows, and that the new buildings would be visible from some areas along a ridge of higher ground to the south and also for users of the footpath along the eastern site boundary.

In response to concerns raised by officers, the applicant has (as set out above) amended the illustrative material submitted with the application; the changes shown indicate that the proposed buildings themselves would be sited towards the western side of the application site (i.e. the side adjacent to the existing Limits to Development of Castle Donington), and with the roofs of the larger units orientated such that the roof slopes would be east-west; additional space for landscaping has also been indicated. These amendments (and the subsequent LVA update) have been assessed by the Council's consultant who considers that, whilst there would be a slight benefit in landscape / visual terms, as the sides of the roofs rather than the gables would be presented in views from the east, his overall conclusions (and as set out below) would not change.

In the Council's consultant's view (and in terms of the impacts on the appearance and character of the countryside (Policy S3 criterion (i))), the submitted LVA underestimates the overall adverse effects of the development in landscape and visual terms, although it is accepted that the adverse effects would reduce to some degree over time. He also takes the view that the effects on the wider landscape would be limited by the lack of longer distance views and the presence of other industrial uses in the area. In particular, the Council's consultant considers that the submitted LVA omits consideration of the value which the land has in terms of the separation of settlements. Whilst the issue of separation is principally an issue for consideration under S3 criterion (ii), it is nevertheless relevant to criterion (i) in that the landscape value feeds into the judgement of overall sensitivity. Insofar as the concern over the underestimation of effects is concerned, the Council's consultant advises that the level of effects is to some extent a function of the area over which the assessment is made (i.e. if the effects of a development are considered in the context of a County or District scale they will be lower than if they are considered at the scale of the area within the site only). The Council's consultant advises that the LVA does not define what is meant by the "site and immediate context", but takes the view that the effects within the site itself would be at a much higher level than minor adverse, as the presently open fields would be developed and replaced with large scale buildings and parking / circulation areas.

In view of this, the Council's consultant considers that there would be some harm to the appearance and character of the local landscape and, as a result, it would be neither safeguarded nor enhanced as required by criterion (i). In terms of the level of harm arising, it would, the Council's consultant advises, be greater immediately around the site, and there would, in his view, be locally significant adverse effects on landscape character and on views from nearby public footpaths. Nevertheless, he advises that that harm would be at a relatively low level and would be localised (and, as set out above, would decrease over time as a result of the proposed planting, albeit some views of the new buildings would remain, particularly in the winter). On this basis, whilst it is acknowledged that the impacts in terms of landscape appearance and character would be limited to some extent, there would regardless be considered to remain an element of conflict with Policy S3 criterion (i) in that the proposals

would not safeguard and enhance that character. This conflict would need to be weighed in the overall planning balance, and in the context of the development plan as a whole.

In terms of criterion (ii) (and as set out above), the development would result in a reduction in the presently undeveloped area between the settlements of Castle Donington and Hemington, and consideration needs to be given as to whether the proposals would undermine the physical and perceived separation and open undeveloped character between the settlements. Based on the submitted illustrative material, the proposals would reduce the width of the gap measured in a straight line between the closest buildings in the respective settlements from around 500m to around 338m. Whilst the applicant draws attention to an existing open storage use adjacent to the site which extends to the east to a similar extent as the proposed development, that site is located further to the north, whereas the application site lies more squarely in the gap directly between the settlements. It is also noted that the open storage use on that site is limited to a maximum height of 4m above ground level. It is noted that some of the proposed parking and circulation areas would extend further to the east than the proposed buildings (and, hence, closer to Hemington), but it is acknowledged that there are also areas of existing external vehicle storage which extend further to the east than the existing buildings on the eastern side of Castle Donington.

There would therefore be a reduction in the physical extent of the gap, and that reduction would, the Council's consultant considers, be perceived by people with views from either Castle Donington to the west of the site or Hemington to the east (and as indicated by the visual envelope included within the submitted LVA). The physical and perceived separation of the settlements would therefore be *reduced* and, the Council's consultant advises, the open undeveloped character of the land would be affected.

Insofar as the policy is concerned, the question is whether these proposals (which would be a contiguous extension to the existing settlement) would result in an *undermining* of the physical and perceived separation of the settlements. Based on the advice of the Council's consultant, it is considered to be clear that the scheme would materially reduce the physical and perceived separation of the settlements and the open undeveloped character of the area of land currently providing that separation.

In this sense, whilst it is acknowledged that the proposals would retain a gap of at least 338m between the settlements, and whilst the implementation of landscaping would (over time) serve to limit the landscape and visual impacts, the scheme would, as a proportion of the existing gap overall, represent a not insignificant reduction. Whilst there would still be a break between the built up areas of the two villages in this area (and, in a sense, it would still be possible to identify points where one settlement ends and the next begins), the narrowing of the undeveloped land between them would, it is considered, nevertheless serve to weaken materially their separate identities. On this basis, it is considered that physical and perceived reduction of the gap between the two settlements arising as a result of the development (as well as the associated impacts on the open undeveloped character of the affected land) would indeed undermine the physical and perceived separation and open undeveloped character of land between Castle Donington and Hemington, and the important role it plays in preserving their separate identities as settlements.

Whilst it is accepted that additional employment land is required over the Plan period in order to meet the identified requirements as set out in the HEDNA (and that that additional need is likely to have to be met on land outside Limits to Development), it is nevertheless noted that the physical separation between the villages of Castle Donington and Hemington is already limited, and would be significantly reduced in the event that the proposed scheme were implemented.

As such, this site would appear to be particularly sensitive and, even if the principle of development could be demonstrated as necessary, the scheme would appear to conflict with the requirements of the development plan in this case. Whilst the scheme would not be considered to meet criterion (i) above in that the appearance and character of the local landscape would not be safeguarded and enhanced, it is accepted that (in terms of enhancement in particular) this would be difficult to achieve when developing a site outside Limits to Development for employment use of this type. However, the concerns in respect of criterion (ii) would in particular be significant in this instance, given the resulting undermining of the physical and perceived separation and open undeveloped character between the settlements.

It is noted that a number of concerns have been raised regarding the visual impacts of the proposed development at night. It is accepted that the illumination of the site would, during the hours of darkness, be likely to have a degree of impact when compared to the current undeveloped agricultural land, with illumination of buildings and hardstandings, and lights from manoeuvring vehicles etc. contributing towards a more urbanised character of the area between Castle Donington and Hemington at night time. However, the extent of this additional impact could be mitigated to some extent by appropriate means of illumination (including in terms of the design of the lighting installations involved and their direction etc. so as to minimise light spill).

Ecology

The application is accompanied by a range of ecological surveys (and including in respect of habitats, bats, badgers, great crested newts and reptiles), and which have been assessed by the County Ecologist.

Whilst a number of concerns regarding the originally undertaken grassland survey were initially raised by the County Ecologist, additional information has been submitted which demonstrates that the grassland is species-poor, and the concerns have now been addressed to the Ecologist's satisfaction.

In terms of the impacts on bats, the submitted documents identified a number of trees with roosting potential but no bats were found to be present. Insofar as great crested newts are concerned, the submitted survey concluded that it was unlikely that these would be present on the proposed development site as the habitats on site would only be likely to be of moderate value, and the ponds and ditches within 250m of the site were found to have only poor suitability for breeding great crested newts. For reptiles, the submitted survey indicated that, although some suitable habitat was present on the site, no reptile species were recorded on the site.

No objections are therefore raised by the County Ecologist subject to the imposition of conditions (and including in respect of work during the bird nesting season, use of native species for the proposed landscaping and lighting).

Neighbours' Amenities

In terms of amenity issues, given the location of the proposed developments in relation to existing residential property, it is considered unlikely that there would be any direct neighbour amenity issues arising from the proposed buildings themselves in terms of issues such as overlooking, overdominance or loss of light. Whilst there are existing dwellings to the south west (including properties on Upton Close), the illustrative details indicate that the proposed buildings would be approximately 40m from the closest dwelling, and any undue impacts in this regard would seem unlikely.

In terms of noise, the application is accompanied by an Environmental Noise Assessment, and having regard in particular to any proposed plant / machinery potentially associated with the proposed uses. This indicates that, based on existing background noise levels, the maximum received noise level from any such plant would be 44.4dB(A) for the daytime and 45.8dB(A) for night time, and that to ensure the future proofing of existing residents against noise pollution, the assessment would need to be reinvestigated once details of the proposed plant for each use on the site had been established. The District Council's Environmental Protection team raises no objections to the scheme in this regard, but requests that a full BS4142 noise assessment be undertaken prior to the approval of any detailed scheme for the site. In terms of the residential amenity aspect of lighting impacts, the Environmental Protection team also requests the submission of a full lighting assessment at that stage.

Subject to the above, therefore, the scheme would be considered acceptable in residential amenity terms.

Air Quality

Policy D2 of the adopted North West Leicestershire Local Plan seeks to ensure that adverse effects of development on residents' amenities is minimised (and including in respect of pollution); Policy En6 provides that development close to an Air Quality Management Area (AQMA) will be supported where an application is accompanied by a detailed assessment of the issues, and appropriate mitigation is identified. It will be noted from the summary of representations above that Castle Donington Parish Council has expressed concerns that, in this case, the potential increased breaches of weight limits by HGVs accessing and egressing the site would include additional vehicles passing through the Castle Donington AQMA (in the vicinity of the Park Lane / Delven Lane / High Street junction). However, for the same reasons already set out above relating to the issue of potential increased incidence of weight limit breaches, it is considered that any such breaches (and, accordingly, any resulting environmental impacts arising from such breaches) would need to be dealt with by the appropriate authority as and when any such breaches arose. The Parish Council's concerns have nonetheless been raised with the District Council's Environmental Protection team, but, having regard to the upcoming provision of the Castle Donington Relief Road, the associated traffic calming measures proposed within the AQMA and the existing weight restriction precluding HGV through access, the Environmental Protection has no objections on air quality grounds. The scheme is therefore considered acceptable in this regard.

Historic Environment

There are no listed buildings, Conservation Areas or scheduled monuments considered to be directly affected by the proposed development.

Insofar as non-designated heritage assets are concerned, the application is accompanied by an archaeological desk-based assessment which concludes that there is a low to medium potential for archaeological remains within the site, and suggests that a programme of further archaeological work (involving geophysical trial trench evaluation) would be appropriate. In its comments on the application, the County Archaeologist had advised that consideration also needed to be given to a mediaeval earthwork that defines the parish boundary between Castle Donington and Hemington and the relevance of the underlying geology, and requesting that an additional field evaluation (by way of a geophysical survey and trial trenching) be provided prior to determination of the application. In response, an additional geophysical survey report has been provided by the applicant; at the time of preparing this report, further comments were

awaited from the County Archaeologist, and any further advice received will be summarised on the Update Sheet.

Agricultural Land Quality

Paragraph 170 of the NPPF provides that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst others, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the Best and Most Versatile (BMV) agricultural land. Footnote 53 to Paragraph 171 suggests that, where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be used in preference to those of a higher quality. BMV agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification.

Whilst detailed information on the agricultural land quality is not available, on the basis of the Provisional Agricultural Land Classification, the site would appear likely to be within Grade 3, although the subgrade (i.e. 3a or 3b) (and, hence, whether the land would be BMV) is not known. Even if it was, however, given the limited size of the site, the extent of any BMV loss to non-agricultural uses would not be considered significant.

Design

The proposed scheme is in outline only, with all matters other than part access reserved for later consideration; the application is supported by a Design and Access Statement as well as the illustrative masterplan referred to above.

It is noted that the amended illustrative scheme (i.e. proposing siting the buildings within each plot to the western side of the plots so as to seek to reduce the extent by which the buildings would extend eastwards into the countryside) would result in the provision of most of the car parking and servicing to the building frontages. Whilst the rationale for orientating the plots in this way is understood, this would have the effect of the proposed units being dominated by frontage parking and service yards, which would be an approach that the Local Planning Authority would not normally recommend. However, it is nevertheless noted that this would remain a reserved matter in the event that outline planning permission were granted.

Other Matters

Contribution to Sustainable Development

The NPPF contains a presumption in favour of sustainable development. Having regard to the three objectives of sustainable development, it is concluded as follows:

Economic Objective:

Whilst it is acknowledged that the existing identified shortfall in respect of employment land does not specifically relate to the use classes to which this proposal relates, it is nevertheless considered that the proposals would perform well in this regard, contributing to continued economic growth. It is also noted that the applicant has advised that, should a potential local and regional occupier be unable to find suitably sized accommodation elsewhere within Castle Donington (which it requires as a strategic location) it will not simply move to other proposed / allocated employment sites in the District.

Social Objective:

The economic benefits associated with the proposed development would, by virtue of the social effects of the jobs created on those employed in association with the development, also be expected to provide some social benefits and, hence, the impacts of the proposed scheme would also be considered to be positive insofar as the social objective is concerned.

Environmental Objective:

Whilst the site is relatively well served in terms of public transport, and has the potential to contribute positively towards the movement towards a low carbon economy, the proposals would result in the development of a site which is identified as countryside in the adopted Local Plan and, furthermore, the impacts on the existing separation between (and the separate identities of) the settlements of Castle Donington and Hemington, together with associated landscape and visual impacts.

Having regard to the three objectives of sustainable development, therefore, and having regard to the conclusions in respect of various technical issues above, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to employment land supply, would ensure that the scheme would sit well in terms of the economic and social dimensions. However, insofar as the environmental objective is concerned, it is considered that significant harm would result, and particularly in terms of the development of land outside Limits to Development, in conflict with the policies of the development plan.

Conclusions

As set out above, whilst the proposed development would contribute towards the supply of employment land, and whilst it is acknowledged that, in terms of a number of technical issues, the scheme would be satisfactory, the scheme would result in the development of land outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Whilst, given the overall shortfall in employment land allowed for the Local Plan vis-à-vis the requirement identified in the HEDNA (albeit that the principal shortfall would be in respect of B1(a) (offices) and B1(b) (research & development), the Local Plan allows in principle the development of sites outside Limits to Development for employment purposes, this is subject to a number of criteria, and including in respect of the requirement within Policy S3 that development outside Limits to Development does not undermine the physical and perceived separation and open undeveloped character between nearby settlements. It is considered that the proposed development would result in a significant reduction in the existing physical separation between the villages of Castle Donington and Hemington and, as a result, would weaken their separate identities. When having regard to the other economic and social benefits of the scheme in the overall planning assessment, it is considered that the planning judgement would be finely balanced. Nevertheless, given the particular issues in respect of the separation of the settlements of Castle Donington and Hemington, the proposed development would not be considered to meet the requirements of Policies S3 and Ec2 of the adopted plan, nor the strategy within the Local Plan as a whole.

It is therefore recommended that planning permission be refused.

RECOMMENDATION- REFUSE, for the following reason(s):

- 1 Paragraphs 7 and 8 of the National Planning Policy Framework (NPPF) require that the planning system contributes towards the achievement of sustainable development, and set out the environmental objective of sustainable development, including its contribution to protecting and enhancing our natural environment. Paragraph 170 provides that planning decisions should recognise the intrinsic character and beauty of the countryside. The site falls outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Whilst Local Plan Policy Ec2 allows for new employment development in appropriate locations not otherwise identified for employment use in the Local Plan, this is subject to the proposals not being detrimental to the wider environment; Policy S3 allows for employment development outside Limits to Development in accordance with Policy Ec2 and subject to a number of other criteria, including a requirement that such development would not undermine the physical and perceived separation and open undeveloped character between nearby settlements. The application proposes the development of land outside Limits to Development, in a location whereby the physical separation of the settlements of Castle Donington and Hemington would, as a result of the development, be significantly reduced, undermining the separate identities of those settlements, contrary to the criteria for such development set out within Local Plan Policy S3. Approval would therefore be contrary to Policies S3 and Ec2 of the Local Plan, not constituting sustainable development, and contrary to the policies and intentions of the NPPF.