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Erection of 79 dwellings and associated infrastructure

Report Item No  
A1

Land North Of Greenhill Road And East Of Agar Nook Lane  
Coalville Leicestershire

Application Reference  
14/00050/FULM

Applicant:  
David Wilson Homes

Date Registered  
17 January 2014

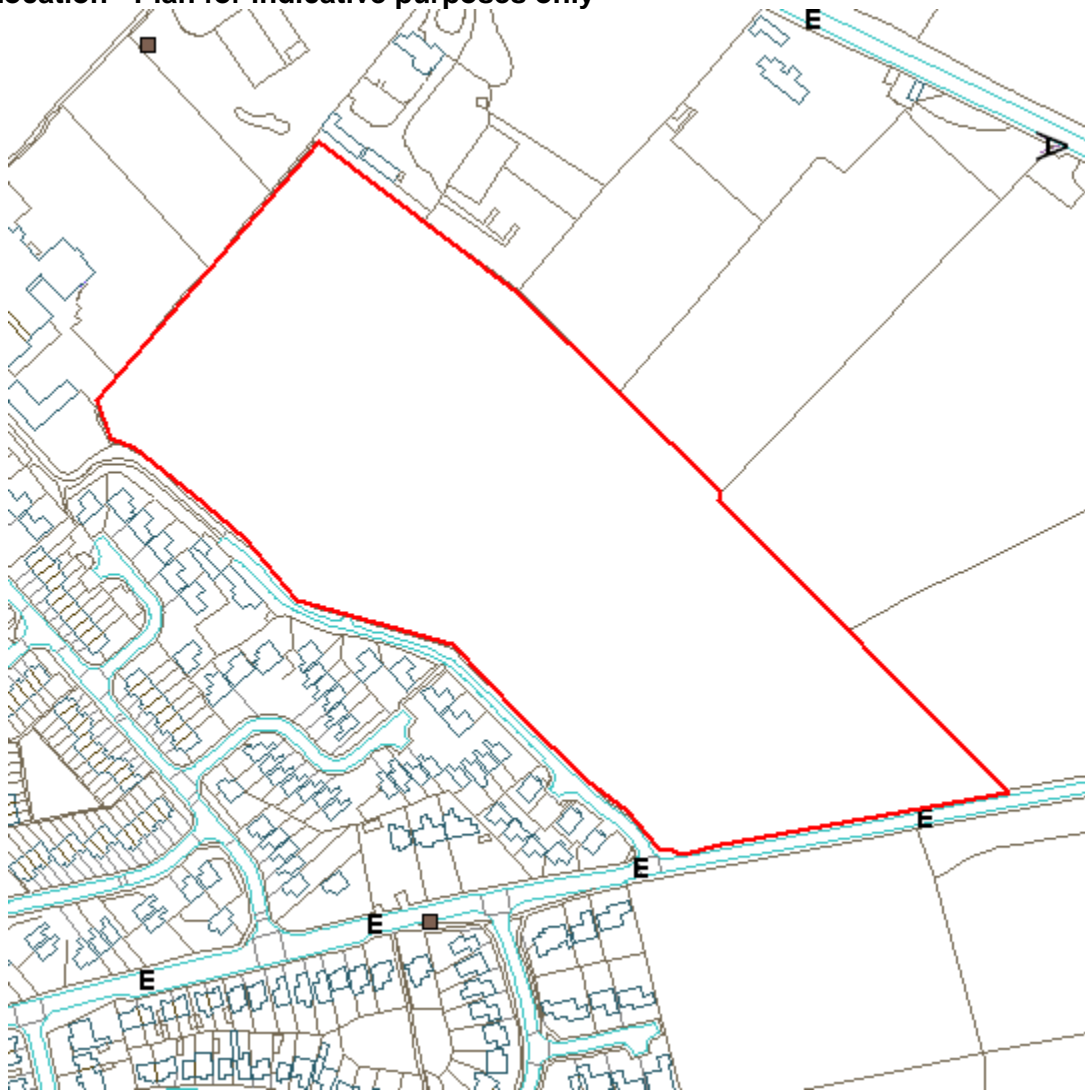
Case Officer:  
James Mattley

Target Decision Date  
18 April 2014

Recommendation:  
REFUSE

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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 full planning permission for residential development of 79 dwellings including associated infrastructure at Greenhill Road, Coalville.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals from surrounding neighbours and from Leicestershire and Rutland Wildlife Trust; no other objections are raised by statutory consultees.

### **Planning Policy**

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and in an Area of Particularly Attractive Countryside. Also relevant, however, are the District's housing land requirements, and the need (as set out in the National Planning Policy Framework) to demonstrate a five year supply.

### **Conclusion**

The report below indicates that, the site is a greenfield site outside Limits to Development and located within an Area of Particularly Attractive Countryside.

The proposed development would result in the development of land outside of the defined Limits to Development and the erection of 79 dwellings and associated built infrastructure would diminish the present open character of the Area of Particularly Attractive Countryside which would be contrary to Policy E22 of the Local Plan. The Council is currently able to demonstrate an adequate supply of housing and there are no other over-riding material planning considerations that outweigh the conflict with the Area of Particularly Attractive Countryside. Overall, it is considered that the proposed development of the site is unacceptable in principle and would not represent sustainable development.

### **RECOMMENDATION:- REFUSE PLANNING PERMISSION**

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

This is a full planning application for residential development of 79 dwellings on a site of approximately 6.12 hectares to the north of Greenhill Road, Coalville. The application site comprises three field parcels of land that are currently used by dog walkers with a number of informal paths evident across the site. To the west of the application site are the residential estates off Agar Nook Lane, York Place and Lancaster Close, to the east are open fields, some of which have recently been designated as a Site of Special Scientific Interest (SSSI), to the south of the site is Greenhill Road and to the north are field parcels which abut Warren Hills Primary School and the grounds of Castle Rock School. The site is located outside of the limits to development and in an area designated as an Area of Particularly Attractive Countryside.

Vehicular access is proposed via a new access point onto Greenhill Road that would be sited centrally along the site frontage. A total of 79 dwellings are proposed and these would consist of 1 x 1 bed dwelling, 4 x 2 bed dwellings, 37 x 3 bed dwellings, 27 x 4 bed dwellings and 10 x 5 bed dwellings. The site also includes for informal public open space (0.44 hectares), a nature conservation site (2.61 hectares) and the retention of existing trees and hedgerows (1.49 hectares). The western-most field within the application site would not have any built development due to the grassland that is of ecological importance. Amended plans have been received during the course of the application in order to improve the design of the proposed scheme.

The application has been called in by Councillor Clarke due to significant local concern.

The application is accompanied by an ecological assessment, flood risk assessment, planning statement, design and access statement, travel plan, arboricultural impact assessment, archaeological desk based assessment, landscape review, affordable housing statement, transport assessment and statement of community involvement. A viability assessment has also been submitted with the application.

Pre-application advice has been carried out prior to the formal submission of this application.

### 2. Publicity

46 Neighbours have been notified (Date of last notification 23 January 2014)

Press Notice published 29 January 2014

Site Notice posted 29 January 2014

### 3. Consultations

Severn Trent Water Limited  
Head of Environmental Protection  
County Highway Authority  
Environment Agency  
Natural England  
NWLDC Tree Officer  
LCC County Archaeologist  
LCC ecology  
Airport Safeguarding  
NWLDC Urban Designer  
LCC Development Contributions

NHS Leicester, Leicestershire And Rutland Facilities Managme  
NWLDC 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  
National Forest Company  
Head Of Street Management North West Leicestershire District  
DEFRA  
LCC Fire and Rescue  
Leicester & Rutland Wildlife Trust  
NWLDC Urban Designer

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

**East Midlands Airport** has no safeguarding objection to the proposal.

**Environment Agency** has no objections to the proposal subject to the inclusion of suitable conditions.

**Highways Agency** has no objections to the proposed development.

**National Forest Company** raises no objections to the scheme subject to the inclusion of relevant conditions.

**NHS England (Leicestershire and Lincolnshire Area)** requests a financial contribution of £12,659.71.

**North West Leicestershire Environmental Protection** has no environmental observations and no concerns relating to land contamination.

**Leicestershire and Rutland Wildlife Trust** objects to the application on the following grounds:  
The development represents an encroachment into the Charnwood Forest;  
The site is located outside of the settlement boundary;  
The application site has significant wildlife value and forms a corridor to other ecological sites;  
Field F1 within the development meets the criteria for becoming a Local Wildlife Site;  
The applicants proposal to maintain Field 3 as a wildlife area are flawed;  
Field F2 has great potential for future habitat establishment and forms a buffer for the other habitats;  
There should be no development within Field F3;  
Lighting could have an adverse impact on the character of the area and on bat population;  
There are no specifications for the proposed buffer strips next to the SSSI or management details;  
Loss of a mature tree would be unacceptable.

**Leicestershire County Council Civic Amenity Services** requests a developer contribution of £5,615.

**Leicestershire County Council Ecologist** has no objections to the application providing that it is carried out in accordance with the submitted planning layout and in accordance with the recommendations contained within the ecology report.

**Leicestershire County Council Education Services** requests a developer contribution of £149,180.79 to be spent by improving, remodelling or enhancing existing facilities at Coalville Warren Hill Primary School.

**Leicestershire County Council Highway Department** has no objections subject to the inclusion of relevant planning conditions and legal obligations.

**Leicestershire County Council Library Services** requests a developer contribution of £4,940.

**Natural England** has no objections to the application providing that it is carried out in accordance with the submitted planning layout and subject to certain conditions.

**Severn Trent Water** has no objections subject to the inclusion of a relevant drainage condition.

### **Third Party representations**

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

- o The accident statistics do not take account of near misses;
- o The increased traffic will increase the risk of accidents;
- o The proposed plans do not include highway mitigation;
- o The existing speed limits in the area are unacceptable;
- o Vehicles do not stick to the existing speed limits;
- o The volume of traffic leaving the access at peak times is unacceptable;
- o The existing road is very busy and the access arrangements are not satisfactory;
- o A dedicated right turn lane should be provided;
- o Unacceptable impact on surrounding junctions;
- o The road towards Charnwood Forest would be impassable during times of snowfall;
- o Publicly available data indicated that there have been accidents involving 9 vehicles since 2010;
- o According to the transport statement there has been just one accident at the Greenhill Road/Warren Hills Road junction which is misleading;
- o The off-site highway infrastructure payment would not be directly related to this site;
- o Scheme would be detrimental to the highway safety of school children and their parents and hospital users;
- o The bus service is inadequate in this area;
- o Number of vehicle movements would be higher than stated in the transport statement;
- o Traffic study is not up to date and was carried out prior to 'improvements' along Meadow Lane which has increased traffic along Greenhill Road;
- o The improvement works to Greenhill Road/Warren Hills Road are unlikely to have any impact upon congestion;
- o Greenhill Road/Warren Hills Road junction is difficult to negotiate particularly in the winter during periods of snow and ice;
- o The footpath link onto Agar Nook Lane may lead to issues regarding anti-social behaviour;
- o The construction of the dwellings would result in noise and disturbance;
- o The encroachment into the Charnwood Forest is unacceptable;
- o Charnwood Forest is one of the few places that offers tranquillity and a feeling of wilderness;
- o Would spoil the view of attractive countryside and represents urban sprawl;
- o Charnwood Forest is subject of a Leicestershire County Council plan in order to create a Regional Park

- o The extent of development in North West Leicestershire is unsustainable;
- o More pressure on existing services;
- o The application is outside of the settlement boundary;
- o This development does not feature in the Core Strategy;
- o Can the existing doctor's surgery and local schools accommodate the development?
- o The Local Plan identifies the area as being within an area of particularly attractive countryside;
- o There are plenty of other sites for housing;
- o Brownfield sites should be developed before Greenfield sites;
- o Application should not be considered before the Council has finalised its Development Framework;
- o If permission is granted it would set a precedent for further development in the Charnwood Forest;
- o The area is close to having a 5 year supply of housing and, therefore, lack of housing supply should not be the determining factor in granting this proposal;
- o The application site is not a sustainable location for new development with the town centre some 4km away;
- o Local employment opportunities are not close by;
- o Priority should be given to schemes that are located closer to the Town Centre or local employment opportunities;
- o The site is an important wildlife corridor;
- o The bat population in the area will be affected by light pollution and loss of hunting areas;
- o Two fields meet the Local Wildlife Site criteria;
- o The trees, grass and other vegetation on this site are vitally important and provide flood defences;
- o Charnwood Forest is a candidate for becoming a regional park;
- o Application poses a threat to the wildlife corridor linking Bardon Hill, Charnwood Lodge and Coalville Meadows;
- o The tree referred to as T1 should be retained;
- o The site contains important grassland habitat;
- o Impact of the proposal on adjacent SSSI's;
- o The National Forest Company identify the Charnwood Forest as a key area within the National Forest;
- o No indication as to how the wildlife mitigation measures will be funded and managed;
- o The applicants proposals to maintain one field as a wildlife area are flawed as flood defences would destroy a significant part of the site;
- o Questions regarding the validity of the ecological report;
- o Field F3 should not be developed as it meets the criteria for designation as a Local Wildlife Site;
- o More detail is required regarding the buffer strips next to the SSSI;
- o Concerns over the length of time of the building works;
- o At least half of the houses have four bedrooms or more;
- o There appears to be parking for less than two cars per house and would lead to on-street car parking;
- o This scheme should be assessed with other development proposed along Greenhill Road;
- o Adequate drainage is essential to avoid flooding;
- o The proposal does not include for social housing;
- o The new houses would be unsightly;
- o Some information contained in the Flood Risk Assessment is wrong as flooding occurred in the area around 10 years ago;

- o The benefits of this proposal do not outweigh the harm;
- o Would exacerbate existing drainage and flooding issues;
- o Grace Dieu Brook should be surveyed to analyse the existing drainage and flooding issues;
- o Serious reservations regarding the submitted Flood Risk Assessment;
- o Around 55% of the site would be hard surfaces which would result in drainage and flooding issues.

A petition containing 125 signatures has also been received objecting to the proposal on highway grounds.

The Friends of Charnwood Forest object to the application as it would have a devastating impact on important landscapes, important ecological sites and sensitive wildlife habitats.

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development.

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

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

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

Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that "this means:

- approving development proposals that accord with the development plan without delay;
- and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted."

"32 All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and

- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

"34 Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas."

"47 To boost significantly the supply of housing, local planning authorities should:  
- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

"49 Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

"57 It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"59 Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."

"61 Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"100 Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere."

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

"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 E22 seeks to prevent development which would adversely affect Areas of Particularly Attractive Countryside.

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.

## **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.

### **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. In terms of the sustainability credentials of the site, the site is located the following (approximate) distances away from a range of services:

Local Store at Belgrave Close - 500 metres  
Warren Hills Primary School - 650 metres  
Forest Way School, Castle Rock High School and King Edward VII Collage - 1600 metres  
Co-Op Mini Supermarket - 1450 metres  
Bus Stop - 300 metres  
Coalville Community Hospital - 1800 Metres

In terms of distance to amenities, the inspector in the Moira Road, Ashby appeal referred to DoT statistics which show that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1km, cycling about 4.5km and by bus about 8km. The site is adjacent to the built form edge of the Coalville Urban Area and is some distance (3.7km) from the Town Centre where the majority of facilities and services are located. However, the Town Centre is located within the average cycling distance of about 4.5km. The Bus Service Arriva 11 provides a service every 10 minutes to Coalville on Monday to Friday and every 10-15 minutes on Saturday. Bus stops for the service are located within approximately 300m of the application site.

Having regard to the location of the site it is considered that residents of the site would have access to some services and facilities by walking and easy access to all the facilities the town has to offer by cycling or using public transport. Taking all of the above into account, it is considered that the site is located within a sustainable location in terms of accessibility.

#### *Housing Land Supply and Limits to Development*

In terms of the contribution that this scheme would make towards the Council's five year housing land supply, the position is not entirely clear given the drainage situation on the site and this is discussed in more detail in the Drainage section below.

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, concluded that the Council's 5 year housing land supply calculation should be based on the "Sedgefield" approach (i.e. an approach requiring planning authorities to deal with any past under-supply within the first 5 years rather than to spread this over the whole plan period) an approach now expressly preferred in the recently published National Planning Practice Guidance, and thus even more likely to be favoured by appeal inspectors going forward. The Moira Road Inspector also applied a buffer of 20% for persistent under delivery. As such, officers have recently been advising Members of the Council's inability to demonstrate a five-year supply of deliverable housing sites. The consequence of this has been that the Council has not been able to rely on adopted policies S3 and H4/1 in determining housing applications as they are "relevant policies for the supply of housing" for the purposes of Paragraph 49 of the NPPF which, Members are aware "should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites".

As reported to Committee on 8th July 2014, however, a recently completed County-wide Strategic Housing Market Assessment (SHMA) has provided the Council with an up-to-date objectively assessed annual housing requirement, on which basis, the Council is now able to demonstrate a supply of 7.1 years (i.e. an excess of 2.1 years beyond the five year requirement, or an excess of 1.1 years beyond the five year plus 20% buffer requirement).

As a result of the above Policies S3 and H4/1 should no longer be considered 'out-of-date' in the context of Paragraph 49 of the NPPF - indeed these are Development Plan policies to which the Council should again now properly have regard in determining future planning applications. Whilst the weight to be applied to these policies against other material considerations is a matter entirely for members, officers would advise members, in applying weight to any conflict with Policy S3 in the overall planning balance, to bear in mind the fact that the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006).

However, it is accepted that 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. These are set out in more detail below:

#### *Environmental*

The site is located within an Area of Particularly Attractive Countryside (APAC) which the adopted Local Plan confirms is considered to represent the most significant and important rural landscape area locally. This designation is subject to saved Policy E22 which states the following:

*Development will not be permitted which would adversely affect or diminish the present open character and attractive rural landscape and/or be detrimental to natural habitats and scientific interest of the following Areas of Particularly Attractive Countryside, identified on the Proposals Map:*

- (a) *Land to the east of Greenhill, Thringstone, Whitwick and Worthington, including part of Charnwood Forest;*
- (b) *Land in the vicinity of Staunton Harold; and*
- (c) *Land at Gopsall's Wharf, Snareston.*

*Built development will be permitted only where it is appropriate to the established character of the designated area in terms of scale, siting, detailed design and materials of construction.*

*In addition the District Council will seek to:*

- (a) *Undertake or encourage measures to protect and enhance the landscape, wildlife, habitat, archaeological and scientific interest of the designated area, including planting, nature conservation measures and the provision of nature interpretation and appreciation facilities;*
- (b) *Secure the positive management of land within the designated areas to enhance and*

*maintain its wildlife habitat and features of scientific and archaeological interest;*

- (c) *Protect and conserve particular features which contribute to the special character of the designated areas, such as dry stone walls in the Charnwood Forest.*

The application is supported by a landscape review which sets out that the site and its setting are assessed in the Charnwood Forest Landscape and Settlement Character Assessment. The site is included in the Bardon Landscape Character Area (LCA) and the assessment sets out a number of recommendations for this area that include the following:

- \_ Restore and create new publicly accessible woodlands and outdoor spaces where quarrying ceases;
- \_ Create new woodland along roadsides and industry fringes to reduce their visual prominence within the landscape;
- \_ Protect the few distinctive features within the area such as the tree-lined avenue to Bardon Hill and existing mature woodland;
- \_ Protect the existing long distance views from Billa Barra Hill through appropriate management of woodland vegetation on the summit;
- \_ Restore hedgerows where they have become fragmented and encourage farmers to use hedgerows rather than timber fencing to demarcate field boundaries;
- \_ Restore quarried land adjoining Billa Barra Hill to create new public open spaces and new recreational footpaths, cycleways and bridleways linking to surrounding areas and the wider footpath network.

The landscape review notes that the site is close to the boundary of the Charley LCA and that even at a local level LCA's cover a broad area and often characteristics can bleed between them creating transitional zones. The site is located at the settlement edge and, therefore, shares a relationship with both the settlement and wider landscape. The Charnwood Forest character assessment includes specific settlement analysis, one of which covers the eastern settlement fringes of Agar Nook. A number of recommendations are also contained in this settlement character assessment and include the following:

- \_ Create distinctive entrance gateways through sensitive new infill development or improvement to public realm to reinforce distinction between settlements;
- \_ Protect existing mature trees along the roads and encourage more street tree planting;
- \_ Preserve the wooded rural approach in to the settlement around Abbots Oak;
- \_ Protect the sharp distinction and wooded south-eastern fringes of the settlement to retain a soft and well-screened urban edge to ensure that its prominence in the landscape does not increase;
- \_ Provide new planting along the Western fringes of Hall Lane to soften the urban edge from the wider farmland beyond.

Taking these character assessments into account, the landscape review recommends the following landscape strategy for the site:

1. The retention and reinforcement of the vegetated boundaries of the site. Tree planting to be reinforced and extended across the site, and boundary hedgerow structure reinstated and managed;
2. Maintain the open frontage to Greenhill Road by securing an appropriate development set back to manage the transition between the wider countryside setting and settlement. Development has the potential to create an active frontage to the site that creates a positive

relationship with Greenhill Road defined by high quality new housing;

3. The reinforcement of the treed setting to the north-east corner of the site extending the exiting tree canopy across Greenhill Road to create a landscape gateway to the settlement. This in turn will also help to soften and filter views of the development from the boundary of the site;

4. The retention and reinforcement of the vegetated boundary and open ditch course to Agar Nook Lane. This boundary is to be brought back under management to secure a landscape boundary that combined with development create an attractive and active frontage to the highway;

5. The safeguarding of the candidate grassland in Field 3 and provisions made for its future management;

6. The reinforcement of structural boundary vegetation to safeguard the visual setting of the wider landscape to the north and east of the site; and

7. The creation of development links between Fields 1 and 2 towards the southern extent of the internal boundary hedgerow and trees to avoid severing the network of boundary vegetation linking to the northern boundary of the site and wider landscape setting beyond.

It is considered that the provision of 79 dwellings and associated built infrastructure within the APAC would diminish the present open character of the area and result in an urbanising impact and, therefore, would conflict with Policy E22 of the Local Plan. In terms of the built development which is being proposed, it would be set back around 40 metres away from the site frontage. Two areas of public open space are proposed either side of the centrally located access and this area would include for landscaping, a new stone wall and the retention of the existing stone wall on the site boundary. It is also noted, as detailed elsewhere in this report, that around a third of the site would be designated as a local wildlife site and conditions/obligations could be attached to the granting of any planning permission requiring this to be managed in the future.

It is accepted that the applicants have attempted to reduce the impact on the wider APAC through their landscape strategy (although not all of the recommendations have been achieved on the submitted planning layout) but the provision of 79 dwellings and associated built infrastructure would conflict with Policy E22 of the Local Plan as the scheme would diminish the present open character of the area and result in an urbanisation of this rural site. The impact upon the open character of the area would be particularly apparent from certain locations along Greenhill Road and along Agar Nook Lane.

The designation of part of the site as a local wildlife site would count in favour of the scheme although it is noted that Leicestershire and Rutland Wildlife Trust object to the application (this is discussed elsewhere in the report). The designation of a wildlife site has the potential to improve biodiversity which would be a positive in terms of the schemes environmental credentials. However, the provision of a wildlife site on the site is not considered to compensate for the harm that would be caused to this APAC.

### *Social*

Coalville is the district's main settlement and provides the greatest range of services and facilities which not only helps meet the needs of local people, but also the needs of those in surrounding settlements. The new population could support and help sustain the local services

and facilities that meet local needs and contribute to the creation of sustainable communities.

A supply of housing that meets needs of present and future generations can contribute towards the building and supporting of vibrant communities. Therefore a mix of housing is supported and would contribute to meeting the housing needs of different groups in the community. However, the limited number of 2 bedroom properties could be considered to be to the detriment of the housing mix of the development.

Informal public open space is to be provided within the frontage part of the site and the field to the rear is to be safeguarded from development so as to protect the grassland. Financial contributions are proposed towards the provision of local services and facilities including health, education, libraries, civic amenity, transport and police (if found to be CIL compliant).

In terms of affordable housing, the scheme proposes an off-site contribution of £100,000 which would fall below the minimum 20% contribution the District Council's Affordable Housing SPD seeks to secure from new housing development in Coalville. This is discussed in more detail under Developer Contributions and Means of Access and Transportation below.

#### *Economic*

In the short term the construction of the development would provide opportunities for local employment. In the longer term new housing would also help to support and underpin demand for local businesses and services by providing opportunities for people to relocate to the area for employment purposes.

#### *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 NPPF is a material consideration and includes a presumption in favour of sustainable development.

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. The scheme would also conflict with Local Plan Policy E22 which seeks to restrict development that would adversely affect or diminish the present open character and attractive rural landscape in this area.

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 providing appropriate contributions to some 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, the proposed development would result in the development of land outside of the defined Limits to Development and the erection of 79 dwellings and associated built infrastructure would diminish the present open character of an APAC.

Having regard to the three dimensions of sustainable development detailed above, it is



considered overall that the proposed development of the site is unacceptable in principle and would not represent sustainable development in terms of the environmental role.

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

In respect of the proposed access arrangements, a simple priority junction is proposed. The proposed junction works would be accompanied by a relocation of the change of speed limit and gateway to a position further east of the access. In addition, a speed table is proposed at the crossroads of Greenhill Road with Cropston Drive and Abbots Oak Drive. The proposal has been subjected to an independent Stage 1 Road Safety Audit. Two 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 application is accompanied by a Transport Assessment (TA) as well as a Travel Plan. These documents conclude that the site is located in a sustainable location that is accessible by all modes of transport. The Highway Authority has reviewed the TA submitted in support of the application, which examined, amongst other things, the impact of the proposal upon the Warren Hills Road/Greenhill Road junction. The TA indicates that the junction operates at 98% capacity at the current time but would operate at 105% capacity when having regard to the additional traffic brought about by the proposed scheme. In order to mitigate the impacts of the proposal upon this junction the applicant proposes to widen the Greenhill Road arm of the junction to allow two vehicles waiting to turn left to stack next to vehicles waiting to turn right. The County Highway Authority conclude that as the development is acceptable subject to the mitigation works to the Warren Hills Road/Greenhill Road junction and subject to a range of other conditions and obligations.

Other mitigation proposals outlined in the TA 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:

- o Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- o 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £325.00 per pass - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).
- o Information display cases at nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display.
- o Bus shelters at nearest bus stops; to provide high quality and attractive public transport facilities to encourage modal shift. At £4,908.00 per shelter.

Any variation from the submitted information may result in a change in requirements.

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

o A Construction Environmental Management Plan (CEMP).

The request for a CEMP includes various measures such as the control of noise and vibration, waste materials and hours of operation. These matters are not considered to be matters that the County Highway Authority have control over and would appear to be matters which would be dealt with by separate environmental health legislation. Therefore, whilst a construction management plan can be conditioned to control wheel washing facilities and construction parking etc, it could not secure the full range of issues outlined by the CHA.

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 scheme at Broomleys junction, and an appropriate contribution of £426,000 has been calculated. The applicants are agreeable to paying this contribution.

As set out in more detail under Affordable Housing below, in order to accommodate this sum within the scheme whilst retaining its viability, and in accordance with the District Council's Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville policy, the applicants have undertaken a viability assessment 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.

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 wider Coalville area. This scheme would 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.

In terms of car parking on the site, the scheme would provide for a total of 182 spaces for the 79 dwellings. This figure does not include for any garages as they are not to be built in accordance with the internal dimensions stated in the County Council's 6C's document. Regardless of this issue, it is clear that the level of car parking is over and above the required level of 1.5 spaces per dwelling in the Local Plan. Whilst this level of car parking is over and above the level required by the Local Plan, it is noted the County Highway Authority raises no objections to the level of car parking and the Council's Urban Designer raises no objection to the design of the car parking spaces across the scheme. On this basis, the level of car parking is considered to be acceptable.

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.

### **Ecology**

The application submission is accompanied by an extended phase 1 ecological survey whereby the habitat types present are identified and mapped together with an assessment of the species composition of each habitat. In addition, further more detailed botanical survey and assessment work was undertaken of the grassland fields located on the site to establish the degree to which the grassland may represent an important habitat within the site.

The survey identifies that there are no statutory nature conservation designations within the site. However, Holly Rock Fields Site of Special Scientific Interest (SSSI) is situated immediately adjacent to the north-eastern site boundary. This was designated in March 2013 for the presence of lowland species-rich neutral grassland. Natural England were contacted during pre-application discussions and identified that the three main issues would be (i) potential for changes to the water table within the SSSI, (ii) egress onto the SSSI by visitors and (iii) disposal of garden waste and encroachment of new residential gardens adjacent to the SSSI. The site has been designed to ensure that these concerns are addressed and various mitigation measures are recommended in the ecology report. Charnwood Lodge SSSI is located approximately 200m north of the site and is separated by a number of agricultural fields and Warren Hills Road. At this distance, the report indicates that the proposals are unlikely to result in any significant direct adverse impacts.

In terms of the habitats contained within the site they include grassland, trees, hedgerows, scrub and young tree generation, drainage ditches and bramble. The grassland is considered to be the most important from an ecological perspective and there are three fields within the site that are labelled F1, F2 and F3 in the ecology report. Field F1 is the western most field and is dominated by semi-improved grassland, field F2 is located centrally and comprises an area of former allotments that have been long abandoned and field F3 forms the eastern part of the site and is dominated by coarse grasses. The grassland areas within each field have been subject to specific botanical survey and evaluated in relation to the criteria set out within *Guidelines for the selection of Local Wildlife Sites (previously known as Sites of Importance for Nature*

*Conservation or SINCs in Leicester, Leicestershire and Rutland* (Revised 2011). The evaluation confirms that the grassland present within field F1 meets the qualifying criteria for Local Wildlife Site (LWS) designation under the current Leicestershire and Rutland guidance and, therefore, no built development is proposed within this area. Field F2 and F3 do not meet the qualifying criteria for LWS and the report concludes that these two fields are not considered to provide any particular ecological value in the local context and their loss would be of no particular ecological importance.

Leicestershire and Rutland Wildlife Trust object to the application due to a range of different issues which include that field F2 is an important ecological buffer and that, on the basis of recent survey work, field F3 does meet the qualifying secondary criteria for LWS designation. However, the County Ecologist states that the submitted ecological report is satisfactory and that all of the recommendations made at the pre-application advice stage have been fully taken on board. Most of the habitat in field F1 would be retained within the proposed layout, although a small amount would be lost to create a SUDS feature, linking footpath and pumping station. The County Ecologist confirms that these losses are relatively minor, and (as long as the grassland is not just retained, but actively conserved) has no objections to the losses. The grassland in field F3 is marginal in terms of LWS criteria and, on balance, the County Ecologist's view is that the opportunity to conserve the high quality grassland in field F1 and to ensure its long-term protection and management should be taken, even if this causes the loss of other habitats that are of less value.

Subject to the inclusion of various mitigation measures which include, amongst other things, protection of the adjacent SSSI and the management of the LWS, the County Ecologist has no objections to the scheme. No concerns have been raised from the County Ecologist in respect of the impact of the proposal upon protected species. For its part, Natural England raise no objections to the scheme subject to conditions relating to a revised drainage strategy and the implementation of new secure boundary fencing. Therefore, subject to the imposition of suitably-worded conditions the submitted scheme is considered acceptable in ecological terms.

### **Trees**

The tree cover on the site is concentrated along the boundaries of all three fields and is predominantly comprised of Oak, Ash and Silver Birch. The edges to the central field contain the principal internal tree cover on the site and the frontage to Greenhill Road also contains tree cover. There is a group of trees along the western boundary that are protected by a group Tree Preservation Order (ref: TPO28) which originally related to 20 Oak trees although only 14 Oak trees now exist along this boundary. The submitted arboricultural report concludes that the proposals, with the exception of one tree (T36) are able to accommodate the retention and protection of all trees to be of good arboricultural quality, including all of those subject to a Tree Preservation Order.

The Council's Tree Officer raises some concerns over the loss of important mature trees, some of which have not been surveyed, loss of sizeable areas of young developing woodland and individual trees of high future value and recommends that if the application were to be approved then the access should be re-positioned further to the north in order to enable retention of an Oak tree which is in good condition.

Whilst the concerns of the tree officer are noted, the applicants are proposing to retain the majority of the trees on the site and it would appear that wherever the access into the site and between fields 2 and 3 would be positioned this would result in the loss of some trees. When having regard to the overall loss of trees on the site, the majority of which are not protected, and

that the applicants have given over a third of the site to a proposed wildlife site it is not considered that the impact of the proposal upon trees would be so severe as to warrant a refusal of the application.

### **Design**

The need for good design in new residential development is outlined not only in Local Plan Policy H7, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 requires new development to respect the character of its surroundings.

The scheme has been the subject to extensive discussions and negotiations with the District Council's Urban Designer during the course of the application. The main issues that have been identified during this process have been the connectivity of the scheme, ensuring adequate provision and size of car parking spaces, landscaping and character of the proposal in relation to the surrounding area. Amendments have been submitted by the applicant in order to address these concerns and include, amongst other things, a new footpath connection to York Place, the introduction of stone walls that would be visible from the site frontage, feature landscaping and amendments to the layout of dwellings to ensure an adequate number and size of car parking spaces.

The proposed scheme has now been assessed by the District Council's Urban Designer, and rated in accordance with CABE's new Building for Life criteria which scores on the basis of red/amber/green rather than a points based scoring system. The Council's Urban Designer considers that the application scores well against building for life criteria with 11 green indicators and one amber being secured. The amber is in relation to local housing given that the scheme is not providing for the full range of affordable housing on the site but this issue is covered elsewhere in the report. Conditions and notes to applicant are recommended to ensure that the scheme responds to the character of the area.

In terms of urban design, the District Council's Urban Designer considers that the previous concerns have been satisfactorily addressed. Therefore, subject to the satisfactory discharge of conditions, the proposed development would offer a good standard of design.

### **Residential Amenity**

Consideration has been given to the impact of the development on surrounding residential properties.

The site is only bounded by residential property along the western boundary with existing properties off York Place and Agar Nook Lane located in closest proximity to the proposed dwellings. However, the existing and proposed dwellings would be separated by Agar Nook Lane (a single lane track) and from mature landscaping along this boundary. Taking these issues into account and the distances between the existing and proposed dwellings, it is not considered that any significant overlooking, overbearing or overshadowing issues would arise.

In terms of the objections raised over construction noise it is considered that this is an inevitable temporary, manifestation of any development project, which is not the concern of the planning system unless there would be exceptional amenity harm. The Council's Environmental

Protection service has not raised any objections to the scheme and, therefore, it is not considered to cause exceptional amenity harm and any statutory nuisances could be dealt with under separate legislation.

It is, therefore, deemed that the development would not have any significant detrimental impact upon neighbouring residential amenities and is considered to be acceptable in relation to Policy E3 of the Local Plan.

### **Flood Risk and Drainage**

The application is accompanied by a Flood Risk Assessment (FRA). This provides that the site falls within Flood Zone 1 (i.e. outside the 1 in 1,000 year flood risk area) in terms of fluvial flood risk which is low risk. The FRA notes that in order to comply with the Environment Agency's requirements, it is recommended that the internal finished floor level of the proposed buildings are set at a specific level.

The Environment Agency has reviewed the submitted FRA and raises no objection to the proposed scheme subject to conditions relating to a surface water scheme, a foul drainage scheme and a scheme to treat and remove suspended solids from surface water run-off during construction works. The EA have provided information on the Water Framework Directive (WFD) as part of their response. Specifically this states the following:

*The increased amount of waste water and sewage effluent produced by the new development will need to be dealt with to ensure that there is no deterioration in the quality of the water courses receiving the extra volume of treated effluent. As such there may be a requirement for the expansion and upgrading of current sewage treatment systems, if the volume of sewage requiring treatment within the district increases.*

*It is unclear whether there will be sufficient headroom at the relevant sewage treatment works, therefore the sewerage undertaker will need to confirm that the sewage treatment works have enough capacity in the consented dry weather flow to accept all the foul flow from further developments. If there is insufficient headroom then the consent to discharge for the sewage treatment works will have to be reviewed to accommodate the additional flow. If river modelling shows that the consent limits need to be tightened beyond Best Available Technology in order to comply with no deterioration in the watercourse under WFD then the volume of foul flow arriving at the sewage treatment works may be limited.*

*It should also be demonstrated by the appropriate sewage undertaker that the increase in foul waste water entering the sewerage system will not cause any deterioration in the operation of any combined sewer overflows on the system either upstream or downstream of the development. There must be no increase in the spill frequency or volume of the combined sewer overflows on the sewerage network and the additional flow must not create the need for any new combined sewer overflows. If the sewerage network does not have the capacity to accept the flows then development must be phased in with the upgrading of the network and foul flows can only enter the system once the upgrading work is complete.*

*If the sewerage network does not have the capacity to accept the flows then development must be phased in with the upgrading of the network (please refer to Severn Trent Water Limited's Coalville Sewerage Strategy) and foul flows can only enter the system once the upgrading work is complete.*

For its part Severn Trent Water (STW) originally raised no objection subject to the inclusion of a

condition requiring drainage plans for the disposal of surface water and foul sewage. Following the information received from the EA regarding the WFD and capacity issues, and having regard to the number of objections from local residents to flooding and drainage, STW and the applicants were asked to provide further information on the drainage situation on site and in the surrounding area. STW state that there is a high risk of sewer flooding and a high risk from combined sewer overflow in the area of the application site. STW confirmed that sewer modelling is yet to be finalised (the results are expected in 5-6 weeks) and until such time they would not be able to ascertain precisely what the impact would be and what mitigation would be required. Once the results of the modelling have been completed a decision can be made on how many dwellings (if any) could be connected to the sewerage system without an impact and what onsite extra storage requirements would be necessary. STW advise that any mitigation works are usually carried out within 18-24 months but also advise that there is the option of temporary tankering of waste away from the initial phase of development if needed.

Advice on drainage matters can be found within the Government's Planning Practice Guidance which states at paragraph 20 the following: *If there are concerns arising from a planning application about the capacity of wastewater infrastructure, applicants will be asked to provide information about how the proposed development will be drained and wastewater dealt with. Applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment.*

*When drawing up wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works (those provided and operated by the water and sewerage companies). This should be done in consultation with the sewerage company of the area.*

*The timescales for works to be carried out by the sewerage company do not always fit with development needs. In such cases, local planning authorities will want to consider how new development can be phased, for example so it is not occupied until any necessary improvements to public sewage treatment works have been carried out.*

It appears from the responses received from Severn Trent Water that a technical solution is possible on the site and, therefore, in accordance with Paragraph 9 of the Planning Practice Guidance, it is considered that a Grampian planning condition could be attached to deal with this issue. However, it is noted that should planning permission be granted for the development this would include for conditions requiring the scheme to commence within 2 years (as set out above) and STW indicate that improvements to the drainage infrastructure could take up to 2 years to complete. Having regard to these issues it is not entirely clear as to the extent that this development would be able to contribute towards the Council's five year housing land supply position.

### **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. 16 units). 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 developers have indicated that an off-site contribution of £100,000 is proposed. This has been independently assessed by the District Valuer (DV) who considers that there is a viability issue on the site and reduced affordable housing is, therefore, considered to be acceptable in this instance.

The District Council's Affordable Housing Supplementary Planning Document indicates that:

Key Principle AH7 - Developer Contributions: preferred approach

In seeking the provision of affordable housing the Council's preferred approach is for the agreed provision to be made on-site.

Key Principle AH8 - Off Site provision

Where a developer/landowner considers that there are exceptional circumstances which suggest that on site provision is not appropriate they should identify this to the District Council as soon as possible, preferably as part of any pre-application discussions or when an application is submitted. In all instances the developer/landowner will have to demonstrate to the Council's satisfaction that on site provision is not appropriate and the reasons for this.

Having regard to AH7 and AH8 of the Council's Affordable Housing SPD, the applicants have been asked to provide information as to why an off-site contribution is being offered rather than on-site provision. They have indicated that an off-site contribution is more viable on the whole for the development site but no assessment has been provided to the Local Planning Authority to demonstrate what level of contribution could be made on-site. Whilst this would not be ideal in terms of the Council's SPD it is noted that similar off-site contributions have been agreed in other sites within the Coalville Area.

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 in the Coalville area are likely to result in reduced contributions of Affordable Housing provision. Having regard to the approach suggested in the 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 and to also ensure that the Section 106 agreement include 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:

- \_ 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;
- \_ Information display cases at nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display;
- \_ Bus shelters at nearest bus stops; to provide high quality and attractive public transport facilities to encourage modal shift. At £4,908.00 per shelter;
- \_ A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council.

#### *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 Warren Hills Primary School. The school has a net capacity of 210 and 241 pupils are projected on the roll should this development proceed; a deficit of 31 places (of which 12 are existing and 19 are created by this development).

There is one other primary school (Broom Leys Primary School) within a two mile walking distance and there is a surplus of 18 places at this school. The overall deficit including all schools within a two mile walking distance of the development is 13 places. The 19 deficit places created by this development can therefore only be partly accommodated at nearby schools and a claim for an education contribution of 13 pupil places in the primary sector is justified.

In order to provide the additional primary school places anticipated by the proposed development the County Council request a contribution of £149,180.79 which would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Coalville Warren Hills Primary School.

##### *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 516 pupils are projected on roll should this development proceed; a surplus of 81 places after taking into account the 8 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 1112 pupils are projected on roll should this development proceed; a surplus of 81 places after taking into account the 8 pupils created by this development. Therefore, no education contribution is requested in respect of the

Upper School sector.

#### *Play and Public Open Space*

The layout plan submitted shows that provision is proposed to be made for a total of 3.51ha of open space. However, this would be divided up with 0.44 hectares of informal public open space to the site frontage with the remaining open space consisting of a nature conservation site and the retention of existing trees and hedgerow areas. The management of these areas could be secured through a Section 106 agreement.

Under the District Council's Play Area Design Guidance Supplementary Planning Guidance (SPG), on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 79 dwellings are proposed, this would require a play area of not less than 1580 square metres. No on-site children's play area is proposed as part of this proposal and no off-site commuted sum is proposed. The Council's SPG regarding children's play areas specifies that the Council will not seek any additional provision where existing play areas, within 400 metres walking distance, satisfy the needs of the area, including the proposed development.

There would be a distance of less than 400 metres between most parts of the proposed site and the existing children's play area (using the proposed new pedestrian link to York Place) and, therefore, this would be considered a reasonable walking distance in accordance with the Council's SPG. The existing children's play area is considered to be of a sufficient size and accommodates a sufficient level of equipment. In coming to this conclusion it is noted that the Council's Leisure Services team has not requested any developer contributions. Therefore, it is not considered that an off-site commuted sum or on-site children's play equipment would be required in this instance.

#### *National Forest Planting*

The application site extends to 6.2ha and the National Forest Company's (NFC) Planting Guidelines, as set out in the Guide for Developers and Planners, would expect 20% of the site area to be for woodland planting and landscaping. This would equate to 1.24ha in this instance. The NFC welcomes the amendments to earlier proposals to retain and bring into management the northern-most field as grassland. They consider that whilst this is not additional tree planting within the Forest, it is considered an appropriate habitat for this location and will contribute to the overall range of habitats within The National Forest. Subject to the inclusion of relevant conditions which include, amongst other things, restricting public access to the adjacent SSSI and detailed landscaping plans the National Forest Company raise no objection to the proposed development.

#### *Civic Amenity*

The nearest civic amenity site is located at Coalville and residents of the proposed development are likely to use this site. Therefore, a civic amenity contribution of £5615 is requested.

#### *Library Services*

The proposed development on Greenhill Road is within 3.4km 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 £4940 is requested.

*Healthcare*

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £12,659.71 based upon a contribution commensurate to the anticipated increased population arising from this development.

*Contributions sought by Leicestershire Police*

Leicestershire Police requests a developer contribution of £33,096 in respect of policing as set out in the consultation response above. This money is requested in relation to staff, equipment, improving force communications and database capacity, CCTV, contribution towards vehicles and extension to premises in 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**

In terms of other neighbour representations that have not already been addressed, there is no evidence to suggest that a proposed footpath link to York Place and Agar Nook Lane would result in anti-social behaviour.

### **Conclusion**

The report above indicates that, the site is a greenfield site outside Limits to Development and located within an Area of Particularly Attractive Countryside.

The proposed development would result in the development of land outside of the defined Limits to Development and the erection of 79 dwellings and associated built infrastructure would diminish the present open character of the Area of Particularly Attractive Countryside which would be contrary to Policy E22 of the Local Plan. The Council is currently able to demonstrate an adequate supply of housing and there are no other over-riding material planning considerations that outweigh the conflict with the Area of Particularly Attractive Countryside. Overall, it is considered that the proposed development of the site is unacceptable in principle and would not represent sustainable development.

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

- 1 The application site is on unallocated Greenfield land located outside the limits to development of Coalville as defined in the adopted North West Leicestershire Local Plan and with an Area of Particularly Attractive Countryside. Policy S3 of the adopted North West Leicestershire Local Plan provides a presumption against non-essential residential development in the countryside and Policy E22 of the adopted North West Leicestershire Local Plan states that development will not be permitted which would adversely affect or diminish the present open character and attractive rural landscape and/or be detrimental to natural habitats and scientific interest. Whilst the scheme is considered to be acceptable in terms of the social and economic strands of sustainable development the scheme would fail the environmental element as it would adversely affect and diminish the present open character and attractive rural landscape of this part of the Area of Particularly Countryside. Therefore, overall, the proposed scheme would not be sustainable development and would be contrary to the NPPF and Policy S3 and Policy E22 of the Local Plan.

### **Notes to applicant**

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Local Planning Authority acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Local Planning Authority has therefore acted pro-actively 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).