
Erection of 20 no. dwellings with associated access,
driveways and parking

Report Item No
A3

Land Off New Street Measham Swadlincote Derby

Application Reference
13/00516/FULM

Applicant:

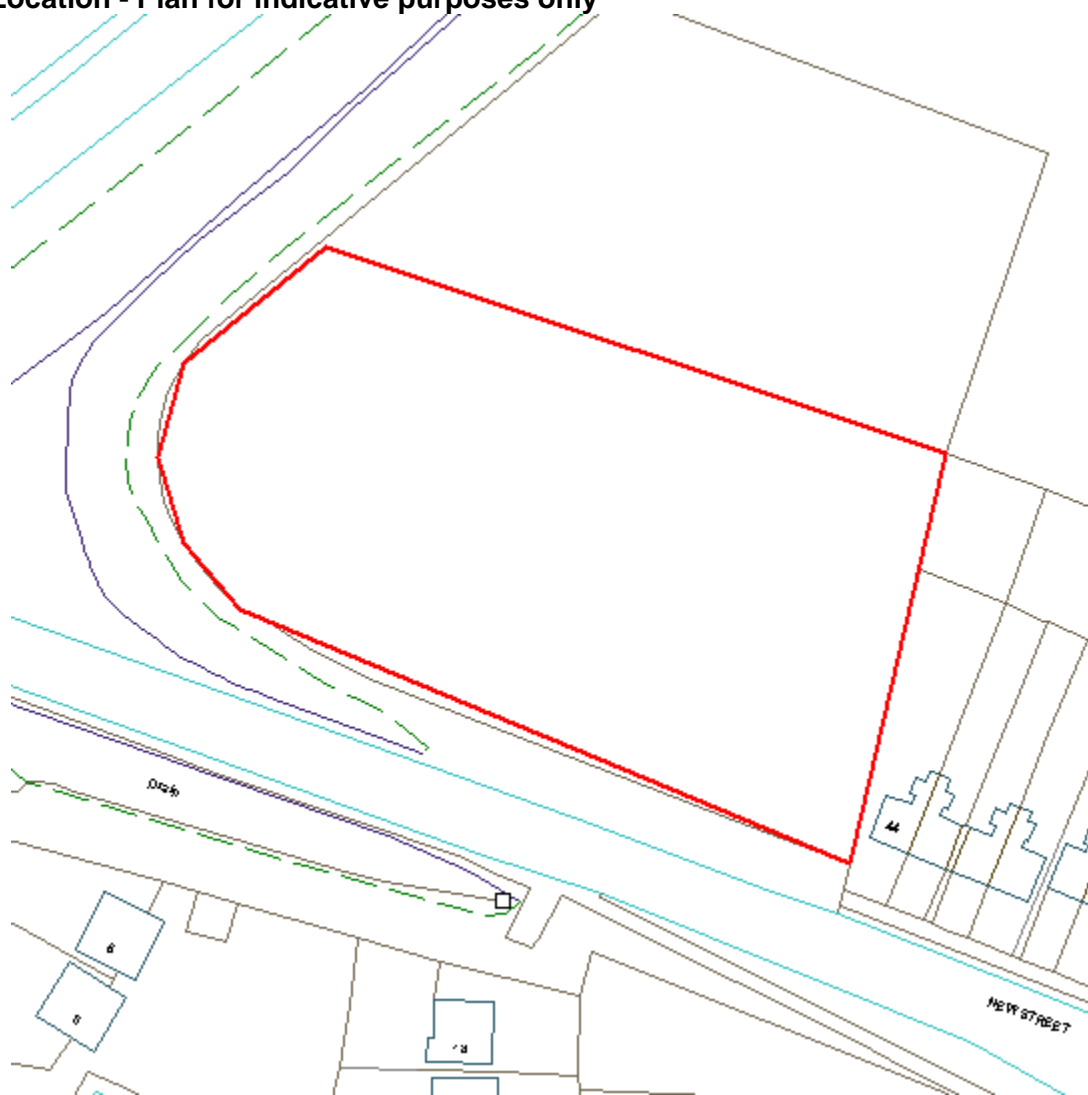
Date Registered
22 July 2013

Case Officer:
Jenny Davies

Target Decision Date
21 October 2013

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

Full planning permission is sought for the erection of 20 dwellings with associated access, driveways and parking at land adjacent to No. 44 New Street, Measham. The site is currently a grassed field, being 0.49 hectares in size and lies on the northern side of New Street. The site is adjoined by residential properties, another grassed field, National Forest planting, the A42 embankment and New Street itself. The proposed dwellings would be located across the whole site. Access would be located towards the eastern end of the site off New Street and two off-street parking spaces to serve No. 44 New Street are included within the site. The proposal includes off-site highway works to New Street.

Consultations

Members will see from the main report below that six letters of objection from members of the public have been received. The objections largely relate to highway safety. Measham Parish Council initially advised it could not support the proposal unless measures are put in place to reduce the speed of traffic on New Street. Following the submission of amended plans the Parish Council now has no objection. The County Highway Authority initially objected on two grounds in relation to the creation of a new vehicular access onto a classified road in a location where traffic speeds are generally high and a failure to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development. Following the submission of additional information the Highway Authority has withdrawn both of these reasons. There are no objections from any other statutory consultees.

Planning Policy

The application site lies within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also of relevance is the National Planning Policy Framework (NPPF).

Conclusion

The site lies within Limits to Development and is greenfield land. The proposal would contribute to maintaining a five year housing land supply and is in a sustainable location for new housing as it well related to a good range of services and facilities. Taking this into account it is considered that the principle of residential development on the site is acceptable.

The proposed development would be acceptable in terms of density, layout and design and impacts on the character of the area, residential amenities of existing residents, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI. A reason for refusal relating to impact on future residents from noise from the A42 can no longer be justified. It is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

A viability appraisal has been submitted by the applicants to demonstrate that the scheme would not be viable with affordable housing requirements. The submitted report indicates that the proposal would result in additional exceptional costs not taken into account in the base build rates, including works required to due to the site being part of former opencast mines and that the site is made up of opencast backfill, off-site highway works and the provision of acoustic glazing. This has been independently assessed by the District Valuer and they confirm that a scheme with no affordable housing provision and full developer contributions of £157,034 would be viable and the developer has agreed to pay the full amount of these contributions, which is considered appropriate in this case.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION:-

PERMIT, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies 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

The application has been called to Planning Committee by Councillor Sheahan due to concerns relating to highway safety and drainage.

Full planning permission is sought for the erection of 20 dwellings with associated access, driveways and parking at land adjacent to No. 44 New Street, Measham. The application was initially for 18 dwellings. The site is currently a grassed field and lies on the northern side of New Street. The site is adjoined by residential properties, another grassed field, National Forest planting, the A42 embankment and New Street itself. Land levels increase approximately by up to 2.5 metres from east to west but remain fairly level from north to south. The eastern end of the site is level with New Street but at its western end is 2-2.5 metres lower than the road, as the road climbs to the west to cross the A42.

The proposed dwellings would be located across the whole site and comprise 2 x two bed flats, 15 x three bed dwellings and 2 x four bed dwellings. A mixture of detached, semi-detached and flats are proposed. No affordable housing is proposed.

Access would be located towards the eastern end of the site off New Street and footways would be provided to both sides of the access, with the one on the eastern side linking into the existing footway along the northern side of New Street. Two off-street parking spaces to serve No. 44 New Street would be provided close to the existing field access, adjacent to No. 44's boundary. The proposal includes works to New Street including removal of the existing 'splitter island' and some road markings, formation of a ghost island and two sets of triple speed cushions and relocation of the 30mph speed limit further west along New Street with new road markings. The hedgerow and trees located on the site's eastern boundary are shown to be retained. The site lies within the catchment area of the River Mease Special Area of Conservation and within the National Forest and the Coal Authority's Development High Risk Area.

An outline application for nine dwellings was submitted in 2012 and was withdrawn in August 2013 (12/00542/OUT). An outline application for residential development (03/01025/OUT) was submitted in 2003 and an appeal against non-determination was dismissed in April 2005 on the grounds of the adverse impact of noise on living conditions of future residents and lack of a contribution towards a play area.

2. Publicity

19 Neighbours have been notified (Date of last notification 7 April 2014)

Press Notice published 30 July 2014

Site Notice posted 02 August 2013

3. Consultations

Measham Parish Council consulted 24 July 2013

Head of Environmental Protection consulted 23 June 2014

Environment Agency consulted 23 June 2014

LCC ecology consulted 23 June 2014

Coal Authority consulted 23 June 2014

Severn Trent Water Limited consulted 23 June 2014

LCC Development Contributions consulted 7 April 2014

County Highway Authority consulted 7 April 2014
National Forest Company consulted 7 April 2014
Manager Of Housing North West Leicestershire District Council consulted 7 April 2014
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 7 April 2014
Police Architectural Liaison Officer consulted 7 April 2014
Head of Environmental Protection consulted 7 April 2014
Head Of Leisure And Culture consulted 7 April 2014
NWLDC Urban Designer consulted 7 April 2014
NWLDC Tree Officer consulted 7 April 2014
Natural England consulted 25 July 2013
Development Plans consulted 25 July 2013
Head Of Leisure And Culture consulted 25 July 2013

4. Summary of Representations Received

Statutory Consultees

Measham Parish Council initially advised that it could not support the application unless measures are put in place to reduce the speed of traffic on New Street in particular the speed of traffic coming from Oakthorpe over the A42 bridge. Following the submission of amended plans to increase the proposal to 20 dwellings the Parish Council advises it has no objections.

The County Highway Authority initially recommended refusal on two grounds:

- The proposal, if permitted, would result in the creation of a new vehicular access onto a Class III road in a location where traffic speeds are generally high and the increase in turning traffic in such a location would not be in the best interests of highway safety.
- The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development in terms of the relocation of the 30/40 mph speed limit and the proposal, if permitted would consequently result in an unacceptable form of development and could lead to dangers for road users.

Following submission of additional information and revised plans including traffic calming measures and repositioning of the 30mph zone to New Street the County Highway Authority now has no objections subject to conditions.

The County Archaeologist advises that the proposal warrants no further archaeological action.

The Council's Urban Designer initially advised that the proposal would not meet local policies or Building for Life 12 and would recommend refusal on design grounds.

Severn Trent Water has no objection subject to a condition.

The Environment Agency advises that as the DCS is in place, the site is less than one hectare in Flood Zone 1, its use is as a paddock and that Standing Advice is in place, it would not present a high risk to the environment or offer significant environmental benefit and therefore the Agency does not wish to comment on the proposals.

Natural England has no objections in relation to the River Mease SAC/SSSI subject to conditions and impact on bats and great crested newts, refers to its Standing Advice relating to other protected species and advised that impacts on biodiversity, geodiversity and local landscape character should be considered.

The County Ecologist initially advised that the ecology reports are satisfactory and no further surveys are required prior to determination.

The Council's Tree Officer has no objections and suggests the imposition of conditions.

The National Forest advised that the site was just below the threshold for on-site National Forest planting and requested that the scheme incorporate landscaping appropriate to the site's setting in the National Forest.

The Environmental Protection team has no objections in relation to noise impact provided all mitigation measures detailed within the noise report are provided and recommends the imposition of conditions in relation to contaminated land.

The Coal Authority has no objection and recommends the imposition of a condition.

The Affordable Housing Enabling Officer initially advised that whilst six affordable homes should be provided on site (based on 18 dwellings) provision of five affordable homes is sought in this case. Subsequently six affordable homes on site were requested (based on 20 dwellings). As no affordable homes are proposed an independent assessment of site viability should be undertaken.

NHS England initially did not request a contribution towards healthcare services (based on 18 dwellings) and subsequently requested a contribution of £9,619.20 (based on 20 dwellings).

Leicestershire County Council - Highway Transportation & Waste Management Authority has not made a request for a contribution towards civic amenity sites.

Leicestershire County Council Library Services Development Manager has not made a request for a contribution towards library services.

Leicestershire County Council Local Education Authority initially requested a contribution of £33,039.29 (based on 18 dwellings) and subsequently requested an amended contribution of £117,484.12 (based on 20 dwellings).

No responses received from DEFRA, Leicestershire Police or the Council's Leisure team by the date of this report.

Third Party Representations

Six letters of representation have been received which object on the following grounds:

- no need for more houses in Measham;
- overdevelopment of a small site in a sensitive National Forest area;
- impact on the environment and wildlife;
- the site is flooded for the majority of the year and not clear where this water will go to;
- concerns relating to parking and the road layout on New Street;
- if bollards are moved there will no room to park outside existing properties on New Street;
- existing parked cars would present an obstruction to the new access which will result in parking restrictions being put in place, preventing existing residents from parking on the road;
- not clear if any parking or speed restrictions would be put in place;
- existing parked cars on New Street cause poor visibility and obstructions;
- 30mph speed limit on New Street often exceeded;
- New Street is already a busy road and additional traffic from the site will cause problems;
- New Street will become an accident blackspot due to speeding and traffic turning into and out

of the existing estate on the opposite side of the road and also into the proposed site;

- traffic will cause a mess, in particular due to flooding of the site;
- a solution to the traffic problem could be to drop the kerbs and a drive formed to the front of the property at the developer's expense;
- HS2 would pass through the site and would impact on the market value of the proposed dwellings.

An anonymous submission has been received which states that the route of HS2 passes through the site.

All responses from statutory consultees and third parties are available for Members to view on the planning file.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

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 (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.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage effective use of land by reusing land that is previously developed;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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. ...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."

"54. ... Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs."

"55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities."

"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."

"99. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaption measures, including through the planning of green infrastructure."

"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."

"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;
 - proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest; ...
- ...- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"119. The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."

"120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.... Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner."

"121. Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;...
- ...adequate site investigation information, prepared by a competent person, is presented."

"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;
- mitigate and reduce to a minimum other adverse impacts arising from noise from new development, including through the use of conditions..."

"173. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of

any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

"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."

North West Leicestershire Local Plan:

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development plan. The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan.

Policy S2 sets out that development will be permitted on allocated sites and other land within the Limits to Development, where it complies with the policies of this Local Plan.

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.

Policy E4 seeks to achieve good design in new development.

Policy E7 seeks to provide appropriate landscaping in association with new development.

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting.

Policy F2 sets out the criteria for maximising the potential for landscaping/planting as set out under Policy F1.

Policy F3 sets out the measures that will be used to secure landscaping/planting within the National Forest.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development. In relation to car parking standards for dwellings, an average of 1.5 spaces off-street car parking spaces per dwelling will be sought.

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 other things, 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 a number of issues including housing mix, accessibility to centres and design.

Policy H7 seeks good quality design in all new housing development.

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 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 Guidance

Submission Core Strategy

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

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs).

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System) sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

River Mease Water Quality Management Plan - August 2011 draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

The River Mease Developer Contributions Scheme (DCS) - November 2012 is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

The Community Infrastructure Levy Regulations 2010 provide a legislative requirement that an obligation must meet the following tests:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development;
- fairly and reasonably related in scale and kind to the proposed development.

Planning Practice Guidance - March 2014 supplements the policies in the NPPF. The Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

NWLDC SPD for Affordable Housing - January 2011

Key Principle AH2 provides that affordable housing will be sought on all sites of 5 or more dwellings in Appleby Magna.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Appleby Magna.

NWLDC SPG - Play Area Design Guidance - July 2002 sets out the relevant requirements in respect of children's play provision required in association with residential development.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the proposal, design and visual impact and its impact on residential amenities, highway safety, drainage and flood risk, protected species/ecology and on the River Mease Special Area of Conservation, and the provision of affordable housing and developer contributions.

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 (2002 (as amended)).

In terms of the Local Plan, the site lies within the Limits to Development where the principle of residential development is normally considered to be acceptable. Notwithstanding the site's location within the Limits to Development, in determining the application regard must be had to other material considerations, including other Development Plan policies and whether the proposal constitutes sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Policy H4/1 of the Local Plan sets out the provisions for considering proposals for the development of land for housing.

Housing Land Supply

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.

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's has not been able to rely on adopted Policy 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, 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 Policy 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.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to maintain this supply. It is therefore considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

Sustainability

Policy H4/1 provides a sequential approach to the release of land for housing and this proposal would fall within criterion (e) other appropriate land within settlements which satisfy the criteria for designation as a Rural Centre. The second section of the policy goes on to outline a set of criteria relating to the sustainability of the location. Measham provides a very good range of day to day facilities, i.e. two primary schools, shops including a Post Office, churches, church hall, public houses, GP surgery, library, leisure centre, play area/recreation ground and some small-scale employment sites.

There is also a reasonable public transport service; the No. 7 service currently provides a service Monday to Saturday (approximately every 1.5-2 hours) from 8.17am to 5.41pm which serves Ashby de la Zouch, Atherstone and Nuneaton and the No. 19/19A bus service provides a service Monday to Saturday (approximately every hour) from 7.30am to 8.11pm which serves Ashby de la Zouch, Swadlincote and Burton on Trent. Public consultation was also undertaken at the end of 2013 to reduce the No. 7 service so it operates every four hours, with a total of six buses running per day. At the County Council's Cabinet meeting in May 2014 it was agreed that the existing No. 7 service would be replaced with a community bus partnership and the County Council expect a two hourly service to be operating between Measham and Atherstone from the end of March 2015.

In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the

preferred maximum walking distance to a town centre with 400 metres acceptable and 200 metres being desirable. The Inspector in the Moira Road appeal referred to the DoT statistics which detail that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1Km (0.62 miles), cycling about 4.5Km (2.8 miles) and by bus about 8Km (4.97 miles). Below are the approximate distances from the centre of the site to local facilities and services via the existing footway network:

Bus Stop - 550 metres
Primary School - 1.1 km
Shops/Post Office - 780 metres
Play Area/Open Space - 340 metres
Village Hall - 750 metres
Public House - 700 metres

The application site is well related to most of the key services/facilities within the village, being within 800 metres (preferred maximum walking distance) of the majority of the services listed above, apart from the school. The library, leisure centre and doctor's surgery are all over 1.1km away although they are located close to the village centre. The level of services available is considered to be very good for a large rural village. The site is also located within 620 metres of a shop and takeaway in Oakthorpe which is accessible via the footway along New Street and there is also a school, leisure centre and two pubs in Oakthorpe. Given the scale of the development it is considered that the proposal would not result in unsustainable demands on local services and facilities, and contributions have been sought to provide additional capacity within schools and the doctor's surgery and to improve the nearby play area.

Loss of Agricultural Land

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. The site is currently grassland although it is not clear if it is in active agricultural use. The development of the site would result in an irreversible loss to non-agricultural use. DEFRA has been consulted on this issue, but no response has been received.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to maintaining a five year housing land supply issue as set out above, it would seem inevitable that greenfield land (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC).

However, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively). The site is approximately 0.49 hectares in size. It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process, which in this case would be relatively small in scale.

Nevertheless it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, when considered in the context of the benefits of releasing a site in a sustainable location to assist in maintaining the five year housing land supply, it is considered that the agricultural land quality issue is not sufficient to suggest that planning

permission should be refused, particularly given the relatively limited extent of the loss.

Conclusions in respect of the Principle of Development and Planning Policy

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The site is within the Limits to Development in the adopted Local Plan and is a greenfield site. The proposal would contribute to maintaining a five year housing land supply and is in a sustainable location for new housing as it well related to a good range of services and facilities.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in maintaining housing land supply, its proximity to services/facilities and the inclusion of appropriate contributions to local services would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment. Having regard to all of the above in the overall balance it is considered that the proposal would be a sustainable form of development and therefore the proposed development of the site is acceptable in principle.

Density

The proposal results in a density of 40 dwellings per hectare for the whole site, which is above that sought under Policy H6 of the Local Plan (a minimum of 30 dwellings per hectare) although a density of 40 dwellings per hectare is considered appropriate under Policy H6 for sites well served by public transport and accessible to services, which is the case in this instance. The NPPF also states that local planning authorities should set their own approach to housing density to reflect local circumstances.

Design and Visual Impact

It was considered that the original scheme for 18 dwellings failed to take advantage of key opportunities and reflect basic urban design principles, in particular as it did not face onto New Street, the layout appeared to heavily engineered and that the dwellings did not have any sense of local identity or character. As such the Urban Designer advised that there were robust reasons for refusal on design grounds. Subsequently, following discussions with the Urban Designer, amendments have been made to the proposal and the scheme for 20 dwellings largely addresses the original concerns outlined above.

The proposal provides a mix of housing with the majority being detached or terraced properties, ranging in size from two to four bedrooms. The dwellings are set back from the road frontage to reflect the building line along the side of New Street giving them small front gardens and alongside a proposed frontage hedgerow would provide a soft frontage to the site alongside the existing grass verge which is appropriate in this location close to the countryside. The two dwellings located on the opposite corners of the access road both front onto New Street and whilst they do not have a true dual aspect both have principal windows in their side elevations facing onto the new access road. Opportunities for surveillance are available with corner plots and elevations facing onto the access road and parking/turning areas. Plots 15 and 16 provide an end stop/vista when looking into the site from New Street as does Plot 7 within the site. The majority of parking would be provided within plot save for two shared parking areas, one of which forms part of a central courtyard overlooked by several of the dwellings with a small central landscaped area.

The surrounding area is characterised by older properties along New Street with more modern dwellings on the housing estate on the southern side of New Street although within this area there is a mix of housing size and design. The detailed designs show properties with generally traditional proportions and detailing which fit in with the character of older properties located within the historic core of the village. There would be a mix of designs, with variation in the design of the dwellings so that one style is not dominant.

The site can accommodate all of the necessary requirements (private gardens, parking/turning space, bin storage/collection areas) without being cramped. The layout plan shows a hedgerow to the site frontage with New Street and the retention of existing hedgerow and trees along the eastern boundary along with additional planting within the site and on its boundaries. Front and rear garden boundaries along the access drive would largely constitute hedgerows and walls, which reinforces and enhances street definition, and although some close boarded fencing is proposed it is largely not in prominent locations. Although land levels rise up gradually across the site from east to west, the streetscenes do not indicate a significant increase in land levels across the site, although this would be dealt with by condition.

Although there are elements of the scheme that could be improved, in particular the design of two of the dwellings, the use of gates to the rear access drives, the proposal is a considerable improvement on the scheme that was originally submitted. Most of the dwellings fit well with traditional house types within the village and its character would be further reinforced by landscape features and building details, such as materials and colour. Based on the above and subject to conditions, the scheme is considered to be acceptable in terms of its design and layout.

Character of the Area

In terms of the character of the site and locality, the site forms an open space and is part of the semi-rural feel to the approach into the village along New Street as well as forming part of the edge to the village's main built up area. The site is prominent in views from the western end of New Street as the road is at a higher land level to cross the A42 but is less prominent in eastern views and is not prominent from the housing development to the south or in longer views from the north, east or west due to screening by existing vegetation and the A42 cutting/embankments. Although most development is located to the south and east of the site, the site is adjoined by the A42 to the west, beyond which there is isolated development. Therefore the site is reasonably well related to the existing settlement and the new housing would be located close to existing development. The grass verge to the front of the site and the trees and vegetation along the A42 embankment are outside the site and would be retained, along with the hedgerow and trees on the eastern boundary.

Whilst the site contributes to the form and setting of the village and its semi-rural character in this location, in close and long range views the sensitivity of the site is limited, as it is effectively an open field with no particularly distinctive characteristics and it does not form part of a significant view into or out of the village. Development on the site would be viewed alongside existing development on both sides of New Street. The prominence of the development within the streetscene would be reduced to some extent by the dwellings being set back from the road in line with existing dwellings, with a new frontage hedgerow.

Therefore having regard to all of the above considerations, whilst there would be moderate and localised harm to the streetscene it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the character of this locality. The proposal is therefore considered to comply

with Policies E4 and H7 of the Local Plan and the provisions of the NPPF.

Residential Amenities

The access road would be at least 20 metres from existing properties and is therefore unlikely to result in significant levels of noise and disturbance. The larger parking court is well within the site away from existing dwellings and the other shared parking court would have a maximum of four spaces and be 4.5 metres from the end of No. 44 New Street's rear garden.

The new dwellings would be at least 34 metres from the dwellings on Lime Avenue. Plots 19 and 20 would be approximately 15 metres from No. 44 New Street which has one side window serving a landing. Plot 19 would not impinge on the 45-degree line from No. 44's rear windows. Plot 20 would in part be within 12 metres of No. 44's boundary but would largely face towards No. 44's side elevation rather than its private garden. Plot 19 would in part be 11 metres from No. 44's boundary and its first floor window serves a bathroom which could be secured by condition to have obscure glazing and top opening lights only. Although Plot 18 would be within 6.5 metres of No. 44's garden, this garden is large in size and No. 18's side window serves a bathroom. As such it is considered that the proposal would not result in significant detriment to the amenities of existing residents from loss of light, loss of privacy or creation of an oppressive environment.

The 2003 application for the site (03/01205/OUT) was dismissed on appeal in part on the grounds of the adverse impact of noise on living conditions of future residents, as it fell within Noise Exposure Category C of the then PPG24, where planning permission should not normally be granted, there was insufficient detail in relation to noise mitigation measures and at that time there was not considered to be a need to develop the site. A noise report was submitted with the application based on 18 dwellings and has subsequently been amended to reflect the increase in the number of dwellings to 20. This report concludes that the proposal would not have an adverse impact on health or quality of life when considered against paragraph 123 of the NPPF. The internal noise levels within the proposed dwellings would largely fall within the thresholds relating to a significant adverse effect (based on BS:8233 - Sound Insulation and Noise Reduction for Buildings and the World Health Organisation guidelines) and a glazing and ventilation strategy is proposed to ensure these noise levels with windows open or shut are largely not exceeded. This strategy relates to standard double glazing across most of the site with rooms oriented towards New Street and the A42 requiring enhanced glazing, along with alternative means of ventilation other than openable windows e.g. trickle vents to all living rooms and bedrooms across the site. Noise within eight of the private gardens would exceed the target noise level but the noise assessment states that the noise likely to be experienced would not be of such a level to prohibit the use of the gardens. In addition 1.8 metre high timber fencing/walls are proposed as the rear boundary to seven of these gardens with the remaining garden being linked to one of the flats. The Environmental Protection team has no objections in relation to noise impact provided all mitigation measures detailed within the noise report are provided, which can be secured by condition. As such it is considered that a reason for refusal relating to impact on future residents from noise from the A42 can no longer be justified.

Highway Safety

Concerns have been raised by local residents including removal of existing on-street parking provision, speeds of traffic along New Street and the potential for accidents to occur from use of the new access and due to traffic speeds, parked cars and proximity to the junction with Blackthorn Way. The County Highway Authority initially objected on the following two grounds:

- The proposal, if permitted, would result in the creation of a new vehicular access onto a Class III road in a location where traffic speeds are generally high and the increase in turning traffic in

such a location would not be in the best interests of highway safety.

- The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development in terms of the relocation of the 30/40 mph speed limit and the proposal, if permitted would consequently result in an unacceptable form of development and could lead to dangers for road users.

Following submission of a revised layout plan which showing works within New Street including removal of the existing 'splitter island' and some road markings, formation of a ghost island and two sets of triple speed cushions and relocation of the 30mph speed limit further west along New Street with new road markings, the Highway Authority advises that the applicant has now proposed measures which the Highway Authority believes will reduce speeds on New Street significantly and make a safe access to the site possible and therefore it has withdrawn its reasons for refusal and recommends approval subject to conditions.

A new access would be provided to the site and visibility splays can be provided in both directions. The Highway Authority's requirements for visibility splays and other technical requirements can be met and at least two parking spaces are proposed per dwelling, with more spaces in some cases, all of which can be secured by condition. As the site is served by a new access road, there is likely to be space for any off-street parking to take place within the site. A footway would be provided between the site and the existing footway along the northern side of New Street and a crossing facility is already in place further to the east on New Street to allow access to the public footpath linkages to the village centre. The submitted plan does not show any parking restrictions proposed outside existing dwellings on New Street and existing on-street parking on New Street would be outside the eastern visibility splay from the new access.

Based on the above it is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

Drainage and Flood Risk

The site lies outside the indicative floodplain and is therefore within Flood Zone 1 which is the flood zone with the lowest probability of flood risk. The nearest watercourse is located approximately 300 metres to the south east of the site. Although under one hectare in size, a Flood Risk Assessment (FRA) has been submitted along with an additional statement relating to flood risk and drainage based on the increase in dwellings on the site. The Environment Agency considers that the proposal would not present a high risk to the environment and therefore does not wish to comment on the application. The NPPF advises that new development should be steered to areas with the lowest probability of flooding. The NPPG states that '*... areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible.* The Environment Agency's Standing Advice states that '*For developments (other than changes of use) less than 1 hectare in Flood Zone 1, the main flood risk issue to consider is usually the management of surface water run-off. Drainage from new development must not increase flood risk either on-site or elsewhere. Government policy strongly encourages a sustainable drainage system (SuDS) approach to achieve these objectives.*'

Two ditches adjoin the site, one to the west which becomes a culvert and links into the public surface water sewer network and the other to the east which has no apparent outfall and discharges into the ground. The FRA advises that the majority of surface water currently would discharge into these two ditches, with most going into the eastern ditch due to site topography, although some would soak into the ground on the site. The FRA advises there are no recorded

flooding incidences within or close to the site and the Strategic Flood Risk Assessment (2008) for the District indicates that housing development on the site would be appropriate. Table 3 of paragraph 067 of the National Planning Policy Guidance (NPPG) shows that more vulnerable types of development, which includes housing, is appropriate within Flood Zone 1.

The FRA considers the flood risk to the site from potential flooding sources including from watercourses, groundwater and land drainage to be low. As the existing ditch would run beneath the access road the new site entrance would need to be designed to ensure it would not reduce the capacity of the drainage network or increase the risk of flooding.

The FRA advises that surface water would discharge to soakaway or if not appropriate to the public sewer system. The additional statement advises that soakaways are not suitable due to the underlying clay and deep opencast backfill and therefore surface water is shown to discharge to the existing adjacent land drains and then into the public sewer system. The FRA and additional statement advises that surface water discharge rates would be limited to maintain the existing greenfield runoff rate of 5 litres/second via surface water attenuation and flow control and that attenuation would be provided, in the form of tanks laid under the new access road, to accommodate excess runoff generated up to and including the 1 in 100 year rainfall event including a 30% allowance for climate change. This accords with the advice in the NPPF which states that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change.

The FRA therefore concludes that there is a low probability of flood risk to the site from a rainfall event and from flood sources and also from an event which could not be catered for by the surface water scheme for the site, and therefore the residual risks associated with flooding are not significant.

On this basis it is considered that the proposal complies with the NPPF and the NPPG and given the lack of objection from Severn Trent Water and the Environment Agency it is considered that a reason for refusal relating to flood risk could be not justified.

Protected Species/Ecology

The site is grassland with trees/hedgerows along its boundaries. The site is also adjoined by grassland and ditches along with woodland and two ponds nearby. These are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions. The habitats could also be used by national protected species. Natural England has no objections in relation to bats and great crested newts and makes no comments in relation to other protected species other than to refer to its Standing Advice. The County Ecologist is satisfied with both the original and updated ecological reports, which both advise that no evidence of protected species or habitats of note were found.

Two waterbodies were identified close to the site but one is isolated from the site by roads and existing development and the other is a lake over 400 metres away and likely to contain predatory fish, therefore being unlikely to support great crested newts. The habitat on the site is also considered to be unsuitable for great crested newts, reptiles, breeding birds and bats and whilst the adjacent woodland could be suitable for these species they would not be affected by the proposal. The report does suggest that a lighting scheme for the site is designed to be sensitive to bats, which can be secured by condition. No evidence of badgers was found within the site but the 2012 survey notes that a survey undertaken in 2008 identified mammal paths in the plantation woodland which were considered attributable to badgers, although they no longer

appear to be in evidence. The County Ecologist therefore requests the imposition of a condition requiring further surveys for badgers if development does not start within three years. None of the habitats on or adjacent to the site would be suitable for otters. The adjacent ditch is not considered suitable for water voles given its stone construction. On this basis it is considered that the proposal will not adversely affect other protected species.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. A tributary to the River Mease lies approximately 130 metres to the east of the site. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water in the river are met by potential developers. The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

The application proposes that foul drainage would be dealt with via the mains sewer system and the required contribution under the DCS has been calculated as £5,231. Natural England has no objections in relation to impact on the SAC/SSSI subject to conditions.

Consideration needs to be given to the capacity of Severn Trent Water's receiving treatment works at Measham. The flows from the new dwellings will need to be taken into account against the existing headroom at Measham. At March 2014 capacity was available for 846 dwellings but this is reduced by the number of dwellings that have already received a permit from Severn Trent Water and/or are under construction (658), and by the number of dwellings that have subsequently been granted planning permission or have a resolution to permit which would increase foul drainage discharge (nine). Taking these into account there is capacity available at the treatment works for the proposal.

A condition requiring that only a mains connection is used at the site would also be required as the use of other means for foul drainage discharge could adversely affect the SAC. Surface water from new development in the SAC catchment area should normally discharge to soakaway or other sustainable drainage system. However in this case the additional statement relating to flood risk and drainage advises that soakaways are not suitable due to the underlying clay and deep opencast backfill and therefore surface water is shown to discharge to the existing adjacent land drains and then into the public sewer system. Natural England advises that should the use of soakaways not be feasible then it would support the attenuation of surface water to restrict flows into the sewer system to existing greenfield rates, which will be put in place as outlined above in the section relating to drainage and flood risk. Conditions can

be imposed to secure the details of foul drainage and surface water discharge. Therefore based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

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.

Healthcare

In respect of the 18 dwelling scheme NHS England did not seek any contributions towards healthcare services. However in respect of the 20 dwelling scheme NHS England has requested a contribution of £9,619.20 to provide additional GP surgery facilities at Measham Clinic for additional patients arising from the development.

Education

In August 2013 under the scheme for 18 dwellings Leicestershire County Council sought the following contributions to provide additional places at the nearest schools where there is no capacity:

- £0 - primary school (Measham CofE Primary School); £0 - high school (Ibstock Community College); £33,039.29 - upper school (Ashby School).

In April 2014 under the scheme for 20 dwellings the County Council seeks the following contributions to provide additional places at the nearest schools where there is no capacity:

- £52,267.72 - primary school (Measham CofE Primary School); £32,177.11 - high school (Ibstock Community College); £33,039.29 - upper school - (Ashby School).

The agent queried why there was such a significant increase in the requested education contribution. The County Council advises that two other schemes in Measham at Burton Road and Bosworth Road for more than 460 dwellings in total have taken up the surplus places which existed at Measham CofE Primary School in August 2013 and the numbers on roll at the other two nearest primary schools (in Donisthorpe and Oakthorpe) have also increased. These factors meant that in August 2013 we had no primary claim but in April we had a full claim. Furthermore since August 2013 a further 786 dwellings have been approved in the Ibstock Community College catchment area which includes the two aforementioned Measham sites. The number of pupils on roll at the school has also increased. The two and four year forecast figures in August were 548 pupils and 589 pupils whereas by April these figures had increased to 563 pupils and 636 pupils.

Play Area/Open Space

Given the site is located 340 metres from an existing play area located on the same side of New Street in an easterly direction it is considered that an on-site play area is not required. A contribution of £24,700 (£1,235 per dwelling) is sought towards this play area (which the Parish Council agrees to if the application is approved) which would comply with the Council's Play Areas SPG.

Affordable Housing

The Strategic Housing Team advised that six on-site affordable homes should be provided as part of the scheme for 20 dwellings. The scheme does not include any affordable housing on the basis that the scheme would not be viable if this was provided. As no affordable homes are proposed the Strategic Housing Team request that an independent assessment of site viability is undertaken.

River Mease DCS

There is a requirement for a contribution of £5,231 in accordance with the River Mease DCS as outlined earlier in the report.

Highway Safety

The County Highway Authority has requested that a construction traffic route needs to be secured which can only be achieved via legal agreement.

Other Contributions

No request for contributions has been received from the Council's Leisure team or Leicestershire Police and the County Council has advised that contributions towards civic amenity sites and libraries are not required.

Conclusions in respect of Developer Contributions

Overall it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF, Circular 05/2005 and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development.

A viability assessment was submitted with the application which has been updated to reflect the proposal for 20 dwellings. This viability report indicated that the scheme would not be viable with the inclusion of affordable housing and advised that £45,308 would be put towards developer contributions. The submitted viability report indicates that the proposal would result in additional exceptional costs not taken into account in the base build rates, including works required to due to the site being part of former opencast mines and that the site is made up of opencast backfill, off-site highway works and the provision of acoustic glazing.

The District Valuer has assessed the submitted viability reports and in his assessment included the following requested developer contributions:

Education	£117,484
NHS	£9,619.00
Off-Site Play Area	£24,700
River Mease DCS	£5,231.00
Total	£157,034

The District Valuer concludes that a scheme with full or 15% affordable housing provision would not be viable but that a scheme with no affordable housing and the requested developer contributions would be viable.

The applicant has advised that they are willing to make all of the requested contributions totalling £157,034, with the exception of affordable housing. It is therefore necessary to consider whether a scheme offering £157,034 would represent sustainable development.

Paragraph 7 of the NPPF provides support for the social role of planning and states that *"a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being"*.

Whilst it is noted that some schemes will be acceptable without any affordable housing on site (or any off-site contribution) it is necessary to have regard to the particular circumstances of each application. Clearly the absence of an affordable housing contribution would fail to comply with the provisions of the District Council's Affordable Housing SPD which seeks to secure a minimum 30% on-site provision from new housing development in the Measham area.

In terms of the impacts of the non-provision of affordable housing, the 2014 Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) indicates that there is a significant requirement for new housing within the County and that Councils are justified in seeking to secure additional affordable housing. The SHMA estimates that that the level of affordable housing provision within the District required to meet the identified need is at least 209 new affordable dwellings per annum. In the years 2010/11, 2011/12 and 2012/13, the numbers of affordable houses built in the District were 42, 57 and 82 respectively, representing approximately 25% of all dwellings completed and, therefore, even at current levels of provision, and notwithstanding the increase in 2012/13, the housing needs of many people within the District are not being met, and not securing a contribution in this instance would not assist.

A lack of affordable housing in the District would be likely to impact upon some of the most vulnerable people within the District and has the potential to increase the number of homelessness cases. However, this needs to be balanced against the Government's support for Local Planning Authorities taking a proportionate approach to developer contributions and viability (and as indicated in paragraph 173 of the NPPF) so as to enable development to come forward to meet market (if not affordable) housing needs, and the need to consider the potentially harmful impact on other service areas were the shortfall in viability to be addressed by way of reductions in contributions to other areas of infrastructure.

As set out above, the NPPF contains a presumption in favour of sustainable development, the dimensions of which include a social dimension, with the planning system's role being to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. It is considered that, in this sense, the scheme would not perform well. On balance, however, given that the applicants have been able to demonstrate to the District Valuer's satisfaction that no affordable housing contribution could be provided from a viability point of view, and they are now making the full requested contributions to other service areas including health and education, it is considered that the omission of affordable housing would not be unacceptable in this case, and when balanced against all other viability considerations and other aspects of sustainable development.

The required Section 106 Agreement should require periodic reviews of the economic viability of the scheme to be undertaken during the course of the development with a view to increasing the required developer contributions in the event of the profitability of the scheme improving.

Other Matters

The two mature trees and hedgerow on the eastern boundary would be retained and other than two parking spaces, development would be outside their Root Protection Areas. The trees are far enough away from main garden areas and main windows to minimise compatibility issues. Any overhanging branches from the woodland to the west would only affect garden areas and

significant buffer would be retained between the dwellings and these trees. The Tree Officer has no objections subject to conditions.

The County Archaeologist advises that he does not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets and therefore advises that the application warrants no further archaeological action.

The site lies within an area previously part of an open cast mine and is within the Coal Authority's Development High Risk Area. A Mining Assessment has been submitted with the application and the Coal Authority advises the remedial measures proposed, which have been identified following intrusive site investigations, are appropriate to address the coal mining legacy issues present on the application site. The Coal Authority therefore has no objection subject to a condition to secure these mitigation measures.

In relation to contaminated land, due to the findings of the Phase 1 Assessment and the Phase 2 Ground Investigations, the Environmental Protection team recommend the imposition of conditions relating to remedial measures and a verification plan and investigation.

The site lies very close to the proposed route of HS2. Any potential adverse effects on future residents would be expected to be limited due to mitigation measures to be included in the HS2 design having regard to the need to protect other nearby dwellings. The scheme also includes acoustic glazing to some dwellings to minimise noise from the A42. Putting the potential for noise nuisance to future residents to one side, however, it is considered that only limited weight can be attributed to HS2 as a material planning consideration at this stage in HS2's development. The Government is currently consulting on the proposed Phase 2 (i.e. West Midlands to Manchester and Leeds) connections, and the route is not fixed at this time; Phase 2 is not currently subject to the safeguarding mechanism which applies to the Phase 1 (London to West Midlands) section.

Conclusion

The site lies within Limits to Development and is greenfield land. The proposal would contribute to maintaining a five year housing land supply and is in a sustainable location for new housing as it well related to a good range of services and facilities. Taking this into account it is considered that the principle of residential development on the site is acceptable.

The proposed development would be acceptable in terms of density, layout and design and impacts on the character of the area, residential amenities of existing residents, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI. A reason for refusal relating to impact on future residents from noise from the A42 can no longer be justified. It is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

A viability appraisal has been submitted by the applicants to demonstrate that the scheme would not be viable with affordable housing requirements. The submitted report indicates that the proposal would result in additional exceptional costs not taken into account in the base build rates, including works required to due to the site being part of former opencast mines and that the site is made up of opencast backfill, off-site highway works and the provision of acoustic glazing. This has been independently assessed by the District Valuer and they confirm that a scheme with no affordable housing provision and full developer contributions of £157,034 would be viable and the developer has agreed to pay the full amount of these contributions, which is considered appropriate in this case.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT, subject to the signing of a Section 106 Agreement and the following condition(s):

(subject to no contrary observations by 20 August 2014)

- 1 The development shall be begun before the expiration of three years from the date of this permission.

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

- 2 The development shall be carried out strictly in accordance with the following schedule of plans unless otherwise required by a condition of this permission:

- Drawing No. 2064/01 (Location Plan) received by the Authority on 22 July 2013;
- Drawing No. 2064/02 (Topological Survey) received by the Authority on 22 July 2013;
- Drawing No. 2064/03 Rev.L (Proposed Site Layout) received by the Authority on 28 March 2014;
- Drawing No. 2064/19 Rev.A (Street Scene) received by the Authority on 28 March 2014;
- Drawing No. 2064/29 Rev.B (House Type Dendale Plot 2) received by the Authority on 28 March 2014;
- Drawing No. 2064/30 Rev.A (House Type Dendale Plot 3) received by the Authority on 28 March 2014;
- Drawing No. 2064/22 Rev.B (House Type Coach House 1 Plot 4) received by the Authority on 28 March 2014;
- Drawing No. 2064/24 Rev.B (House Type Appleton Plot 7) received by the Authority on 28 March 2014;
- Drawing No. 2064/25 Rev.A (House Type Appleton Plot 8) received by the Authority on 28 March 2014;
- Drawing No. 2064/21 Rev.B (House Type Coach House 2 Plot 11) received by the Authority on 28 March 2014;
- Drawing No. 2064/34 Rev.B (House Type 1135 Plots 12 and 13) received by the Authority on 28 March 2014;
- Drawing No. 2064/31 Rev.B (House Type Dendale Plot 14) received by the Authority on 28 March 2014;
- Drawing No. 2064/32 Rev.A (House Type Dendale Plot 19) received by the Authority on 28 March 2014;
- Drawing No. 2064/33 Rev.A (House Type 1110 Plot 20) received by the Authority on 28 March 2014;
- Drawing No. 2064/28 Rev.B (House Type Dendale Special Plot 1) received by the Authority on 28 March 2014;
- Drawing No. 2064/23 Rev.A (House Type Appleton Plots 5 7 6) received by the Authority on 28 March 2014;
- Drawing No. 2064/26 Rev.B (House Type Appleton Plots 9 & 10) received by the

- Authority on 28 March 2014;
- Drawing No. 2064/27 Rev.B (House Type Appleton Plots 15-18) received by the Authority on 28 March 2014.

Reason- To determine the scope of this permission.

- 3 No development shall commence on site until such time as drainage plans for the disposal of foul drainage have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To ensure that the development provides a satisfactory means of drainage to reduce the risk of creating, or exacerbating any existing, flooding problem and to minimise the risk of pollution.

- 4 No development shall commence on site until such time as the detailed design of the surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the utilisation of holding sustainable drainage techniques with the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and the responsibility for the future maintenance of drainage features. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

- 5 The development hereby approved shall only use the mains sewer system for its foul drainage discharge.

Reason: Any other means of dealing with foul discharge could have an adverse impact on the River Mease Special Area of Conservation.

- 6 No development shall commence on site until such time as precise details of the finished ground levels on the site and the finished floor levels of the buildings in relation to an existing datum point have been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason: to ensure a satisfactory relationship with the adjacent dwellings, as insufficient details have been provided.

- 7 No development shall commence on site until details/samples (as appropriate) of the:-
- i. render, bricks, brick bond, and mortar;
 - ii. roofing materials;

- iii. rain water goods;
- iv. windows and doors (including heads and cills);
- v. porches and door surrounds;
- vi. chimneys;
- vii. eaves, verges and mid-course details;
- viii. positioning and treatment of utility boxes to individual units;
- ix. any other external materials

have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed materials and details.

Reason - In the interests of visual amenities and to enable the Local Planning Authority to retain control over the external appearance as precise details have not been submitted.

- 8 Notwithstanding the provisions of Part 1 of Schedule 2, Article 3, of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order) no window or opening (other than that which may be shown on the approved drawings) shall be formed in the following elevations unless planning permission has first been granted by the Local Planning Authority:

- the first floor of the eastern elevation of Plot 3;
- the first floor of the southern elevations of Plots 8 and 9;
- the first floor of the northern elevations of Plots 7 and 8;
- the first floor of the eastern elevations of Plots 18, 19 and 20.

Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.

- 9 The first floor bathroom windows in the western elevation of Plot 3 and the eastern elevations of Plots 18 and 19 and the first floor landing window in the eastern elevation of Plot 3 shall be glazed with obscure glass (to at least Pilkington Level 3 or its equivalent) and have top opening lights only, which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority:

Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.

- 10 Notwithstanding the provisions of Part 1 (Classes A, B and E) of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) Plots 19 and 20 hereby permitted shall not be enlarged, improved or altered nor shall any building, enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be erected within their curtilages unless planning permission has first been granted by the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain control over future development in view of the relationship of these properties to an existing dwelling and in the interests of visual amenities.

- 11 Notwithstanding the submitted plans, none of the dwellings hereby approved shall be occupied until full details of both hard and soft landscaping works and boundary treatments have first been submitted to and approved in writing by the Local Planning

Authority. These details shall include:

- a) Means of enclosure and boundary treatments to and within the site;
- b) Hard surfacing materials;
- c) Details of soft landscaping including schedules of plant species, plant sizes, planting plans and proposed numbers/densities where appropriate;
- d) An implementation programme for the hard and soft landscaping and boundary treatments.

Reason- in the interests of visual amenities.

- 12 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

Reason- to provide a reasonable period for the replacement of any trees.

- 13 No development shall commence on site until such time as protective fencing in accordance with Figure 2 of BS: 5837: 2012 (Trees in Relation to Design, Demolition and Construction) has been erected to the root protection areas (RPAs) of trees TA(B) and TC(B) located on the site's eastern boundary as shown on Drawing No. NSM 02 (Tree Protection Plan). The protective fencing shall remain in place until all construction works are complete.

Reason - in the interest of health and safety and the amenity value of the trees.

- 14 No development shall commence in respect of the parking spaces to Plot 18 until such time as a design and method statement for these works including details of changes to ground levels and arboricultural surface requirements have been submitted to and agreed in writing by the Local Planning Authority. All works to these parking spaces shall be carried out in accordance with the agreed design and method statement.

Reason - in the interest of health and safety and amenity value of the trees.

- 15 There shall be no storage of materials, plant, skips, equipment and/or other items associated with the development hereby approved, mixing of materials, vehicular movements or fires or other ancillary works associated within the area bounded by the protective fencing to the two trees located on the site's eastern boundary.

Reason - in the interest of health and safety and the amenity value of the trees.

- 16 If no development has commenced on site within three years of the date of this decision, then no further development shall commence until a further survey of the site for badgers and any mitigation measures (including a timescale for their implementation) if badgers are found has been undertaken and submitted to and agreed in writing by the Local Planning Authority. The mitigation measures shall be undertaken in accordance with the agreed details and timescale.

Reason- to prevent an adverse impact on badgers which are a protected species.

- 17 Prior to the erection of any external lighting to the access road, turning space and shared parking areas to Plots 3, 4, 5, 8, 10, 11, 17 and 18, details of the lighting scheme shall be submitted to and agreed in writing by the Local Planning Authority. The external lighting shall be provided in accordance with the agreed scheme and shall thereafter be so retained.

Reason: to prevent light spill towards trees/vegetation in the interests of bats.

- 18 None of the dwellings hereby permitted shall be occupied until the access road (including hard surfacing for the first five metres from its junction with New Street), visibility splays, footways either side of the new access including the link to the existing footway in an easterly direction along the northern side of New Street, turning space within the site and traffic calming measures to New Street (removal of splitter island and road markings, provision of ghost island, two sets of triple speed cushions, new road markings and repositioning of the 30mph speed limit) have been provided in full in accordance with the details shown on Drawing No. 2064/03 Rev. L (Proposed Site Layout), with the access road having a minimum carriageway width of 4.8 metres for its first 20 metres from its junction with New Street and 6 metre radii where it intersects with New Street. Once provided the traffic calming measures, access road, footways, turning space and visibility splays shall thereafter be so retained and the visibility splays shall be kept clear of all obstructions exceeding 0.6 metres above ground level.

Reason: To provide a safe vehicular and pedestrian access to the development; to ensure vehicles can turn within the site; To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 19 The car parking (including garage spaces) shown within the curtilage of each dwelling shall be provided, hard surfaced and made available for use before the dwelling is first occupied and shall thereafter be permanently so maintained for such use.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.

- 20 The car parking spaces to serve No. 44 New Street shall be provided in accordance with the details shown on Drawing No. 2064/03 Rev.L (Proposed Site Layout), hard surfaced and made available for use before any of the dwellings hereby approved are first occupied and shall thereafter be permanently so maintained for such use.

Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

- 21 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users.

- 22 No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in

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

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

- 23 Before first occupation of any dwelling hereby approved, its access drive and parking spaces shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres from its junction with the access road and shall be so maintained at all times.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

- 24 No development shall commence on site until such time as a Remedial Scheme and a Verification Plan for the remedial measures outlined in Georisk Management Phase II Ground Investigation -Residential Development, New Street, Measham (Report No: 12160/1; Date: May 2014) has been prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:
- o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

The Verification Plan shall be prepared in accordance with the requirements of:

- o Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

The development shall be carried out in accordance with the agreed Remedial Scheme and Verification Plan and retained as such in perpetuity.

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

The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- o BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
- o BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
- o BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and

- o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

Reason: To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF; To ensure that the land is, or can be made, safe and stable for the proposed development due to the risk from its coal mining history.

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

Reason:- To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF; To ensure that the land is, or can be made, safe and stable for the proposed development due to the risk from its coal mining history.

- 26 No development shall commence on site until such time as precise details of the double glazing and alternative ventilation systems to the living rooms and bedrooms of each dwelling (to ensure that each room achieves an internal noise level of between 30 dB LAeq and 45 dB LAmax) has been submitted to and agreed in writing by the Local Planning Authority. The agreed double glazing and alternative ventilation systems shall be installed to each dwelling before the dwelling is first occupied and shall thereafter be so retained in perpetuity.

Reason- to ensure the site is suitable for occupation by future residents without resulting in significant noise and disturbance from the A42.

- 27 Before first occupation of each of the dwellings on Plots 5, 6, 7, 8, 9 and 10, 1.8 metre high close boarded fencing shall be erected to the rear boundary of each plot as shown on Drawing No. 2064/03 Rev. L (Proposed Site Layout) and shall thereafter be so retained in perpetuity.

Reason- to ensure the site is suitable for occupation by future residents without resulting in significant noise and disturbance from the A42.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through engagement with the applicant during the application which

- led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
 - 3 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at www.defra.gov.uk
 - 4 This decision is subject to a Section 106 Obligation regarding the following matters:
 - Contribution towards education
 - Contribution towards healthcare facilities
 - Contribution under River Mease DCS
 - Contribution to nearby play area.
 - 5 The layout as shown in Drawing No. 2064/03 Rev.L is not considered to be acceptable to be adopted by the highway authority, due to a number of features including lack of tracking of a large refuse vehicle and forward visibility around the 90 degree bend, lack of tracking at the turning head, carriageway width of 4.5m and substandard size of parking spaces.
 - 6 The proposal is situated in excess of 45 metres from the highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
 - 7 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001)
 - 8 You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
 - 9 The proposed road does not conform to an acceptable standard for adoption and therefore it will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by (all) the private road(s) within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see www.leics.gov.uk/htd or phone 0116 3057198. Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it. Details of the future maintenance of the private road should be submitted for the approval of the LPA before any dwelling is occupied.
 - 10 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:
 - Collapse of shallow coal mine workings.

- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com