

Demolition of existing buildings and erection of 7 new affordable dwellings, including access and parking arrangements and parking for No. 6 Queen's Street.

Report Item No  
A4

Land At 6 Queens Street Measham Swadlincote Derbys

Application Reference  
13/00969/FUL

Applicant:  
Waterloo Housing Group

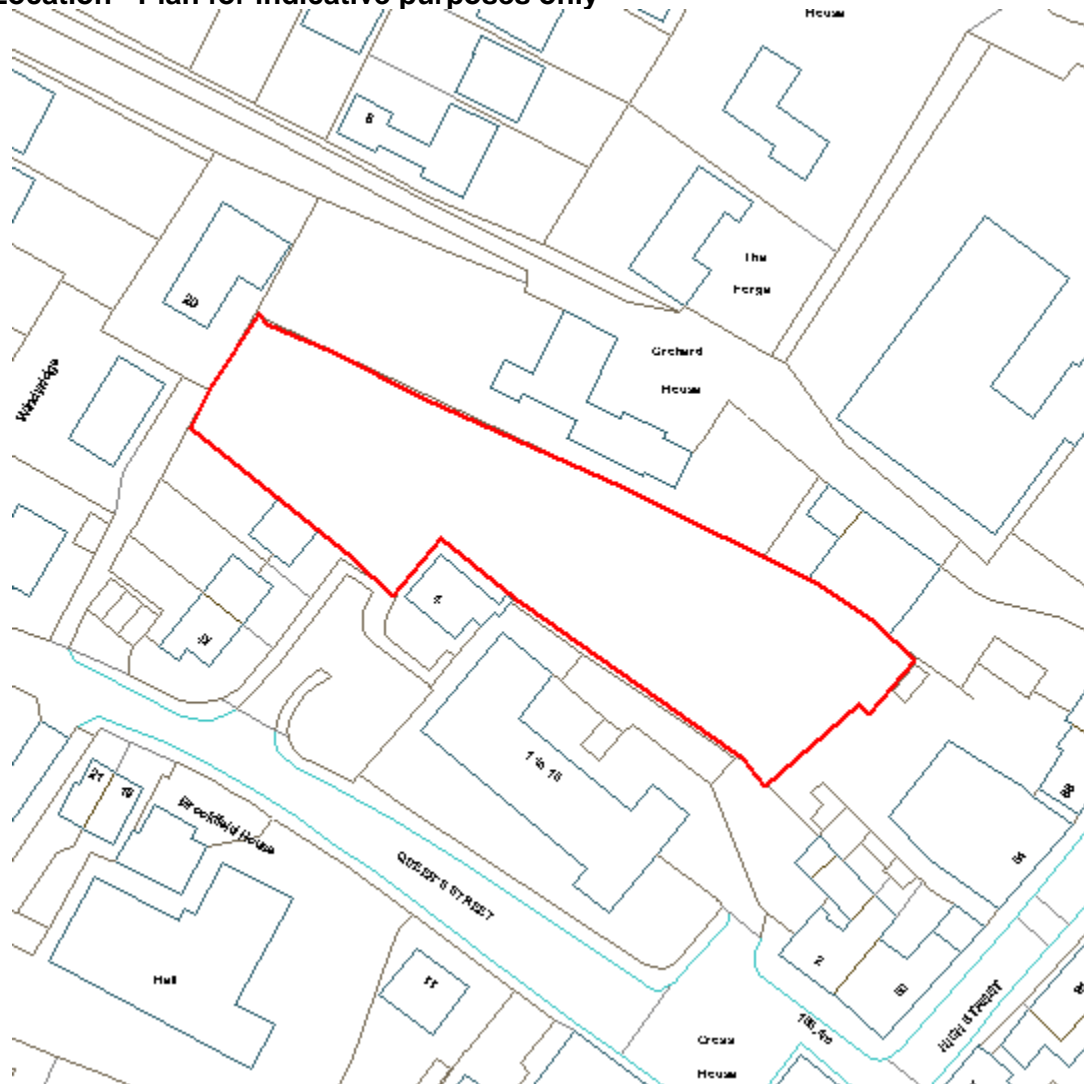
Date Registered  
6 December 2013

Case Officer:  
Hannah Exley

Target Decision Date  
31 January 2014

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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## EXECUTIVE SUMMARY OF PROPOSALS

### Call In

This application was deferred at the April meeting of the Planning Committee to allow officers to look into matters raised by local residents about the northern boundary of the site, impacts on neighbouring residential amenities, drainage and access arrangements. These matters, along with others raised by local residents have been reviewed and amended plans secured and the application is now reported back to Members.

### Proposal

Approval is sought for the erection of seven affordable dwellings on 0.2 of a hectare of overgrown land located to the north east of Queens Street. The site is a linear strip of land extending from the rear of properties fronting High Street to the rear of properties off Queens Street which back onto Oak Close. There is a topographical fall across the site from east to west.

The proposal includes 2 x 3 bed units and 5 x 2 bed units which would all be two-storey and comprise three semi-detached pairs and one detached dwelling. Access to the site would be gained via a new vehicular access located between No's 4 and 6 Queens Street. The proposal would require the demolition of existing single storey outbuildings located towards to eastern end of the site.

### Consultations

With respect to the previous scheme, a total of 12 letters of objections were received from members of the public and Measham Parish Council raised objection to the proposal. No other objections were received from statutory consultees.

With respect to the amended scheme, a total of 6 letters of objections have been received from members of the public and Measham Parish Council comments were awaited at the time of writing this report. No other objections have been received from statutory consultees.

### Planning Policy

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

The eastern tip of the site lies within the Measham Conservation Area and a protected Beech Tree occupies the northern boundary of the site. The whole site lies within the catchment of the River Mease Special Area of Conservation and SSSI.

### Conclusions

The site is located within the Limits to Development where residential development is acceptable in principle. The site is in a sustainable location and the density is considered appropriate. The site is of sufficient size to enable the site to be developed as proposed without adversely affecting neighbouring amenities, highway safety, the character of the area, protected trees or heritage assets. The proposal is considered unlikely to adversely affect protected species and it can be ascertained that the proposal will 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. There are no other relevant material planning considerations that indicate planning

permission should not be granted. The proposed development accords with the above-mentioned planning policies, and it is, therefore, recommended that planning permission be granted subject to Section 106 obligations and relevant planning conditions.

**RECOMMENDATION - PERMIT, APPROVE SUBJECT TO SECTION 106 OBLIGATIONS AND THE IMPOSITION OF CONDITIONS**

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

## MAIN REPORT

### 1. Proposals and Background

Approval is sought for the erection of seven affordable dwellings on 0.2 of a hectare of overgrown land located to the north east of Queens Street. The site is a linear strip of land extending from the rear of properties fronting High Street to the rear of properties off Queens Street which back onto Oak Close. There is a topographical fall across the site from east to west.

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The eastern tip of the site lies within the Measham Conservation Area. The whole site is within the catchment of the River Mease Special Area of Conservation and SSSI.

Since the application was previously reported to Members, two sets of amended plans have been received, which have sought to respond to the comments raised by local residents. The main differences between the current proposal and that previously considered by Members are as follows:

- the dwellings proposed on plots 1-3 are now a minimum of 2.25m from the base of the boundary hedge (centre line of the hedge as taken from the topographical plan) which provides a strip of land outside of domestic curtilages from where the existing hedgerow along the northern boundary can be maintained;
- the dwelling on plot 3 has been moved further away from the northern boundary by approximately 1.3m and has been shifted further south on the plot by approximately 1.25m; this increases the distance to the boundary and moves it further away from Orchard House particularly the habitable room windows;
- the amendments to the siting of the dwelling on plot 3 has required one parking space to be relocated to the front of the plot and additional landscaping and a tree are proposed to prevent parking from dominating the entrance to the site;
- the dwellings on plots 1 and 2 have a reduced roof pitch with the result that the overall ridge heights have been reduced by 600mm without significantly affecting the appearance of the scheme;
- the dwelling on plot 3 has a reduced roof pitch so that the ridge height is lowered by 450mm;
- parking in front of No.6 Queens Street has been relocated to ensure sufficient space is available for turning manoeuvres into/out of the spaces;
- a cross sectional drawing has been provided to show how the land adjacent to No.4 Queens Street will be retained;
- additional drainage information has been provided.

The application submission was accompanied by the following supporting documents:

- Phase 1 and 2 Geo-environmental Assessment by Ivy House Environmental (dated November 2013);
- Highways Impact Statement by Bancroft Consulting (dated September 2013);
- Flood Risk Assessment by Sustainable Drainage Centre (undated);
- Bio-diversity Report by Curious Ecologists (dated October 2013);
- Tree Survey and Tree Protection Plan by Curious Ecologists (dated October 2013);
- Design and Access Statement including River Mease and Heritage Statements (dated

- September 2013);
- Building Condition Survey by Samson Hamilton and Co (dated October 2013).

### **Planning History:**

Outline planning permission was granted for five dwellings on the same piece of land under application 11/00378/OUT. This application included an indicative layout for five units but these details were not permitted by the outline permission, as only details of access were included for consideration at the outline stage.

### **2. Publicity**

29 No neighbours have been notified.(Date of last notification 03 February 2014)

Site Notice displayed 7 January 2014

Press Notice published 8 January 2014

### **3. Consultations**

Measham Parish Council consulted 17 December 2013

NWLDC Tree Officer consulted 25 March 2014

County Highway Authority consulted 7 April 2014

Severn Trent Water Limited consulted 3 July 2014

LCC Fire and Rescue consulted 11 March 2014

Severn Trent Water Limited consulted 14 May 2014

LCC ecology consulted 14 May 2014

Environment Agency consulted 17 December 2013

Head of Environmental Protection consulted 17 December 2013

Natural England consulted 17 December 2013

County Archaeologist consulted 17 December 2013

NWLDC Conservation Officer consulted 17 December 2013

English Heritage- Grade I/II\* LB Setting consulted 17 December 2013

Manager Of Housing North West Leicestershire District Council consulted 17 December 2013

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

The following summary of representations is provided. Members will note that full copies of correspondence received are available on the planning file.

**Measham Parish Council** advise that they strongly object to this proposal on the access.

'Members feel that the access to the proposed site is totally inadequate for the development and is currently used by residents of Queens Street to park their vehicles as there is not enough provision in the area for the current amount of properties with vehicles. The whole length of Queens Street suffers from excessive traffic movement, with vehicles double parked, making access to and from the area difficult and which would worsen should the development be permitted.'

With respect to the first set of amended plans Measham Parish Council request that their previous comments and associated photographs remain applicable to the revised drawings and these have not been addressed. An additional concern is raised about the implications of the development for the structural stability of No.4 Queens Street. It is requested that the photographs which the Parish Council believes provides a true representation of the access be presented to Members.

No additional comments have been received with respect to the second set of amended plans.

**County Archaeologist** has no objections subject to conditions.

**English Heritage** advise that the archaeological potential of the site is not fully considered and therefore, archaeological advice should be sought in relation to the potential impacts of this scheme, mitigation and the treatment of undesignated archaeological remains.

**Natural England** has no objections subject to compliance with the developer contributions scheme and subject to standing advice on protected species

**County Highways Authority** has no objections subject to conditions.

**County Ecologist** has no objections subject to a condition requiring site clearance outside the bird-nesting season in line with the advice of the consulting ecologist.

The County Ecologist has been reconsulted following concerns about the impact of the development on a hedgerow and the adequacy of the bat survey. The advice provided is that previous comments still stand.

**NWLDC Environmental Protection** has no environmental observations.

**NWLDC Strategic Housing Team** advises that the mix of properties meets an identified need within the village.

**Environment Agency** has no comments to make.

**Severn Trent Water Ltd** no comments received.

**LCC Fire and Rescue Service** advises that access and facilities for the fire and rescue service are covered by Building Regulations. **Building Control** advise that the development appears to be compliant with Section B5 of Approved Document of the Building Regulations.

**Third Party Representations:**

12 letters of neighbour representation were received from the occupiers of eight properties, raising objections on the following grounds:

- the Beech tree on the site is protected by a TPO and the proposal encroaches into the 12m root protection area of the tree on three occasions;
- the proposal to reduce the crown on the protected tree is contrary to arboricultural advice previously sought by a neighbour;
- no protection fencing is shown around the root protection area of the Beech tree on the plans;
- the site has been cleared contrary to the conditions on the previous planning permission and damage has occurred to the protected tree;
- the proposal increases the number of units from 5 to 7;
- plot 1/2 and the terraced area behind would allow overlooking of the neighbouring properties and their garden areas due to proposed land levels being higher on the application site than the neighbouring properties;
- the close proximity and height of plot 2 in relation to Orchard House will result in overshadowing of this property;
- the existing hedgerows bordering the site should be retained and protected and any fencing and retaining walls should be clear of the root protection area hedgerow;

- the existing hedgerows should be retained for wildlife;
- difficulties maintaining existing hedgerow which will be in the rear garden of the proposed dwellings;
- concern about how surface water run-off will be dealt with;
- plot 3 is too close to the boundary and at a higher land level resulting in overshadowing/overlooking of the neighbouring dwelling and its patio area;
- overlooking of The Dairy Farm (No.70-72 High Street);
- effect on views from neighbouring properties which currently look out onto a green area;
- confusion about which buildings are to be demolished and where a new wall is to be erected to the rear of plots 6 and 7;
- there is asbestos in the agricultural building which adjoins one of the buildings to be demolished;
- the application now includes land and buildings that are within the Conservation Area;
- resident concerns raised about traffic, parking and dangers to pedestrians in relation to the previous scheme for 5 dwellings would only be made worse by the proposed increase in the number of dwellings;
- the site entrance is close to the village hall which is used for pre-school playgroup, dance classes as well as being used by interest groups and for parties which generate vehicular and pedestrian traffic and associated on-street parking;
- additional traffic entering and leaving the proposal development would present a danger at an already congested point for vehicles and pedestrians;
- increased traffic on Queens Street and difficult vehicle access to the site which is likely to pose a danger to both motorists and pedestrians, particularly where the spur of Queens Street joins the main part of Queens Street;
- the bio-diversity survey fails to identify the known presence of bats within the site and the survey has been undertaken at an inappropriate time of year;
- concern about whether the program of inspection at the time of demolition will provide adequate protection for protected species;
- concern about whether land level changes and the close proximity of the access to No.4 Queens Street will undermine the foundations of the dwelling and boundary wall;
- lack of pedestrian access into the site;
- parking for No.6 Queens Street would be difficult to negotiate and likely that parked vehicles in the location would overhang the proposed access drive and block access/egress to/from the site;
- provision of parking for No.6 Queens Street is not enough to avoid problems for residents and parking should be provided for other existing residents;
- vehicle parking to the front of properties would be out of keeping with the area;
- lack of information about the drainage of storm and rainwater, and how foul drainage will be dealt with;
- impact on neighbouring boundaries;
- concern about flooding of properties on Oaks Close;
- concern that the site address has changed;
- loss of property value.

Following the submission of the first set of amended plans, four additional letters of neighbour representation have been received from two properties, raising objection on the following grounds:

- parts of the development run over the hedgerow along the northern boundary and no consideration has been given to its root protection area;
- objection to plot 3 - single storey dwelling would address concerns;
- objection to plots 1 and 2 - single storey dwelling would address concerns;
- concern about raised ground levels within the root protection zone for the hedgerow

- along the northern boundary;
- overlooking of Orchard House and amenity areas resulting in a loss of privacy;
- overshadowing of Orchard House and loss of light to habitable room windows at Orchard House;
- illustrative streetscene for plot 3 is incorrect when having regard to land levels at Orchard House;
- concern about impacts on an apple tree within the garden of Orchard House;
- concern about whether the bat survey was carried out correctly;
- concern about the drainage proposals and the location of the sewer pumping station close to the boundary with Orchard House which will not be accepted by Severn Trent Water;
- the soakaway plans do not take into consideration the water from the road;
- the layout is not acceptable and compromises a protected beech tree;
- parking for plot 7 is too remote from the plot and will result in residents parking under the protected beech tree;
- parking for plot 3 is too remote from the plot;
- parking to plot 6 blocks access to the gardens of plots 5 and 6 and is bounded by dwellings would make it impossible to open car doors when parked in these spaces;
- the design of the proposal is not compliant with Building for Life 12 or the NPPF;
- the previous permission on the site required the number of units on the site to be reduced to 5 to meet the necessary requirements;
- plot 7 and a sewer drain are too close to the boundary and will cause damage to a neighbouring structure;
- the removal of buildings on the site could affect the safety of neighbouring agricultural buildings;
- plots 6 and 7 encroach into the root protection zone of a protected beech tree;

Following the submission of the second set of amended plans, two additional letters of neighbour representation have been received from one property, raising objection on the following grounds:

- inadequate publicity of application;
- inadequate elevation details;
- inability to discuss amended drawings at a Parish meeting;
- the layout doesn't work;
- overshadowing of Orchard House and its windows by plot 3;
- plot 3 should be single storey or removed from the scheme;
- the height of plot 3 is unknown;
- no overshadowing calculations have been provided;
- plot 2 is less than 22m away from Orchard House contrary to guidelines;
- overlooking of Orchard House and garden area from plot 2;
- overshadowing/overbearing impact of plot 2 on Orchard House;
- window to window distances are less than 14m contrary to Development Guidelines;
- back to back distances are less than 22m contrary to Development Guidelines;
- garden lengths and garden areas do not accord with Development Guidelines;
- remote parking for plot 7;
- parking for plot 6 impedes pedestrian access to the rear of properties and is too narrow for use;
- inadequate turning within the site for residents and service vehicles and a lack of footways for pedestrians;
- the development does not comply with the County Council's 6C's highway document;
- the strip of land adjacent to the hedgerow is accessible by anyone and be entered and used to get the rear of properties without being seen creating opportunities for



- vandalism, trespass and criminal activity;
- plan lacks details about boundary treatments;
- a continuous fence should be erected along the length of the northern boundary;
- plots 1 and 2 should be single storey;
- access is unsuitable for refuse/delivery vehicles;
- inadequate turning for parking to plots 7 and 4;
- there are bats around this area and the bat survey is out of date;
- a smaller development of single storey dwellings would be more appropriate for this site;
- the design and access statement is incorrect and misleading;
- the amendments have exacerbated the original poor design and are not sufficient to address previous concerns about overshadowing and overlooking and shadow plans confirm this;
- the proposal would be contrary to policies of the Local Plan;
- overlooking of The Fallows;
- the applicant does not intend to install the solar panels;
- highways statement accompanying the application draws comparisons with sites that are not comparable and therefore, the conclusions reached with respect to parking and turning are not relevant to this site;
- the trees shown on the layout are not shown on the engineering plan and are not appropriately sited in relation to drainage infrastructure, boundaries and a neighbouring property;
- the sewage pump is too close to Orchard House and outdoor eating areas.

## 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 contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- o approve development proposals that accord with statutory plans without delay; and
- o grant permission where the plan is absent, silent or where relevant policies are out of date 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.

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

- be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- 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;
- conserve heritage assets in a manner appropriate to their significance;

- 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 NPPF (Para 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 indicates, amongst other things, that planning should proactively drive and support sustainable economic development to deliver the 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 for all existing and future occupants of land and buildings;

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

- The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- Safe and suitable access to the site can be achieved for all people; and
- Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe;

Paragraph 49 outlines that 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;

Paragraph 53 outlines local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area;

Paragraph 57 outlines that 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;

Paragraph 60 outlines that planning policies and decisions should not impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness;

Paragraph 61 outlines that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, 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;

Paragraph 64 outlines that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and

the way it functions;

Paragraph 118 outlines that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying particular principles;

Paragraph 119 states that '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.'

Paragraph 120 outlines that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account;

Paragraph 121 outlines that planning policies and decisions should also ensure that, amongst other things:

- 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;

Paragraph 123 outlines that planning policies and decisions should aim to avoid noise from giving rise too significant adverse impacts on health and quality of life as a result of new development;

Paragraph 131 advises that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 132 of the NPPF provides that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Paragraph 134 provides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Paragraph 135 indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing

applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset;

Paragraph 173 states that 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 the 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 normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable;

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The NPPG does not change National Policy but provides practical guidance as to how such policies should be applied.

**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 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 of the Local Plan provides that development will be permitted on allocated sites and other land within the Limits to Development, identified on the Proposals Map, 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 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 F1 requires new development within the National Forest to reflect the importance of its 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 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.

**Submission Core Strategy (April 2012):**

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

**Other Guidance:**

*The Habitat Regulations:*

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):*

Circular 06/05 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:*

This plan 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 - November 2012:*

The Developer Contribution Scheme (DCS) 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:*

The 2010 Regulations 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.

*6C's Design Guide (Highways, Transportation and Development) - Leicestershire County Council*

Paragraphs 3.171-3.176 set out the County Council's guidance in relation to parking standards for residential development. This document also provides further info in relation to motor cycle/cycle parking, the design of on/off-street parking and other highway safety/design matters.

## **6. Assessment**

**Except where highlighted in bold, the assessment section of the report below remains as per the report previously reported to Members at the April meeting of the Planning Committee.**

### **Principle and Sustainability:**

The site is located within the limits to development where the principle of residential development is considered acceptable subject to compliance with the relevant policies of the adopted North West Leicestershire Local Plan and other material considerations.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted, which reflects the urban concentration and sustainability objectives underpinning national policies. These are outlined as criteria (a) to (f) and the application site would fall within criterion (e) other appropriate land within a Rural Centre. The second section of the policy goes on to outline a set of criteria relating to the sustainability of the location.

However, policy H4/1 represents a policy relating to the supply of housing and, as such, its relevance also needs to be considered in the context of Paragraph 49 of the NPPF which states that Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. As the Council cannot at the current time demonstrate a five year supply of deliverable housing sites (currently 4.7 years) it could not rely on Policy H4/1 as a reason for refusal. Regardless of this issue the sustainability credentials of the scheme would still need to be assessed against the NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Measham benefits from a range of local services and is readily accessible via public transport. The proposal for the erection of seven new residential dwellings is, therefore, considered to score well against the sustainability advice in the NPPF.

Paragraph 53 of the NPPF outlines that inappropriate development of residential gardens should be resisted where there is the potential that development would cause harm to the local area. The site was last used as garden land, which is excluded from the definition of previously developed land set out in the NPPF, and therefore effectively constitutes a greenfield site. Whilst the aims of the NPPF would be to direct new development to previously developed sites (brownfield) it is considered that the development of this garden land would not have an adverse impact on the character of the surrounding area. In the circumstances that the site is not a protected open space or countryside, and the fact that residential development exists to all boundaries of the site, the development would not have an adverse impact on the character of

the surrounding area. In any case the sustainability of the sites location would outweigh any arguments which relate to the loss of this small greenfield site.

**Housing Density:**

Policy H6 of the Local Plan seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to centres, design etc. The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances.

With a site area of 0.2 hectares, the proposal would have a density of 35 dwellings per hectare. When having regard to the location of the site within the historic core of the settlement where densities are typically higher but also accepting that the site abuts more modern development on Queen's Street and Oak Close where densities are generally lower, it is considered that the proposed density is appropriate in this case. Therefore, the scheme is considered to be acceptable in relation to the advice contained in Policy H6 of the Local Plan and the advice in the NPPF.

**Design and Character of the Area:**

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

The application site is a sloping piece of land located to the rear of commercial and residential properties fronting High Street. To the north, south and west, the site is surrounded by residential development, including a residential care home immediately to the south of the site. Within the historic core of the settlement, development is predominantly characterised by traditional two-storey brick and rendered properties located toward the front of plots with boundaries well defined and with buildings that are well detailed with strong chimneys, window and brick detailing, and generally well-proportioned buildings. These buildings lie within the Conservation Area and are identified as making a positive contribution to the character of the settlement. To the north, south and east of the immediate site are buildings of modern form and construction of varied styles, which lack an overall cohesiveness and do not draw on the positive characteristics of the settlement.

**Comments have been raised by local residents about the adequacy of the design of the scheme, which they consider is not compliant with Building for Life 12. Notwithstanding that Building for Life is normally applied to scheme of 10 dwellings or more, the following design comments as previously reported to Members are still considered relevant.**

The application proposal comprises two-storey properties of brick and tile construction with casement windows and chimney detailing, which reflects more the form and appearance of buildings within the historic core than the modern development that abuts the site. It is considered that it is an appropriate approach for the historic core to be used to inform the development of the application site. Subject to conditions to control detailed elements of the scheme along with details of the treatment of landscaping and boundaries, the proposal would comply with the policies E4 and H7 of the Local Plan and the advice contained in the NPPF.

**Impact on Heritage Assets:**

English Heritage has advised that the site has archaeological potential and that archaeological

advice should be sought. The Leicestershire and Rutland Historic Environment Record (HER) notes that the application site lies within the medieval and post-medieval historic settlement core of Measham (HER ref.: MLE9000), this represents the area within which it is anticipated that archaeological evidence of the origins, settlement and occupation of Measham will be preserved. The site also lies in close proximity to the medieval 14th century parish church of St Lawrence, a grade II (star) listed building and designated heritage asset; the church is often situated within the heart of the settlement and tends to act as a focus for more intensive activity to that location. The County Archaeologist has advised that examination of the historic mapping suggests that the site has not been occupied by any recorded structure, although aerial photographs suggest the former presence of garden features (paths, beds, etc.). Given the absence of significant development of the site, the County Archaeologist considers that, it is likely that any surviving archaeological remains will be reasonably well preserved.

In accordance with National Planning Policy Framework (NPPF), paragraph 129, an assessment of the submitted development details and the particular archaeological interest of the site, has indicated that the proposals are likely to have a detrimental impact upon any heritage assets present. NPPF paragraph 141, states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development. Therefore, the County Archaeologist recommends that an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording will be required. Subject to the imposition of appropriately worded conditions to safeguard any archaeological remains potentially present, the County Archaeologist raised no objection to the proposal.

The western edge of the Conservation Area (at the point of the application site) is marked by brick buildings which are proposed to be demolished as part of the application proposals. The properties fronting High Street which back onto the site are identified within the Conservation Area Study Document as unlisted buildings of interest that make a positive contribution to the Conservation Area and therefore, are non-designated heritage assets. The buildings to be demolished, although located to the rear of these properties are not awarded any particular designation within the Study Document. The existing rear boundary to the nearest property fronting High Street is occupied by a 1.8m screen wall and this is to be retained as part of the proposals and would form the eastern boundary of the site.

The buildings to be demolished are not afforded any designation within the Conservation Area Study Document, and neither English Heritage nor the Conservation Officer have raised any objection to this element of the proposal and therefore, it is not considered that the removal of the buildings would adversely affect the character and appearance of the Conservation Area as a heritage asset.

The proposed development on the site would just encroach into the Conservation Area and would be visible from the rear of properties fronting High Street. Glimpses of the site are also available from the Conservation Area at the eastern end of Queen Street between existing developments. However, due to a drop in levels, these views would be of the upper half/ roof space of the development. When having regard to the scale, form and detailing of the proposed units, along with existing neighbouring development, it is not considered that the proposal would be detrimental to the character or appearance of the Conservation Area or its setting, or to that of buildings which contribute positively to it.

The proposal would not involve substantial harm to or a total loss of significance of a designated heritage asset and features/buildings identified as making a positive contribution to the



character and appearance of the Conservation Area would be retained. It is considered that the proposal amounts to less than substantial harm to the significance of heritage assets, thereby sustaining the significance of this designated heritage asset. In terms of public benefits, the scheme would provide much needed social housing, and therefore, the proposal would accord with the provisions of the NPPF.

**Impact on Residential Amenities:**

The properties that would be most immediately affected by the proposed development would be Orchard House to the north, Queensway House and No.s 4 and 6 Queens Street to the south. To the west lies No.20 Queens Street and Windyridge and to the east are properties fronting High Street, which also need to be considered.

The properties fronting High Street are a mix of commercial and residential uses, and although the nearest proposed dwellings would be 6m from the site boundary with windows facing the rear of these properties, there is a 10m strip of left over ground to the rear of No.64 which is in commercial use, which provides an additional buffer between the site and the nearest residential units to the north east of the site at No.s 70-72 High Street. When having regard to the distances involved and the relationship between the proposed and existing dwellings, it is not considered that there would be any significant overbearing, overshadowing or overlooking impacts on these properties.

Queensway House to the south of the site is a residential care home and is located on higher ground than the application site. A first floor window serving a bathroom is proposed in the side elevation of the nearest dwelling on plot 4 that could allow overlooking of the care home. However, it is considered that any potential overlooking could be addressed by an appropriately worded condition. Furthermore, permitted development rights restrict new windows in side elevations to be obscure glazed and non-opening. No first floor windows are proposed to the side elevation of plot 3 which also faces the care home. There would be a distance of 11m between the care home and the nearest dwelling on plot 4 and 15m from the proposed dwelling on plot 3. When having regard to these distances, levels and the relationship with these proposed dwellings, it is not considered that there would be any significant overbearing or overshadowing impacts on the neighbouring care home.

No.4 Queens Street is a single storey dwelling located to the south of the site. The rear elevation of this dwelling is located 2.5m off the site boundary which is currently occupied by fencing which extends approximately 1m above the ground level of this neighbouring property. The site level is approximately 1m below the ground level of this neighbouring property at this point, although this level difference reduces as the site progresses in an easterly direction. The rear elevation of No.4 contains three windows, at least one of which appears to serve a habitable room. The nearest proposed dwelling would be on plot 3 which presents a side facing gable with one ground floor window to the easternmost part of the rear of this property. The dwelling on plot 3 would be 10m from the rear of the existing dwelling. When having regard to the land levels, proximity and the orientation/relationship between the two dwellings, whilst the dwelling on plot 3 would be visible from the rear of No.4, it is not considered that there would be any significant overbearing, overshadowing or overlooking impacts arising from the proposal. The other plots are considered to be at sufficient distance away from this neighbouring property to prevent any significant adverse impacts.

No.6 Queens Street also abuts the southern boundary of the site and is a two-storey dwelling with three windows in its side elevation, serving a kitchen at ground floor level and a landing at first floor level. The third window is at first floor level and is obscure glazed, and therefore, the side windows do not appear to be primary windows to habitable rooms. Due to orientation, this

existing dwelling would be within **1.5-2.5m** of the boundary to plot 1 and within **3-4.2m** of the nearest dwelling on plot 1. The proposed dwelling would set 1.4m behind the existing dwelling but would project 3m to its rear. A first floor window serving a bathroom is proposed in the side elevation of the proposed dwelling that could allow overlooking of this existing property. However, it is considered that any potential overlooking could be addressed by an appropriately worded condition. Furthermore, permitted development rights require new windows in side elevations to be obscure glazed and non-opening. The proposed dwelling would be sited **1.3m** below the height of this neighbouring property. The land levels for both the existing and proposed dwellings drop sharply to the west. When having regard to the siting of the two dwellings, land levels and the nature of the windows in the side elevation of the existing dwelling, it is not considered that the proposed nearest dwelling on plot 1 would give rise to any significant overbearing, overshadowing or overlooking impacts. A terrace area is proposed to the rear of this plot and therefore, it would be prudent to secure details of existing and proposed levels for this area by condition to ensure that no significant overlooking of this neighbouring property arises as a result of the development.

No.'s 4 and 6 Queens Street are located either side of the proposed access drive and would be affected by noise and disturbance from comings and goings into/off the site. No.6 would be set back from the access drive by 6m with its vehicular parking in the intervening space. No.4 would be within 2m of the proposed access drive but is elevated above the level of the access drive and has no side windows. Whilst it is accepted that there would be some additional noise and disturbance, when having regard to the number of units proposed and the relationship between the site and the neighbouring properties, it is not considered that this would be sufficiently detrimental to warrant a refusal of permission on this ground.

No.20 Queens Street and Windy Ridge are located to the west of the site at a lower land level. The rear elevation of the nearest proposed dwellings (plots 1 and 2) would be 12m from the nearest boundary to these dwellings and 8m to the rear of the proposed terraced area. The existing screen fence is to be retained and new screen planting is proposed along this boundary. When having regard to the distances involved, it is not considered that the proposal would result in any significant overbearing, overshadowing or overlooking impacts on these dwellings.

Orchard House is located to the north of the application site and is a two-storey dwelling with numerous windows facing the application site. Working from west to east, at ground floor there is a dining room with no side window in the south facing elevation but is served by a lantern light **and a large bay window and glazed opening to the eastern and northern elevations of the dwelling.** Within a recessed section of the dwelling there are two windows serving a kitchen, and where the dwelling projects forward there is another kitchen window and window to the garage. At first floor level, there are two windows serving bedrooms (the second of which is the main window to the room), and where the dwelling projects forward, there are two windows serving a study (one being a side window and the other being a roof light). **The neighbouring occupier advises that this room is a bedroom being used as a study.** Beyond that there are two additional roof lights serving bedrooms, which are secondary windows to these rooms which are also served by dormer windows to the front elevation. This existing dwelling is sited within 3-5.5m on the site boundary, due to the stepped nature of the south facing elevation. **The land levels on the application site are above that of the neighbouring property, and this increases as the land rises on the application site in an easterly direction.** The rear of the property at this point is a paved outdoor area.

The proposed dwelling at plot 3 would be located within **2.3m** of the common boundary and within **5.3m** of Orchard House at its closest point. The proposed dwelling would be orientated

such that its side gable (which contains no windows) would face this property. Again, it is noted that permitted development rights would require any further new windows being installed in the side elevations to be obscure glazed and non-opening.

The proposed dwelling would be sited such that the majority of the development would extend in front of the part of the existing dwelling which projects forward and contains windows serving the kitchen, garage, study/**bedroom** and bedrooms. Of these rooms, the bedrooms would be habitable rooms and the roof lights in this elevation would be secondary windows to these rooms. **The siting of the proposed dwelling has been amended such that it has been moved further away from the northern boundary of the application site by 1.3m and has been shifted further south on the plot by approximately 2.25m. The dwelling on plot 3 would now be located 2.25m from the application site boundary and 5.4m from the closest part of Orchard House.**

**The proposed dwelling would no longer extend across the recessed section of the dwelling but would be sited immediately forward of the eastern section of the neighbouring dwelling containing three roof lights (bedrooms/study) at first floor level and two windows (kitchen/garage) at ground floor level. All of these windows would either be non-habitable or secondary windows.**

When having regard to the southerly position of the proposed dwelling on plot 3 in relation to this neighbouring property, it is considered that there would be some loss of light to rooms served by windows in the south facing elevation of Orchard House and the outdoor area beyond. This would change throughout the day as the sun moves from east to west. When considering the proximity, siting and orientation of the proposed dwelling in relation to Orchard House, land levels and the nature of the rooms served by the windows (as outlined above), whilst it is accepted that there would be some loss of light to varying degrees through the day and the building would affect the outlook from some of the windows (again resulting in varying degrees of overbearing impacts), it is not considered that these impacts would be significantly detrimental to the amenities of the occupier of this dwelling to warrant a refusal of permission on this ground.

**The dwelling on plot 2 would be located to the south of the garden to Orchard House and to the south west of the house itself. Whilst it is accepted that there would be some loss of light to the garden area throughout the day as the sun moves from east to west and to the western part of the dwelling in the evening, it is not considered that this would be sufficient to be detrimental to the amenities of the occupiers of this dwelling and would not warrant a reason for refusal.**

There would be no direct overlooking **of Orchard House** from the nearest proposed dwelling on plot 3. First floor windows serving bathrooms are proposed in the side elevation of the proposed dwellings on plots 2 and 7 that could allow overlooking of the curtilage of the property. However, it is considered that any potential overlooking could be addressed by an appropriately worded condition. **Concern has been raised by the occupier of Orchard House about the potential for overlooking from the front elevation of plot 2 over the southern and western elevations of this neighbouring dwelling. The relationship and distance between the two dwellings is such that there would be oblique but no direct overlooking.**

A terrace area is also proposed to the rear of plot 2 adjacent to the rear garden of Orchard House and therefore, as with plot 1, it would be prudent to secure details of existing and proposed levels for this area by condition to ensure that no significant overlooking of this neighbouring property arises as a result of the development.

Therefore, subject to conditions, it is considered that the development would have an acceptable impact on neighbouring residential amenities and would comply with the provisions of Policy E3 of the Local Plan.

**Whilst neighbouring residents consider that single storey development would be more appropriate in relation to neighbouring properties, for the reasons outlined above, the proposal as submitted is considered to have an acceptable relationship with neighbouring residential properties and, therefore, further amended plans were not sought.**

Following the submission of amended plans, concern has been raised by local residents that the development does not accord with the Development Guidelines. For clarification, Members are advised that the Development Guidelines, as their name suggests, are simply guidelines and it is a fundamental principle of planning legislation that each proposal should be assessed on its own merits having regard to all material considerations. The Development Guidelines were developed alongside the Local Plan and since its adoption as Supplementary Planning Guidance, national policy has changed with a greater emphasis on making efficient use of land. Such requirements can often make it difficult to fully achieve locally derived distance guidelines which were adopted prior to changes in national policy, particularly where there are other constraints on the site such as existing natural features such as protected trees and topographical changes. Given the age of the Development Guidelines, and the changes in National policy since they were first adopted, the weight which should be attached to them as a material consideration in the determination of planning applications should be adjusted accordingly.

Whilst not all of the garden sizes relationships as set out in the scheme would comply fully with the suggested forms of development as set out within the Guidelines, for the reasons set out above, it is not considered that, in this instance, any undue loss of amenity would arise as a result of these issues.

**Access and Highways Safety:**

Access to the site would be via a new vehicular access created between No.'s 4 and 6 Queens Street. Land levels drop into the site and therefore, the new access would be graded. Two parking spaces for each of the proposed dwellings would be provided within the site and the application also includes two parking spaces for No.6 Queens Street. The position of the parking spaces to No.6 Queens Street has been amended slightly following concerns raised by residents about the accuracy of boundary lines and manoeuvring into and out of the spaces close to the access. The County Highways Authority has been reconsulted and is satisfied with the revised arrangements.

The concerns raised previously by local residents and Measham Parish Council have been raised again by the Parish Council about the adequacy of the proposed access (including the lack of footway), the increase in traffic movements and increased dangers to pedestrian and vehicular traffic, the inadequacy of parking provision for existing and proposed residents which will create additional on-street parking pressures and dangers to road users.

The application submission was accompanied by a Highways Statement which concludes that the proposal would result in 49 two-way movements to/from the site, which would not represent a significant change in traffic conditions. The access drive is a shared-surface carriageway and

is in line with local design guidance, such that a refuse vehicle could satisfactorily manoeuvre within the site. The proposed parking provision for the development should satisfactorily serve the development.

**The County Highways Authority has been consulted on the application and advises that the internal access road is not to be adopted and therefore, the Highways Authority will consider the impact of new traffic and pedestrian safety within Queens Street (particularly at the point of the new access). The County Highways Authority advises that the proposed access junction is a continuation of an existing turning head and therefore, is in a straight line. This straight alignment is such that intervisibility between vehicles and pedestrians would be good. The uses in connection with the village hall have not lead to a accident record within the last 5 years and the proposal is unlikely to have an impact on the vehicle and pedestrian movements in connection with those uses. On the basis of visits to the site, the road network in the vicinity of the site is not subject to queuing and congestion and previous experience of similar developments suggests that it is unlikely that the proposed traffic could lead to the network becoming congested. The design of the proposed access is satisfactory and the existing width and design of Queen Street has not lead to an accident record and so it is unlikely that it would be possible to sustain a reason for refusal on the ground that the proposal would lead to demonstrable harm to highway safety. The County Highways Authority also comments that the design of the access is a shared surface, as is commonly the case with even some adopted residential roads and so it is intended, and acceptable that pedestrians will share the access with vehicles without a dedicated footway.**

**Following concerns raised by local residents about the adequacy of the parking and turning arrangements on the site, further advice has been sought by the County Highways Authority and advice has been provided that the parking and turning on the site are fully compliant with the 6C's Design Guide.**

The County Highways Authority is satisfied with the proposal from a highway safety viewpoint, subject to a number of conditions which require the site access, parking and turning to be provided as shown, positive drainage being provided, the access gradient not exceeding 1:12 for the first 7 metres and wheel cleansing facilities being provided to prevent mud being deposited in the adjoining highways during construction works. It is considered that the proposed development would comply with the provisions of Policies T3 and T8 of the Local Plan and the advice contained in the County Council's 6C's document.

**Ecology:**

The application site comprises overgrown land and existing buildings are proposed to be demolished, and therefore, consideration needs to be given to the potential impact of the development on protected species.

The application submission was accompanied by a Biodiversity Report which reported no evidence of amphibians, reptiles, bats or breeding birds (old bird nests). With respect to bats, the report noted that the buildings to be demolished appeared to be unheated, cold and draughty and would be unlikely to be used as a roost site. However, the report highlighted that there were potential entry points for bats to get into the building and therefore, the consulting ecologist advises that a pre-cautionary approach should be taken when demolishing the existing buildings. Similarly, with respect to birds, although no active bird nests were found during the survey, there were suitable nesting sites for birds within hedges, trees and shrubs being present on the site, and therefore, recommends that any works involving the removal of vegetation are scheduled outside the breeding season. The County Ecologist has been consulted on the

application and raises no objection to the proposal subject to a condition requiring that any site clearance be undertaken outside the breeding season.

Concern has been raised about the removal of hedgerows that are important to wildlife, the presence of bats and the adequacy of the survey provided. The County Ecologist has advised that whilst October is not the best time of year to do a survey, as this is an overgrown garden (containing common garden weeds etc) and not an area of semi-natural habitat, no concern is raised about the lateness of the habitat survey. The County Ecologist goes on to comment that the surveyor picked up the suitability of some of the site for nesting birds; again these would be common garden species, and could be protected through a condition regarding clearance outside the nesting season. The County Ecologist considers that it would be inappropriate and unreasonable to require a breeding bird survey on a site in this location, and with the habitats present, which are unremarkable and unlikely to support a significant population of a bird species of conservation concern, or with special protection (all birds are protected whilst nesting, hence the need for clearance outside the nesting season).

The County Ecologist considers that the only features with potential to be used for bat roosting are the outbuildings and mature beech tree. The mature tree is to be retained and the surveyor felt the buildings were of low potential. The County Ecologist shares this view and considers that it would be unreasonable to require additional emergence surveys of the building but agrees with the precautionary approach to demolition as advocated by the surveying ecologist. The County Ecologist goes on to comment that it is likely that the area is used by foraging bats but bats can be recorded foraging on almost any garden or open ground in urban areas, and on the basis of the information provided, it is unlikely that the site is special in terms of bat conservation.

**Following the concerns raised by local residents, the County Ecologist was re-consulted and advised that local residents have filmed bats using the site and that the ecological report was prepared prior to much of the site being cleared. The request of residents that the County Ecologist visit the site was also put forward and the County Ecologist has advised that the site is small and surrounded by housing and does not consider the site to have more than very local value for wildlife. The County Ecologist confirms that she has no further comments to add to those previously given.**

The northern boundary of the site is occupied by a large Beech Tree which is protected by Tree Preservation Order T427. The proposals show the retention of the protected tree and a tree survey and protection plan accompanied the application submission. The original proposals included three incursions into the root protection area and the arborist advises that works to the tree may be required to facilitate the proposed construction comprising a light crown raise and crown thin. The Council's Tree Officer has been consulted on the application and despite having initial concerns about the proposals, following the submission of amended plans which show the relocation of parking bays for plot 7, is now satisfied that the tree can be adequately protected. Subject to precise details of tree protection and pruning works being dealt with by condition, the proposal is considered to acceptable in terms of its impact on the protected tree.

**Concern has been raised about the impact of the development on the existing hedgerow along the northern boundary and an unprotected apple tree, which are both within the ownership of the occupiers of Orchard House.**

**With respect to the apple tree, the Council's Tree Officer has visited the site and advises that the tree slightly overhangs the site and is under the control of an owner who wants to keep it. The advice of the Tree Officer is that the apple tree within the neighbouring**

**garden is not worthy of a Tree Preservation Order.**

**The tree survey accompanying the application submission provided that if any hedgerows are to be retained on the site, a root protection area of 1.5m radius from the stumpline would be recommended. The amended plans show that the hedgerow and trees are to be retained and that the development on the site has been shifted away from the hedgerow such that there would be a minimum distance of 2.25m from the nearest dwellings and the base of the boundary hedge. The Council's Tree Officer has been consulted on the revised proposals and has considered the impact of the development on the hedgerow/trees. The Tree Officer is satisfied with the proposed development subject to the conditions as previously reported to Members via the update sheet to the April meeting of the Planning Committee.**

**River Mease:**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. 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) was 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 adopted 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.

When having regard to the existing use of the site, the proposal for seven dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The River Mease Statement accompanying the application confirms the applicant's awareness of the need to make a contribution in accordance with the DCS. A condition relating to the technical details of foul drainage is not required as the principle of connecting to the mains sewer has been established and the details of drainage are dealt with by separate legislation under the Building Regulations and by Severn Trent Water. However a condition requiring that only a mains connection is used at the site would be required as the use of other means for foul drainage discharge could adversely affect the SAC. Surface water from all elements of the proposal will need to discharge to soakaway to ensure that unnecessary water volume does not go to the sewage treatment plant and this can be required by condition.

Therefore it can be ascertained that the erection of seven dwellings on the site will 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.

**Drainage:**

Local residents have raised concern about the suitability of drainage proposals for the site. Drainage is a matter that is covered by separate Building Regulations legislation and the Council's Building Control Officers, advise that the layout would generally appear to be compliant with Section B5 of the Approved Document B of the Building Regulations. This matter would be given more detailed examination should a Building Regulations submission be made to the District Council. The Asset Protection Team at Severn Trent Water Ltd has also been consulted following neighbour comments that Seven Trent Water would not accept the connection but at the time of writing this report no response had been received. Should any comments be received, Members will be notified via the update sheet.

**Affordable Housing:**

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. The Council's Supplementary Planning Document (SPD) on Affordable Housing requires that in the Measham area, scheme for 5 or more dwellings should provide 30 percent of the proposed units as affordable housing. The proposed scheme, which would provide 100 percent affordable housing, would well exceed the threshold set out in the SPD. The Strategic Housing Team have advised in their consultation response that the proposed mix of 2 and 3 bed houses meets the housing needs identified in the village; providing much needed smaller accommodation to rent and providing the opportunity for local people to part rent and part buy within the village centre through the shared ownership units. The proposal would, therefore, comply with the provisions of the SPD and Policy H8 of the Local Plan.

**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.

In terms of the respective contributions, the following conclusions are reached:

- River Mease Contribution in accordance with the requirements of the DCS. The applicants are agreeable to this contribution.
- The affordable housing (including type and tenure) will be secured in a clause within the Section 106 and the applicants are agreeable to this requirement.

Insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in Circular 05/2005 and the CIL Regulations.

**Other:**

With respect to neighbour comments that have not been covered in the above report, loss of views and loss of property values are not planning matters and therefore, cannot be considered in the determination of this application. With regard to comments about asbestos and damage to existing development, these matters are covered by separate legislation and therefore, are not relevant to the determination of the application.



It is noted that a previous permission has been granted for a fewer number of residential units on the site but it is a fundamental tenet of planning legislation that each application should be assessed on its own merits. For the reasons outlined above, the proposed development is considered acceptable.

As for comments about the adequacy of the layout to accommodate refuse collection, the Council's Waste Officer has been consulted and Members will be updated with any comments received via the update sheet. With regard to comments about the adequacy of the boundary treatments and landscaping proposals shown, the precise detail of these matters are normally and can be dealt with by condition. Whilst the neighbour has indicated that the solar panels as shown on the plans may not be installed by the application, the absence of such a detail would not make the development unacceptable.

Concern has also been raised that the strip of land adjacent to the hedgerow will provide opportunities for criminal activity, trespass and vandalism. The strip of land can be accessed between the fronts of plots 2 and 3 and between the rear of plot 3 and the front of plot 7. Whilst concern about anti-social behaviour is noted, the strip has been provided at the request of a neighbouring occupier to allow the protection and maintenance of their hedgerow. Furthermore, the areas where the land can be accessed are afforded good surveillance by the properties on the development.

With regard to comments received about publicity, adequacy of the plans and the inability to discuss the amended plans at a Parish Meeting, the publicity undertaken for the application accords with statutory requirements, the plans are considered sufficient to consider the planning merits of the scheme and the Parish Council were re-consulted on the amended plans on 03 July and therefore, have been given a reasonable time period to arrange a meeting and pass comment on the application.

**Conclusions:**

The site is located within the Limits to Development where residential development is acceptable in principle. The site is in a sustainable location and the density is considered appropriate. The site is of sufficient size to enable the site to be developed as proposed without adversely affecting neighbouring amenities, highway safety, the character of the area, protected trees or heritage assets. The proposal is considered unlikely to adversely affect protected species and it can be ascertained that the proposal will 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. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposed development accords with the above-mentioned planning policies, and it is, therefore, recommended that planning permission be granted subject to Section 106 obligations and relevant planning conditions.

**RECOMMENDATION - PERMIT, subject to a S106 Agreement and subject to the following conditions:**

- 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 proposed development shall be carried out strictly in accordance with the following schedule of plans, unless otherwise required by a condition of this permission:
- Drawing number 13.2874.04G (Detailed Planning Proposals - Sheet 1 of 5) deposited with the Local Planning Authority on 01 July 2014;
  - Drawing number 13.2874.05B (Detailed Planning Proposals - Sheet 2 of 5) deposited with the Local Planning Authority on 13 May 2014;
  - Drawing number 13.2874.06B (Detailed Planning Proposals - Sheet 3 of 5) deposited with the Local Planning Authority on 13 May 2014;
  - Drawing number 13.2874.07A (Detailed Planning Proposals - Sheet 4 of 5) deposited with the Local Planning Authority on 19 February 2014;
  - Drawing number 13.2874.08 (Detailed Planning Proposals - Sheet 5 of 5) deposited with the Local Planning Authority on 06 December 2013;
  - Drawing number 13.2874.01 (Topographical Survey) deposited with the Local Planning Authority on 06 December 2013;
  - Drawing number 2020A/13/01 Rev J (Engineering Layout) deposited with the Local Planning Authority on 01 July 2014;
  - Drawing number 2020A/13/05 (Road Construction Details) deposited with the Local Planning Authority on 06 December 2013;
  - Drawing number 2020A/13/06 (Drainage Construction Details) deposited with the Local Planning Authority on 06 December 2013.
  - Site Location Plan (1:1250) deposited with the Authority on 06 December 2014.

Reason- To determine the scope of this permission.

- 3 Notwithstanding the details shown on the submitted plans, no development shall commence until details of boundary treatments and landscaping for the site (including hard and soft landscaping together with details of the demarcation/ numbering of parking bays, access gates and the bin store enclosures) have been submitted to and approved in writing by the Local Planning Authority. The approved soft landscaping scheme shall be implemented in the first planting and seeding season following the bringing into use of the development hereby approved and the approved hard landscaping scheme and boundary treatments shall be implemented before to the development hereby permitted is brought into use, unless alternative implementation programmes are first agreed in writing by the Local Planning Authority.

*Reason - To ensure satisfactory landscaping and boundary treatments are provided within a reasonable period.*

- 4 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.*

- 5 Notwithstanding the submitted plans, no works shall commence until detailed drawings (including cross-sections) of window/door units (including heads and cills) have been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

*Reason - To enable the Local Planning Authority to retain control over the external appearance as no details have been submitted.*

- 6 Notwithstanding the details shown on the submitted plans, no development shall commence until representative samples of the external materials to be used in the proposed buildings (and including all means of hard surfacing/enclosures), details of brick bonds and details of the external finishes to the window/door units have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

*Reason - To enable the Local Planning Authority to retain control over the external appearance, in the interests of the amenities of the area.*

- 7 Notwithstanding the details shown on the submitted plans, no development shall commence until detailed drawings of the chimney stacks and the treatment of eaves/verges have been first submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

*Reason - To enable the Local Planning Authority to retain control over the external appearance as no precise details have been submitted.*

- 8 No development shall commence until the positioning and treatment of utility boxes to individual units, details of rainwater goods and other external services (including solar panel or other renewable energy technologies to be used) have been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

*Reason - in the interests of neighbouring amenities and the visual amenities of the locality.*

- 9 No development shall commence until details of the means of surface water discharge from the new roofs and new hardsurfacing to soakaway, or another alternative sustainable drainage system so that the surface water does not enter the mains sewer system, have been submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented before the external materials to the roof are installed or hardsurfacing is provided on the site, and once implemented shall thereafter be so retained.

*Reason - To prevent an adverse impact on the River Mease Special Area of Conservation; to ensure a sustainable drainage system is provided on the site.*

- 10 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.*

- 11 Operations that involve the removal of vegetation or buildings shall not be undertaken during the months of March to September inclusive, except when approved in writing by the Local Planning Authority, once they are satisfied that bats and breeding birds will not be adversely affected.

*Reason - Due to the potential for breeding birds/bats, it is imperative that any*

*building/vegetation.*

- 12 No development shall commence on the site until such time as a programme of archaeological work including a Written Scheme of Investigation has first been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
- The programme and methodology of site investigation and recording;
  - The programme for post-investigation assessment;
  - Provision to be made for analysis of the site investigation and recording;
  - Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - Provision to be made for archive deposition of the analysis and records of the site investigation; and
  - Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation
- No development shall take place at any time other than in accordance with the agreed Written Scheme of Investigation. None of the dwellings shall be occupied until such time as the site investigation and post investigation assessment has been completed in accordance with the programme set out in the agreed Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason - To ensure satisfactory archaeological investigation and recording.*

- 13 Before first occupation of any dwelling hereby permitted, the access shall be provided in accordance with the details shown on drawing No. 13.2874.04D; the access shall be surfaced with a hard bound material (not loose aggregate) for a distance of at least 7 metres behind the Highway boundary. The access drive once provided shall be so maintained at all times.

*Reason - To enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of general highway safety, to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway and to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)*

- 14 The car parking and turning facilities shown on drawing No. 13.2874.04G shall be provided before any dwelling is occupied and shall thereafter permanently remain available for car parking and turning.

*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 and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.*

- 15 Before first occupation of any dwelling 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.*

- 16 The gradient of the access drive shall not exceed 1:12 for the first 7 metres behind the highway boundary.

*Reason - To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety.*

- 17 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.*

- 18 Notwithstanding the details shown on the submitted plans, no development shall commence on site until such time as precise details of the proposed finished floor levels of the proposed buildings (including the level of the proposed terraces to the rear of plots 1 and 2) in relation to neighbouring land / buildings **to the north and south of the site** have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, and in the interests of neighbouring residential amenities.*

- 19 No development shall commence on site until details of any proposed street lighting has been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

*Reason - In the interests of neighbouring amenities and the visual amenities of the locality.*

- 20 No work shall commence on site until trees on and adjacent to the site have been securely fenced off with protective barriers to form a construction exclusion zone in accordance with BS 5837:2012 Tree in relation to design, demolition and construction. A Tree Protection Plan shall first have been submitted to and approved in writing by the Local Planning Authority. Within the protected areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and no service trenches shall be dug unless first agreed in writing by the Authority.

*Reason- To ensure the existing trees are adequately protected during construction in the interests of the visual amenities of the area.*

- 21 No development shall commence on site until a detailed scheme of pruning works to be carried out in accordance with BS3998:2010 Tree Work - Recommendations have been submitted to and agreed in writing by the Local Planning Authority. **The development** shall be carried out in accordance with the agreed scheme.

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

- 22 No works or development shall take place until an auditable system of arboricultural site

monitoring by the appointed project arboriculturist has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

*Reason- To ensure that the tree protection plan is adequately implemented in the interests of the visual amenities of the area.*

- 23 Notwithstanding the details shown on the approved plans, the first floor windows serving bathrooms in the side elevations of the dwellings on plots 1, 2, 4 and 7 shall be glazed with obscure glass and be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. Once provided, the windows shall thereafter be retained as such 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.*

### Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 This decision is subject to a Section 106 Obligation regarding the following matters:
  - Provision of seven on-site affordable houses;
  - Contribution towards the costs of improving the quality of the water in the River Mease.
- 3 Archaeology - With respect to condition 12, the applicant is advised that the Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
- T he Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.
- 4 The applicant is referred to the following comment of the County Highways Authority:
  - 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).
  - The proposed road doesn't conform to an acceptable standard for adoption and therefore 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 the private road 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](http://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.

- 5 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

- 6 Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).  
Bats are a rare and declining group of species. Hence, all British species of bat and bat roosts are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c.) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection or disturb bat roosts. If bats or bat roosts are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0845 601 4523) should be notified and further advice sought. Failure to comply with this advice may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000 or to imprisonment for a term not exceeding six months, or both.

The applicant must ensure that people carrying out the works are made aware of the legal status of breeding birds, and that they proceed with care to ensure that if any breeding birds are present, they are not killed, injured or disturbed. If a breeding bird is discovered it should be left undisturbed and the relevant work should be halted immediately until the young birds have flown. Failure to comply with this may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000 or to imprisonment for a term not exceeding six months, or both, as it is an offence to disturb nesting/breeding birds.