

UPDATE SHEET

PLANNING COMMITTEE – 05 August 2014

To be read in conjunction with the
Director of Service's Report (and Agenda)

This list sets out: -

- (a) Additional information received after the preparation of the main reports;
- (b) Amendments to Conditions;
- (c) Changes to Recommendations

MAIN REPORT

A1 **14/00050/FULM** **Erection of 79 dwellings and associated infrastructure**
Land North of Greenhill Road and East of Agar Nook Lane,
Coalville

Additional Representations

Four further representations have been received, objecting on the following grounds:

- Site was previously removed from the LDF on the basis of being Green Belt land
- Impacts on wildlife / habitat
- Impacts on drainage
- Insufficient highways infrastructure
- Would ruin outlook of the area
- Flooding
- Development unnecessary – District has sufficient housing land
- Unallocated greenfield site
- Contrary to Policies S3 and E22
- Encroachment into the Charnwood Forest
- Site inaccessible during heavy snow

Leicestershire and Rutland Wildlife Trust comments that it is important that the ecological value of this site be recognised as an additional reason for refusing planning permission. It also confirms that, in the event of a refusal on this issue and the lodging of an appeal, the Trust would be prepared to give evidence in support of the refusal at any inquiry.

Representations from the Applicants

Submissions have been received on behalf of the applicants, challenging the position as set out in the report that the District Council is currently able to demonstrate a five year supply (plus buffer) of housing land based on the recently undertaken Strategic Housing Market Assessment (SHMA), and referring to the approach taken by the Inspector in assessing a recent Section 62A decision in Blaby District (i.e. an application submitted directly to the Planning Inspectorate where a Local Planning Authority is placed in special measures). A copy of the letter received on behalf of the applicants is attached.

Comment

Further to the recalculated housing land supply figure reported on the Update Sheet to the Planning Committee meeting of 8 July 2014, the District Council has now published a revised housing supply trajectory. This indicates that, as matters currently stand, the District Council is able to demonstrate a supply of 7.04 years (i.e. an excess of 2.04 years beyond the five year requirement and 1.04 years beyond the five year plus 20% buffer requirement).

Whilst the comments from the Leicestershire and Rutland Wildlife Trust are noted, given the views of the County Ecologist and Natural England, it is not considered that a reason for refusal based on the impacts on ecological issues would be appropriate, nor likely to be supported by the Secretary of State on appeal.

Insofar as the representations submitted on behalf of the applicants are concerned, the view is taken that the SHMA comprises significant new evidence that ought properly to be taken into account in the calculation of the five year supply. The question as to whether the SHMA represents the best figure for the full objectively assessed housing need for the district is a matter entirely for the planning judgement of the District Council.

In the Blaby Section 62A decision referred to on behalf of the applicants, the Inspector felt unable to accord either the SHMA or a "Critical Review" of the SHMA prepared on behalf of the applicant in that case any significant weight, or to use their conclusions in substitution for the housing requirement set out in the District Council's Core Strategy; that was a matter for his planning judgement on the evidence before him. Furthermore, other recent decisions of the Secretary of State and/or his Inspectors have, however, appeared to have reached a somewhat different conclusion to that of the Blaby Section 62A decision Inspector, and in particular as to the weight that may be given to housing needs assessments that have not been subject to examination.

As such, it is considered that the assertion made on behalf of the applicants that reliance by the Council on the SHMA is "fundamentally flawed" is misconceived. It is also not accepted that there is any legal force in the suggestions that the Regional Strategy is the only reliable and tested Objectively Assessed Need (OAN) for the District and therefore has to be used as the requirement figure of OAN in this instance, nor that the RSS requirement will need to be used as the basis for the calculation of the 5 year housing supply until such time as the SHMA has been tested through examination.

NO CHANGE TO RECOMMENDATION

SLR.2.3020.EMS.2194

29 July 2014

James Mattley
Development Control Team
North West Leicestershire District Council
Council Offices
Coalville
LE67 3FJ

Dear Mr Mattley

**Land North of Greenhill Road, Coalville – Application Ref 14/00050/FULM –
Erection of 79 dwellings**

I refer to the above application and the recently published report due to be considered by the Planning Committee at its meeting on the 5th August 2014. Having carefully reviewed the report, I have serious concerns in relation to the calculation of the 5 year housing land supply.

Put simply, reliance on the recently completed Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) prepared by GL Hearn to calculate the 5 year housing supply is fundamentally flawed. The basis for this assertion is the very decision from PINS (the first application to be determined by PINs via the 'special measures' route) for a housing development at Hospital Lane, Blaby, a copy of which is attached.

This is the first decision I am aware of that has considered the relevance of the GL Hearn SHMA in determining the 5 year supply issue. The decision acknowledges the importance of establishing full Objectively Assessed Need (OAN) by reference to recent court cases (paragraph 17). It also identifies that the East Midlands RS figure was objectively assessed by reference to the South Northants high court case (paragraph 19), and goes on to note the PPG advises considerable weight to be given to housing requirement figures in adopted plans which have successfully passed through the examination process, unless significant new evidence comes to light (paragraph 20). Evidence which dates back several years - such as from revoked RSSs, should be treated with caution.

The decision maker then goes on to note that the evidence underpinning the RS is 10 years old and that more recent data suggests strongly that the level of housing need in the RS **may be an under-estimate** (paragraph 21).

Two new SHMAs were submitted in connection with this PINS application – the GL Hearn one by the LPA and one produced by the applicant; the applicant's SHMA came to a significantly different conclusion on OAN compared to the GL Hearn one (7,082 dwellings pa for the HMA in the applicant's SHMA, compared to up to 4,215 dwellings pa in the GL Hearn one). The decision maker observed that such differing outputs **"emphasise how essential it is that evidence such as SHMAs must be rigorously tested in order to establish that it is robust"** (paragraph 24).

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The decision maker could therefore place no reliance on either SHMA in preference to the objectively assessed and tested RS figure.

In light of this, it is concluded that the RS is the only reliable and tested OAN for the District and therefore has to be used as the requirement figure of OAN in this instance. The RSS requirement will need to be used as the basis for the calculation of the 5 year housing supply until such time as the SHMA has been tested through examination.

As the RSS figure is likely to be an under-estimate, it is contended that the objectively assessed housing needs for the District are at least **510 dwellings per annum**¹.

The latest information on the Council's housing land availability and 5 year supply was made available on 31st March, 2014. The Council's assessment of 5 year supply for the period 2014-2019 includes contributions from various sites together with an annual small site allowance of 47. This totals 3,008 dwellings over the five year period. For the purposes of this assessment I have not sought to interrogate the robustness of the purported supply, and thus the 5 year supply calculation below could well be optimistic.

When considered against full and objectively assessed needs, the five year housing land supply position based on the above assumptions is as follows:

Pegasus five year housing land supply

5 Year Requirement 5 x 510	2,550
Shortfall 2006-2014	1,712
Buffer 20%	852
Total 5 year requirement Annual 5 year requirement	5,114 1,023
Housing Supply	3,008
Under/Over provision	-2,106
Years Supply	2.94

When assessed against the requirements of the Framework, there is a significant five year housing land supply shortfall.

¹ Policy 13 of the East Midlands Regional Plan

In summary, and in accordance with the requirements of paragraph 49 of the NPPF, the Council is not able to demonstrate a 5 year housing land supply and thus the relevant policies for the supply of housing should not be considered up-to-date.

The implications for decision making in light of the housing policies being out of date are clearly defined. The NPPF at para 14 states:

For decision-taking this means:

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

Accordingly, Local Plan Policies S3 and H4/1 are out-of-date. The Council is not able to demonstrate an adequate supply of housing. This application needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District and the need for sites to be released to meet this need.

I trust that you will advise members of the Planning Committee of the relevance of the Hospital Lane decision to the consideration of this planning application and that in the light of this decision that the recommendation to the Committee should be to grant planning permission.

I hope the above provides helpful clarification, demonstrating that the recommendation for refusal is not justified and that there is no reason why the Committee cannot reach a favourable determination on this application.

Yours sincerely



Steve Lewis-Roberts
Associate

Enc.

**A2 13/00141/OUTM Development of up to 450 residential dwellings and provision for 1.1km of canal, provision of open space and vehicular, emergency and footpath access (Outline application – all matters reserved except access)
Land at Measham Waterside, Burton Road, Measham**

Representations

Email received from Leicestershire County Council 04 August 2014 objecting to the recommendation on the basis that a full education contribution is required and requesting a deferral of the matter to review the education contribution further. Comments can be summarised as follows:

- The revised education contribution of a total £2,096,190 is a requirement to mitigate the impacts of the proposed development. It was revised in September 2013 in line with the following reasons:-
 - Changes in pupil forecasts
 - Up dated pupil intake information
 - Revised births data
- Timescales for comment have been very short, and if further opportunity had been provided for a further review of figures could have taken place and it seems highly likely that the figures would have increased further in light of other development which has been carried out.
- The contribution is required to mitigate the impacts of the development. The potential reduction of the education contributions by around £800,000 would be a significant loss of contributions to the County Council in respect of supporting the local schools to take the additional pupils generated by this development of 450 dwellings.
- There is a concern that there appears to be a reduction made to the education contribution and not to other financial contributions.
- Whilst we are aware of the potential reduction in the affordable housing, generally NWLDC policy on S106 contributions and viability is to preserve the financial contributions and to either reduce or discount the affordable housing contributions. I am aware of a recent case in Ravenstone where this happened to allow the contributions for services and infrastructure to support the development.

Email received from Leicestershire County Council 05 August 2014 advising that In terms of the alignment of the canal under the parameters set out in the 2005 Transport & Works Order the County Council will require the route of the canal to continue to be protected. There is a separate option agreement between the County Council and the developer which would require the developer to ensure any access road, roundabout and canal bridge off Burton Road would not interfere with the proposed route of the Canal.

Telephone call from applicant requesting clarification of the following points:

Both the access/roundabout/bridge from Burton Road and the remediation works to the former canal route have been considered as costs as part of the development and are addressed as conditions and would not be included in the S106 agreement.

Officer Comments

The County Council's comments remain the same as previously expressed, in that objection would be maintained unless full contributions were proposed. Members will recall that, previously, the applicant's viability report included construction of the unlinked section of canal at a cost of all financial contributions which Members considered not to be acceptable. The District Valuer on behalf of the District Council has confirmed that the scheme is not viable with all contributions and the canal construction, but could be viable without the canal construction to form a partially policy compliant scheme. Following this, the applicant has reviewed their position and the current options for consideration are set out in the main report. It is entirely for Members to make the decision to accept one of the two options as set out in the main report, or to put forward an alternative resolution.

In terms of a policy allowing for discounting affordable housing as part of development proposals, that situation relates only to Coalville. Viability information has to be submitted as part of development proposals where it is considered that reduced contributions and/or affordable housing would be justified. As set out in the main report, and outlined again above, the District Valuer has confirmed a partially policy compliant scheme would be viable at the application site.

As set out in the main report, the canal route would be protected as part of the development proposal. The proposed Burton Road access, roundabout and bridge and the remediation works at the site would assist with any future reinstatement provision of the canal.

Since writing the update report for Committee the housing figures have been updated further. Further to the recalculated housing land supply figure, reported on the Update Sheet to the Planning Committee meeting of 8 July 2014 and as set out in the main report, the District Council has now published a revised housing supply trajectory. This indicates that, as matters currently stand, the District Council is able to demonstrate a supply of 7.04 years (i.e. an excess of 2.04 years beyond the five year requirement and 1.04 years beyond the five year plus 20% buffer requirement).

RECOMMENDATION: PERMIT AS RECOMMENDED (SUBJECT TO CONDITIONS AS SET OUT IN THE MAIN REPORT)

**A3 13/00516/FULM Erection of 20 no. dwellings with associated
access, driveways and parking
Land Off New Street, Measham**

Additional information received:

An amended plan showing a revision to the red line boundary was received and re-consultation has been undertaken with the County Highway Authority and neighbouring residents.

The County Highway Authority have confirmed they have no further representation to make.

There have been no further letters of representation received at the time of writing.

Officer comment:

In response to a letter of objection in the main body of the report, referring to the potential for parking restrictions to be imposed, the County Highway Authority have confirmed that whilst they have powers to impose no parking traffic regulation orders, if inappropriate parking is leading to an increased risk to highway safety, it is not anticipated this will be the case for this application.

This is because the CHA have re-confirmed that there are no concerns in respect of parking in front of the existing houses on New Street, as it is not the critical direction for visibility as vehicles are approaching the new access on the other side of the road (and are unlikely to be on the wrong side of the road due to the presence of a pedestrian refuge). In addition, as part of the proposals off road parking is being provided for number 44 which should reduce the likelihood of parking within the visibility splay in any case.

Accordingly there are no issues in respect of highway safety and parking.

The recommendation is amended to reflect the re-consultation period as a result of the amended plans and press notice publication.

NO CHANGE TO RECOMMENDATION:- subject to no material observations being received by the end of the consultation period expiring on the 21 August 2014.

A4 13/00969/FUL – Land at Queens Street, Measham

Statutory Consultee Update:

Ecology:

The County Ecologist was consulted again following a comment made about the content of a Negative Bat Survey Statement accompanying the application which included the following conclusion:

'Recommendation – pre-cautionary approach as outline in report.

Emergence Survey needed – Should there be any delay in the demolition, so that the roofs are still in situ in April 2014, further bat emergence/re-entry surveys should be undertaken, as recommended in Bat Surveys Good Practice Guidelines 2nd edition.'

The County Ecologist was asked whether the conditions as set out in the Main Agenda would adequately ensure that protected species were protected in light of the above-mentioned extract.

The County Ecologist advises that the suggested condition would protect birds but not necessarily bats, as they may still be present in buildings like this into October. They are unlikely to be present later in the year, as the building isn't suitable for winter/hibernation roosts. The County Ecologist recommends amending the wording of the condition to extend the period for no works from March to October (end of).

The County Ecologist does not consider that it would be reasonable to require emergence surveys, as the consulting ecologist has recommended. The reason being that no evidence of bats was found and the consulting ecologist could inspect the buildings fully. She also notes that the buildings were considered to be of low potential for bats.

Although not considered necessary by the County Ecologist, should Members be unhappy with the level of protection afforded to bats, she suggests the inclusion of the following note to applicant:

On the morning of demolition, an experienced bat worker should undertake a thorough inspection of the building looking for any fresh evidence of actual occupation by bats. During demolition, the ridge and peg tiles within 1m of the ridge/eaves should be stripped by hand. In the unlikely event of any bats being found, the work needs to cease immediately and either a suitably qualified bat worker, or Natural England should be contacted for further advice. Work on the area where the bat was found (should one be found) should not recommence until such advice is received from Natural England or a suitably qualified bat worker.

Bin Collection:

The Council's Waste Manager has been in discussions with the applicant's agent on the matter and the applicant is looking into potential solutions for bin collection at the site, including relocating the bin store and constructing the internal road up to a standard suitable for refuse vehicles. If these options are not suitable, the Waste Manager has advised that a management company could be employed to be responsible for the collection and deposition of bins within the highway and returning them to the properties. Therefore, a solution with respect to bin collection is available and condition 8 can be amended to include a requirement for revised bin collection details to be agreed.

Drainage:

No comments have been received from Severn Trent Water Asset Protection Team.

Third Party Representations Update:

Three letters of neighbour representation have been received from Orchard House raising additional comments. These are reported below along with the response of officers.

- The measurements and directions as set out in the report do not reflect the drawings.

Officer comment: All the measurements have been checked against the submitted plans which have been printed off at the appropriate size and officers are satisfied that the measurements and directions reported are correct.

- Planting is shown within the French Drain proposed to the rear of plots 1 and 2

Officer comment: The precise details of landscaping are to be agreed by condition and therefore, can be amended to accommodate the drain if required.

- The proposal would adversely affect bats and a bat emergence survey is required

Officer comment: See ecology comments above and ecology section on page 143 of the Main Agenda.

- The strip of land along the northern boundary is required for ecology/hedgerow protection purposes and has not been provided at the request of the neighbour. The neighbour advises that they requested for a fence to be erected along the whole length of the northern boundary.

Officer comment: The provision of the strip of land was not a requirement of the Council's Tree Officer or the County Ecologist but has been included by the applicant to address local concerns about hedgerow impacts/maintenance.

- The development does not comply with the Council's Development Guidelines

Officer comment: Consideration of non-compliance with Development Guidelines has already been covered on page 142 of the Main Agenda.

- The proposal would overshadow Orchard House as shown on a shadow diagram

Officer comment: The shadow diagram does show that Orchard House will be subject to some overshadowing and this is acknowledged on page 141 of the Main Agenda, where it states that there would be some loss of light to rooms served by windows in the south eastern elevation of Orchard House and the outdoor area beyond. However, it is also acknowledged that this would change throughout the day as the sun moves from east to west and as set out in the Main Agenda, it is not considered that the overshadowing would be sufficiently detrimental to neighbouring amenities to warrant a reason for refusal on this ground.

- Error in describing the orientation of one window serving the dining room to Orchard House in paragraph 4 on page 140 of the Main Agenda

Officer comment: This error is noted and is amended in bold in the text below for Members information. This does not affect the conclusions reached within the Main Agenda with respect to impacts on neighbouring residential amenities.

*'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 **western** and northern elevations of the dwelling.'*

- The report incorrectly assumes that a kitchen is not a habitable room

Officer comment: The building would extend forward of one of the kitchen windows and therefore, should the kitchen be used as a habitable room (ie for dining purposes), there would be some overbearing impacts to the easternmost kitchen room window. There would also be some loss of light to the kitchen windows in the south eastern elevation of Orchard House (which would change throughout the day as the sun moves from east to west). When having regard to the number of windows in the south eastern elevation serving the kitchen and that there are also other windows in the western elevation that illuminate this space, overall as set out in the Main Agenda, it is not considered that the impacts on the amenities of the occupiers of this dwelling would be sufficiently detrimental to warrant a reason for refusal on this ground.

- Officers have previously advised that single storey development would be appropriate on the site

Officer comment: It is a fundamental tenet of planning legislation that each application should be assessed on its own merits. For the reasons outlined in the Main Agenda, the proposed development is considered acceptable.

Other Updates:

With respect to neighbour comments about whether solar panels will be installed as set out in the Main Agenda, the agent has advised as follows:

'The panels were put on the drawing as a provisional measure in case solar panels are required to meet Code level 3. But as a code 3 assessment has yet to be carried out it is not known at this stage if they will be required. If Code level 3 can be reached without such renewable technology then we will not follow through with the solar energy provision.'

RECOMMENDATION: NO CHANGE TO RECOMMENDATION, SUBJECT TO AMENDMENTS TO CONDITIONS 8 AND 11, AND IF DEEMED NECESSARY BY MEMBERS AN ADDITIONAL NOTE TO APPLICANT

Condition 8:

Notwithstanding the details shown on the approved plans, 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) and details of bin collection (including any associated management plan) 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.

Condition 11:

Operations that involve the removal of vegetation or buildings shall not be undertaken during the months of March to October (end of), 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.

Note to applicant:

On the morning of demolition, an experienced bat worker should undertake a thorough inspection of the building looking for any fresh evidence of actual occupation by bats. During demolition, the ridge and peg tiles within 1m of the ridge/eaves should be stripped by hand. In the unlikely event of any bats being found, the work needs to cease immediately and either a suitably qualified bat worker, or Natural England should be contacted for further advice. Work on the area where the bat was found (should one be found) should not recommence until such advice is received from Natural England or a suitably qualified bat worker.