

Erection of 12 dwellings (Outline access and layout included for determination)

Report Item No  
A3

3 Top Street Appleby Magna Swadlincote Derby

Application Reference  
14/00251/OUTM

Applicant:  
Mr & Mrs P Kavanagh

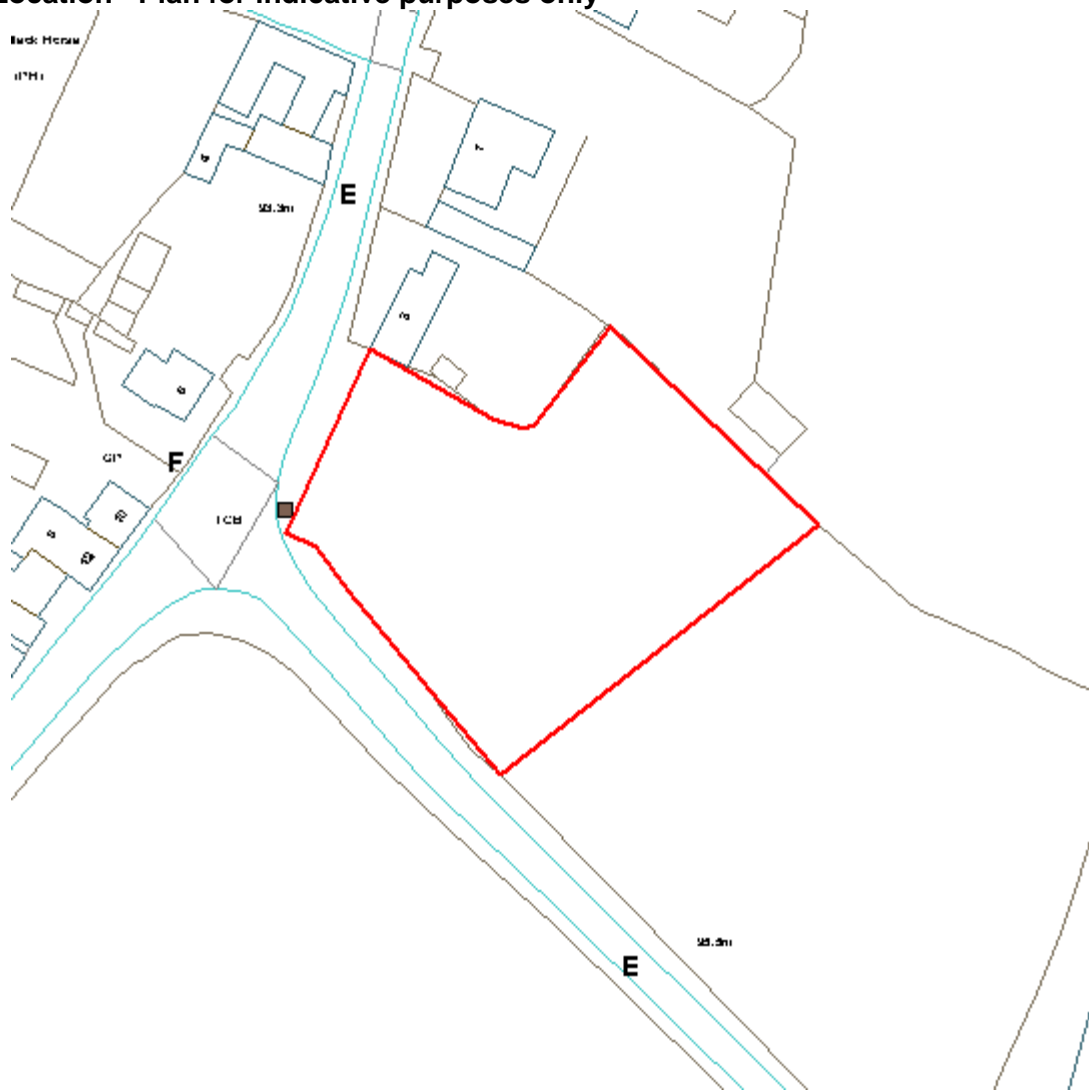
Date Registered  
24 March 2014

Case Officer:  
Jenny Davies

Target Decision Date  
23 June 2014

Recommendation:  
**REFUSE**

Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Recommendation**

### **Proposal**

Outline planning permission (with access and layout included for determination) is sought for the erection of 12 dwellings with associated access, driveways and parking at land at 3 Top Street, Appleby Magna. The site lies on the south eastern side of Top Street and is currently occupied by outbuildings at its western end with the central and eastern parts comprising a grassed paddock. The site is adjoined by residential properties, open fields and the Jubilee Business Park. Two dwellings would be sited in place of the existing outbuildings located to the front of the site. The remaining 10 dwellings would be sited on the paddock. Access to the site would be via the existing site entrance onto Top Street.

### **Consultations**

Members will see from the main report below that six letters of objection from members of the public have been received, along with one objection from Appleby Environment. The objections largely relate to cumulative impact of new dwellings, highway safety, impact on the historic environment and character of the area and impact on residential amenities. Appleby Magna Parish Council also objects to the application. The County Archaeologist recommends refusal on the basis that trial trenching has not been undertaken to establish the significance of any buried archaeological remains within the site. There are no objections from any other statutory consultees.

### **Planning Policy**

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

### **Conclusion**

As set out in the main report above, the site lies mostly outside the Limits to Development in the adopted Local Plan and constitutes greenfield land. Policies S3 and H4/1 which restrain the supply of housing are now considered to be up-to-date given the Council can demonstrate a five-year supply of deliverable housing land. The proposal would increase the level of housing within the village above the District-wide levels suggested under the former Core Strategy and the SHMA. However the increase above these levels would not be significant and given the scale of the development, that the site is well located in relation to the settlement and its proximity to local services and facilities, whilst it would be contrary to Policy S3 of the Local Plan in this case it is considered that a reason for refusal on this basis could not be justified in this case.

The proposed development would be acceptable in terms of density, layout and design, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

However the proposal would have a harmful impact on the significance of designated heritage assets and insufficient information has been submitted to ensure that the development would not harm archaeological remains and there are no material considerations that would outweigh this harm.

The proposed development would, overall, not be considered to constitute sustainable development as defined in the NPPF. It is therefore recommended that planning permission is

refused on the grounds of impact on the historic environment and archaeology.

**RECOMMENDATION: THAT PLANNING PERMISSION BE REFUSED**

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

## MAIN REPORT

### 1. Proposals and Background

The application falls to be determined by the Planning Committee given that there have recently been a number of other applications for major residential development within Appleby Magna which were also considered by Planning Committee.

Outline planning permission (with access and layout included for determination) is sought for the erection of 12 dwellings with associated access, driveways and parking at land at 3 Top Street, Appleby Magna. The site lies on the south eastern side of Top Street and is currently occupied by outbuildings at its western end with the central and eastern parts comprising a grassed field. The site is adjoined by residential properties, open fields and Jubilee Business Park. Land levels increase approximately by approximately four metres from north west to south east but remain fairly level from north to south. The western end of the site gradually increases in height above the adjacent roads whereas at its eastern end it is 2-2.5 metres higher than the Snarestone Road.

The land to the south of No. 3 is currently occupied by a row of outbuildings and one detached outbuilding which were presumably formerly in agricultural use associated with No. 3 but which have now fallen into disrepair. The outbuildings largely date from the 19th century with some modern alterations/additions. It is proposed to demolish all of the outbuildings to make way for a pair of semi-detached dwellings. A similar pair of semi-detached dwellings (both with three bedrooms) benefit from planning permission under ref. no. 13/00256/FUL) and Conservation Area Consent for demolition of the outbuildings (13/00257/CON) was approved in July 2013.

The remaining 10 dwellings (which are a mix of detached and semi-detached dwellings) would be located on the paddock on the central/eastern part of the site, and comprise 2 x two bed dwellings, 3 x three bed dwellings and 3 x four bed dwellings. Three affordable dwellings are proposed. Two detached double garages are also proposed to serve Plots 1, 2, 11 and 12. Two landscaped/public access areas are shown to be located to the west of Plot 3 and Plot 12.

Access to the site would be via the existing site entrance onto Top Street (which would be altered in terms of its width and alignment) with an access drive extending through the site. The hedgerows and trees located on the site's boundaries are shown to be retained with two trees located on the western part of the site shown to be removed.

The site lies within the Appleby Magna Conservation Area and No. 1 Top Street, the K6 red telephone kiosk that lies on the verge to the front of the site, the Black Horse public house and Nos. 8, 12, 14 and 16 Top Street are all Grade 2 listed buildings. No. 3 Top Street and its outbuildings are identified as unlisted buildings of interest in the Appleby Magna Conservation Appraisal. The site also lies within the catchment area of the River Mease Special Area of Conservation. The trees on the site are protected by virtue of being within a Conservation Area. Public footpath/bridleway Q25 runs adjacent to the site's eastern boundary.

#### Planning History:

- demolition of outbuildings, erection of a single storey side and two storey /single storey rear extensions and detached double garage/store, erection of a stable block and erection of a pair of semi-detached dwellings and a four bay car port and keeping of horses (13/00256/FUL) approved approved July 2013;
- demolition of outbuildings (Conservation Area Consent) (13/00257/CON) approved July 2013;

- erection of one dwelling (outline) (89/0123) approved March 1989. There is no record of a reserved matters application being submitted.

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 10(b) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts, both on its own and cumulatively with other developments in Appleby Magna, are considered to not be significant and can be considered as part of the planning application.

## 2. Publicity

34 no. Neighbours have been notified (Date of last notification 7 April 2014)

Site Notice displayed 16 April 2014

Press Notice published 9 April 2014

## 3. Consultations

Appleby Magna Parish Council consulted 26 March 2014

LCC ecology consulted 23 June 2014

Development Plans consulted 4 April 2014

County Highway Authority consulted 23 May 2014

County Archaeologist consulted

Severn Trent Water Limited consulted 26 March 2014

Head of Environmental Protection consulted 26 March 2014

NWLDC Tree Officer consulted 26 March 2014

County Archaeologist consulted 26 March 2014

LCC ecology consulted 26 March 2014

NWLDC Conservation Officer consulted 26 March 2014

English Heritage- Grade I/II\* LB Works consulted 26 March 2014

LCC Development Contributions consulted 26 March 2014

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 26 March 2014

Head Of Leisure And Culture consulted 26 March 2014

Manager Of Housing North West Leicestershire District Council consulted 26 March 2014

Police Architectural Liaison Officer consulted 26 March 2014

DEFRA consulted 26 March 2014

## 4. Summary of Representations Received

### Statutory Consultees

**Appleby Magna Parish Council** advises that all previous comments relating to Appleby Magna planning applications stand, that surface water from this site would run straight down Black Horse Hill, which already has major surface water problems and this is in a conservation area. However this site, if three houses were built on it, would be the most acceptable of the applications. This site is also the least intrusive of the proposed developments for the village. The comments made by the Parish Council on previous applications are attached as an appendix to this report.

**The County Highway Authority** recommends refusal on the following grounds:

*'The Applicant has failed to demonstrate that their proposal will be in a location where services are readily and safely accessible by walking, cycling and public transport. Leicestershire County*

*Council policy contained in the Local Transport Plan 3 seeks to deliver new development in areas where travel distances can be minimised, and genuine, safe and high quality choices are available (or can be provided) for people to walk, cycle and use public transport facilities and services nearby. The LTP3 reflects Government guidance contained in the NPPF.'*

**The County Archaeologist** initially requested the submission of an archaeological desk-based assessment. Following submission of this assessment the County Archaeologist recommended that an evaluation of the site by trial trenching is required. Trial trenching has not been undertaken and the County Archaeologist has therefore advised that a reason for refusal relating to this matter should be included.

**English Heritage** advises that in line with the NPPF it considers the proposed residential development harmful to significance, which is deemed less than substantial. It recommends the authority determines this application in accordance with relevant policy guidance contained within the NPPF including paragraphs 131, 132, 134 and 137 and with reference to the Authority's specialist archaeological and conservation advice.

**Severn Trent Water** has no objection subject to a condition.

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

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

**The County Ecologist** initially advised that surveys for bats and badgers and a Phase 1 Habitat Survey needed to be undertaken and raised concerns about impacts on hedgerows. Following submission of further information the County Ecologist is satisfied with the bat, badger and Phase 1 surveys and following a site visit has withdrawn her objection in relation to impact on the hedgerow.

**The Council's Tree Officer** make comments in relation to impact on hedgerows.

**The Environmental Protection team** initially requested additional information relating to noise impact from the adjacent industrial site. Following the submission of further information the Environmental Protection team is satisfied that noise impact has been considered.

**The Affordable Housing Enabling Officer** initially advised that whilst four affordable homes should be provided on site to be policy compliant provision of three affordable homes is sought in this case.

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

**Leicestershire County Council Library Services Development Manager** requests a contribution of £370 towards library services.

**Leicestershire County Council Local Education Authority** has requested a contribution of

£79,322.74 towards accommodating capacity issues at nearby schools resulting from the development.

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

### **Third Party Representations**

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

- huge increase in number of dwellings in the village and cumulative impact cannot be ignored;
- development that the village might be able to support has been exceeded;
- further development would not be sustainable as it would impact on the character and infrastructure of the village;
- concerns have previously been raised by the County Highway Authority in relation to the poor local transport infrastructure;
- lack of a sustainable transport network in the village;
- the Sir John Moore Primary School is over-subscribed and cannot absorb more pupils;
- proposal does not fit with the Appleby Plan;
- Village Design Statement must be taken into account;
- single storey properties were not viable under the original application but are now included in the current proposal;
- concerns regarding scale and height as dwellings would be in an elevated position;
- loss of light;
- loss of privacy;
- unwelcome expansion into the rural fringe of the village;
- loss of open fields around the village;
- impact on the character of the village;
- destruction of rural setting of prominent site at entrance to the village;
- loss of separation with farmhouse further along Snarestone Lane and impact on character of this road;
- detrimental to setting of nearby listed buildings on Top Street and adverse impact on the Conservation Area due to loss of existing outbuildings, which are unlisted buildings of interest;
- as these buildings contribute to the special character of the Conservation Area then the Council's primary obligation should be to protect them;
- the NPPF states that evidence of deliberate neglect or damage to a heritage asset should not be taken into account in any decision;
- other old farm buildings in the village have been renovated and it is inconsistent and unjust to not expect an owner of a property in a Conservation Area to do something similar;
- access would be sited close to an unsafe junction and a bus stop and will result in dangers for people coming onto Top Street including horse riders;
- safety from using the shared drive to No. 6 Top Street would be affected;
- additional traffic using Top Street;
- concerns have previously been raised by residents in relation to inadequate access into the village via single track roads, bottlenecks and additional traffic generated by the 68 dwellings already approved;
- flooding and sewerage issues on Black Horse Hill;
- problems with connecting 12 more houses to a sewerage system which has a pumping station with capacity issues;
- proximity to proposed HS2 line would result in significant risk in being able to sell the houses;
- village has already felt detrimental impact and noise levels from construction and use of the M42.

One letter of representation has been received from Appleby Environment, which is a formally

constituted community group. The letter also refers to previous letters submitted by Appleby Environment in respect of other applications in the village. The comments made by Appleby Environment on this and previous applications are attached as an appendix to this report. In summary Appleby Environment objects on the following grounds:

- cumulative impact relating to the scale of housing development;
- cumulative impact relating to environmental assessment;
- failure to meet the criteria for sustainable development as set out in the NPPF;
- increased car journeys in conflict with national low carbon strategy and NPPF;
- impact on settlement patterns and listed buildings;
- lack of accessible local services;
- lack of need for additional housing;
- local concern in relation to flooding and sewage capacity;
- destruction of hedgerows and open areas which would have an adverse impact on nature conservation;
- guidelines within the Village Design Statement would be broken;
- sites are outside limits to development;
- inappropriate site for development as surrounded by heritage assets;
- site would be extremely dangerous in highway terms due to proximity to junctions with Snarestone Road and Mawbys Lane/Black Horse Hill.

One letter of representation has been received which states that an access into the adjacent field is essential and the planning agent has advised that this should not be a problem and that the provision of 1.8 metre stockproof fencing is pleasing.

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

## **5. Relevant Planning Policy**

### **National Planning Policy Framework (NPPF) - March 2012**

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document.

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

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

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage effective use of land by reusing land that is previously developed;
- 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 following sections of the NPPF are considered relevant to the determination of this application:

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

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

"32. ...Plans and decisions should take account of whether:

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

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

"47. To boost significantly the supply of housing, local planning authorities should:

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

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

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

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

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

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

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

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

"112. Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."

"118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest; ...
- opportunities to incorporate biodiversity in and around developments should be encouraged..."

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

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

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

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

"123. Planning policies and decisions should aim to...avoid noise from giving rise to significant

adverse impacts on health and quality of life as a result of new development..."

"131. 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."

"132. 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...."

"133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or all of four other criteria apply."

"134. 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."

"135. The effect on the significance of a non-designated heritage asset should be taken into account in determining the application.

"138. Not all elements of a Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm or less than substantial harm."

"139. Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets."

"173. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

"203. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

"204. Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;

- directly related to the development; and
- fairly and reasonably related in scale and kind to the development."

**North West Leicestershire Local Plan:**

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

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

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

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

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

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

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

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

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst other things, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account a number of issues including housing mix, accessibility to centres and design.

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

Policy H8 provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

### **Other Guidance**

#### *Submission Core Strategy*

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

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

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

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

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

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

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

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

#### *NWLDC SPD for Affordable Housing - January 2011*

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

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

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

*Appleby Magna Village Design Statement* The purpose of the Village Design Statement is to

influence the planning process so that any further development and change within the village and the surrounding countryside will be managed in a way that protects and enhances the qualities that give Appleby its special character, by taking into account local knowledge, views and ideas.

*Appleby Magna Conservation Area Appraisal and Study SPG* identifies individual factors considered to have a positive impact on the character of the Conservation Area. These factors include principal listed buildings and unlisted buildings of interest in the vicinity of the site.

## **6. Assessment**

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

### **Principle of Development**

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

In terms of the Local Plan, the site lies partly within and partly outside the Limits to Development. Two of the dwellings (Plots 1 and 2) lie within the Limits to Development (and already benefit from a planning permission under ref. no. 13/00256/FUL). Policy S3 of the Local Plan sets out the circumstances in which development will be permitted outside Limits to Development; the remaining 10 dwellings would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3.

Notwithstanding the site's countryside location, in determining the application regard must be had to other material considerations, including other Development Plan policies and whether the proposal constitutes sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

In terms of the Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
- the latest urban capacity information;
- the need to maintain an appropriate supply of available housing land;
- lead times before houses will be expected to be completed and build rates thereafter; and
- other material considerations.

Whether or not this site would be considered "appropriate" is a matter of judgement. Insofar as the site's location is concerned it is located adjacent to the existing built up area of the settlement and would not result in isolated development in the countryside. In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to maintain a five year housing land supply in the District. It is therefore considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

### *Housing Land Supply*

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

As reported to Committee on 8th July 2014, however, a recently completed County-wide Strategic Housing Market Assessment (SHMA) has provided the Council with an up-to-date objectively assessed annual housing requirement. 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).

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

In addition, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

### *Sustainability*

As set out above, the application site is an unallocated site partly within and outside the Limits to Development in the adopted Local Plan. The County Highway Authority (CHA) raises concerns as it considers that the applicant has failed to demonstrate that the proposal is in a location where services are readily available and safely accessible by a variety of modes of transport. These are issues which Policy H4/1 of the Local Plan deals with. Notwithstanding the status of Policy H4/1 as mentioned above, since its adoption the NPPF has been published.

In terms of the sustainability of the site, Appleby Magna provides a good range of day to day facilities, i.e. a primary school, shop/Post Office, church, church hall, two public houses, GP surgery, play area/recreation ground and some small-scale employment sites. It should be noted that public consultation was undertaken at the end of 2013 to close the GP surgery and

that the surgery has since closed, so patients would have to attend the surgery in Measham (3.05km away).

There is also a limited public transport service; the No. 7 service currently provides a service Monday to Saturday (approximately every 1.5-2 hours) from 8.10am to 5.48pm which serves Measham, Ashby de la Zouch, Atherstone and Nuneaton with a total of 11 buses running per day.

Public consultation was also undertaken at the end of 2013 to reduce the No. 7 service so it operates every four hours, with a total of six buses running per day. At the County Council's Cabinet meeting in May 2014 it was agreed that the existing No. 7 service would be replaced with a community bus partnership and the County Council expect a two hourly service to be operating from the end of March 2015, although the route, and whether this includes Appleby Magna, is not yet known.

In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the preferred maximum walking distance to a town centre with 400 metres acceptable and 200 metres being desirable. The Inspector in the Moira Road appeal referred to the DoT statistics which detail that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1Km (0.62 miles), cycling about 4.5Km (2.8 miles) and by bus about 8Km (4.97 miles). Below are the approximate distances from the centre of the site to local facilities and services via the existing footway network:

Bus Stop - 73 metres  
Primary School - 830 metres  
Shops/Post Office - 325 metres  
Play Area/Open Space - 660 metres  
Village Hall - 510 metres  
Public House - 110 metres

The application site is well related to most of the key services/facilities within the village, being within 800 metres (preferred maximum walking distance) of the majority of the services listed above, apart from the school, which is located outside the main village. The level of services available is considered to be good for a rural village although the public transport connectivity is considered to be poor. Whilst there is no footway along the majority of the eastern side of Top Street, there is a stretch of footway fronting the site and a footway runs along the western side of Top Street and existing residents make use of these footways and the existing footway network within the village. There is also a variety of pedestrian routes through the village that could be used to reach existing services. Although there already appears to be a high level of car use within the village (based on 2011 Census data) there are some services/facilities within the village and some opportunities to access them other than by car.

Concerns have been raised about the impact on Sir John Moore Primary School which is located in a Grade 1 listed building, in particular the capacity for the site/building to house additional pupils. Contributions have been sought by Leicestershire County Council (discussed in a separate section below) which would fund capacity for extra school places and the County Council would decide where those spaces are provided. The school has previously advised that it has a Master Plan in place which involves a new building to the rear of the existing building and there is some flexibility to provide space for additional pupils within this proposed building. Contributions have also been sought to provide additional capacity at the library and to provide an on-site play area.



Given the scale of the development it is considered that the proposal would not result in unsustainable demands on local services and facilities. Taking all of these matters into account, it is considered that Appleby Magna is a sustainable location for the level of development proposed for this site on an individual basis.

#### *Scale of Development and Cumulative Impacts*

It is appropriate to consider the scale of the proposed development compared to Appleby Magna so as to understand its potential impact upon the scale and character of the village.

In terms of likely future needs the GL Hearn Leicester and Leicestershire Housing Requirements Study which was used to inform the housing requirement in the now withdrawn Core Strategy includes information regarding future natural change across the district. This Study projected a 23.4% increase in housing was required across the District from 2006-2031, which was reflected in the now withdrawn Core Strategy. This assessment is provided to be consistent with the assessments of the other recent large proposals for new housing in the village.

It is estimated that there are 433 properties in the village of Appleby Magna within its main built up area and 485 properties in the Parish of Appleby Magna. This proposal for 12 dwellings would represent a 2.77% increase in the number of dwellings within the village and a 2.47% increase within the Parish. Therefore, the proposed development on its own would represent a lower level of growth than that for North West Leicestershire as a whole.

There are outstanding commitments for 86 dwellings in the village, which includes the two dwellings previously approved on the front part of the site, as well as the schemes for 8 and 39 dwellings on Measham Road and 29 dwellings further south on Top Street. Therefore an assessment of increased growth when referring to outstanding commitments will only take into account 10 of the dwellings proposed (as two are already taken into account in the figure relating to commitments). The 10 additional dwellings on the site alongside the outstanding commitments for 86 dwellings would equate to a 22.17% growth in the village from 2011. The 10 additional dwellings on the site alongside the 13 new dwellings built since 2006 and the outstanding commitments for 86 dwellings (a total of 109 dwellings) would equate to a 25.89% growth in the village since 2006. Whilst the level of cumulative growth would be higher for the village than for the District overall, the difference of 2.49% is not considered to be significant.

However since consideration of the previous large housing applications in the village, the Strategic Housing Market Assessment (SHMA) has been published which suggests a 17.3% increase in new housing across the District from 2011-2031. The site alongside existing commitments (which includes the new housing for the village that has recently been approved), would exceed the District-wide level of growth suggested in the SHMA from 2011, i.e. 22.17% compared to 17.3%, but again this is not considered to be significant with a difference of 4.87%.

It should also be noted that the level of housing proposed across these this site and those recently considered at Planning Committee would be built over a number of years and works would not start immediately due to the need for legal agreements to be completed and for a reserved matters application to be submitted (and approved) on this and the other Top Street site.

#### *Loss of Agricultural Land*

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. The site is currently grassland although it is not clear if it is in active agricultural use. The development of the site would result in an irreversible loss to non-agricultural use. DEFRA has

been consulted on this issue, but no response has been received.

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

However, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively). The site is approximately 0.57 hectares in size. It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process, which in this case would be relatively small in scale but highly likely to be irreversible as there are only very small areas within the site that could accommodate an agricultural use in the future. The cumulative loss of farmland across this and other recently approved sites the Top Street site would be 4.51ha which is also considered to be low.

Nevertheless it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, it is considered that the agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the loss.

*Conclusions in respect of the Principle of Development and Planning Policy*

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

The site is partly within and outside the Limits to Development in the adopted Local Plan and is a greenfield site. Two of the dwellings lie within the Limits to Development. The remaining 10 dwellings would however be contrary to Local Plan Policy S3, which along with Policy H4/1 is now considered to be up to date. The site's general suitability for housing (given its location in terms of distances to most services/facilities) is also material, together with the need for the District to release land for housing to ensure the maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF).

The proposal on its own would not significantly increase housing numbers within the village. Although the level of cumulative development proposed across the site alongside existing commitments in the village would exceed growth for the District as a whole based on the former Core Strategy figures, the difference of 2.49% is not considered to be significant. The difference when compared to the growth for the District suggested by the SHMA is also considered to not be significant at 4.87%. Furthermore given the small scale of the development, that the site is well located in relation to the settlement and its proximity to local services and facilities, whilst the proposal would be contrary to Policy S3 of the Local Plan it is considered that a reason for refusal on this basis could not be justified in this case.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in maintaining housing land supply, its proximity to services/facilities, the provision of affordable housing and open space and the inclusion of appropriate contributions to local services would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned however, the proposal would have a harmful impact on the significance of designated heritage assets and insufficient information has been submitted to ensure that the development would not harm archaeological remains. The public benefits of the proposal (contribution towards housing land supply, high quality design, provision of affordable housing and contributions to public service/facilities) would not outweigh this harm. In the overall balance it is considered that the proposal would not constitute a sustainable form of development.

### **Density**

The proposal results in a density of 21 dwellings per hectare for the whole site, which is below that sought under Policy H6 of the Local Plan (a minimum of 30 dwellings per hectare).. The NPPF also states that local planning authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate having regard to the location of the site on the edge of a village and the character of the area.

### **Layout and Design**

The proposal provides a mix of housing ranging in size from two to four bedrooms. The position and design of Plots 1 and 2 was considered under planning permission ref. no. 13/00256/FUL and were considered to be acceptable.

The remaining dwellings would not front onto Snarestone Road but would face inwards onto a private drive with their gardens adjoining the site's boundaries. Top Street is characterised by dwellings that vary in terms of age, position, scale and design and the VDS states that there is no over-riding style that characterises the village's appearance. There would be a mix of designs, with variation in the design of the dwellings so that one style is not dominant. Whilst the site is set higher than the adjoining roads, the dwellings would be well contained within the site. Opportunities for surveillance are available with corner plots and elevations facing onto the access road, parking/turning areas and open space. The view along the access road would be directed towards Plot 2 which is angled towards the street therefore providing an end stop. Parking would be provided within plot.

The site can accommodate all of the necessary requirements (private gardens, parking/turning space, bin storage/collection areas) without being cramped. The proposed layout should ensure the retention of boundary hedgerows and trees which are important parts of the character of Snarestone Road. Garden boundaries along the access drive would largely constitute hedgerows, which reinforces and enhances street definition, and although some close boarded fencing is proposed it is largely not in prominent locations. Although land levels rise up gradually across the site from west to east, the indicative streetscenes do not indicate a significant increase in land levels across the site, although this would be dealt with by condition.

Consideration of how the dwellings' design, details and materials meet the VDS guidelines can be undertaken at the reserved matters stage. The scheme in its current form is considered to be a housing development that creates dwellings that to some extent reflect the traditional house types within the village whilst fitting in with the existing mixed character of the area. The development's character would be further reinforced by landscape features and building details, such as materials and colour. Based on the above and subject to conditions, the scheme is

considered to be acceptable in terms of its design and layout.

## **Historic Environment**

### *Significance of Heritage Assets*

The site lies within Appleby Magna Conservation Area and No. 1 Top Street, the K6 red telephone kiosk that lies on the verge to the front of the site, the Black Horse public house and Nos. 8, 12, 14 and 16 Top Street are all Grade 2 listed buildings, and are therefore designated heritage assets as defined in the NPPF. No. 3 Top Street and its outbuildings are identified as unlisted buildings of interest in the Appleby Magna Conservation Area Appraisal and are therefore undesignated heritage assets.

Appleby Magna is thought to have Saxon origins and it is considered likely that the original settlement may have been in the vicinity of the later St Michael's church, which is Grade 2\* listed. However evidence of Romano-British activity indicates that the area around the shallow stream valley was farmed and settled much earlier. Appleby Magna also lies to the south east of the approximate route of a possible Roman road linking Watling Street at Tamworth with a crossing of the Trent at Sawley and the adjacent Roman settlement at Redhill. Within the existing village, which remained in agricultural use until the 19th century, it is thought the settlement was planned, based around Church Street and Top Street linked by two cross routes, Mawbys Lane and Stoney Lane/Blackhorse Hill with three foci of early occupation. To the east of the site lies the scheduled moated site of the former medieval manor house of the Appleby Family, fishponds and settlement earthwork remains later converted into formal gardens in the 16th or 17th Century east of the Church. Within the village there are numerous listed buildings which in general are clustered around the historic routes. Highly graded assets include the Grade 1 listed Sir John Moore School dated 1697 and designed by Sir William Wilson, the Grade 2\* 16th Century Moat House with gatehouse which has been described as the best preserved medieval house on a moated site in Leicestershire, and the 14th century Church of St Michael, listed Grade 2\*. Together with the moated site, the relationship and association of these structures with one another, including the association with the earlier manor house, is highly significant. This significance derives from the group's architectural, historic and archaeological interest. This includes the historic relationship of the Moore Family who owned the manor house. This historic inter-relationship is recognised within the Appleby Magna Conservation Area Appraisal and Study (2001) as noted below.

Top Street is one of the principal streets within the village and was established by the late 1700s and the land to the west of this road is the likely early core of the settlement. The Appraisal advises that 'The special character of the Conservation Area is derived from the historic inter-relationship of the Moat House site and the Parish Church and from the grouping of farmhouses, their outbuildings and cottages along the curvatures of Church Street, Top Street and Mawby's Lane. The overall pattern of the pre-enclosure settlement remains largely evident within the area.'

English Heritage advises that the paddock forms a physical and visual separation between the development at Jubilee Farm and the defined character of the street and the village (and therefore the Conservation Area as its boundary runs through the western part of the site.) English Heritage goes on to state that "The contribution made by this site to the setting of the Conservation Area and listed buildings/scheduled monument within, notwithstanding the approved scheme which is located on the part of the site which is already developed, derives from its landscape character, which helps reinforce the strong contrast of the rural landscape with the historic village settlement and the outlying farmstead settlements dispersed around the village boundary. The survival of the development site as farm land in both land use and visual terms helps to define the direct historic relationship between the settlement and its agricultural

setting.

The special character of the Conservation Area is also derived in part from the differing ages, scales, materials of construction and designs of buildings along Top Street which create visual interest. The Black Horse Inn, which is one of the earliest secular buildings in the village - fifteenth to seventeenth century in origin - incorporates elements of timber framed construction and has large square panels with diagonal cross bracing. Dressed local stone was used to construct Nos. 10-16 Top Street in the 17th century. Local bricks became the preferred method of construction from the 17th century until the last 19th century. This brick, which is of a dark red colour was often laid in a Flemish or Suffolk bond in the construction of new buildings; Hill House (No. 1 Top Street) is built of local brick laid in a Flemish bond with dark vitreous headers to give a pleasing chequered effect. Stone quoins are also evident to some buildings, including No. 1 and within the terraced group comprising Nos. 12, 14 and 16. Some properties incorporate stone or brick plinths, including No. 3, which suggests that the existing brick built properties may have been constructed upon the foundations of earlier timber framed structures. The buildings on the site appear on the 1st edition Ordnance Survey map and No. 3 also appears on the 1815 Ordnance Survey drawing, which suggests that at least elements of the buildings date from the late 18th/early 19th century. The building to the rear of No. 3 is in good condition but is considered to be of limited historic or visual merit. Most of the central outbuilding is still in place and there is a clear view of this building from the street through the access. The southern parts of the frontage outbuilding are the oldest and although both parts have lost their roofs their main walls remain. Modern alterations have also been undertaken to one of the older parts of this building and so their importance within the Conservation Area has been diminished. The northern parts of this building are more modern as can be seen in the brickwork to the frontage wall. The central outbuilding and the older parts of the frontage buildings are considered to be of some significance due to their age, visual contribution to the streetscene (which is somewhat limited by the lack of roofs and the modern alterations to the frontage buildings) and their link to the historical development of the village.

The Appraisal also appears to identify the boundary treatment to the front of No. 3 to be of merit, and it is presumed that this refers to the frontage brick wall to the south of the access drive which retains some of the original features of the buildings and is mostly constructed of older bricks. There is what appears to be a retaining wall (approximately 0.5 metres high along the frontage) to the front of No. 3 itself but this is hidden by a well established hedgerow so it is not visible from the street. The brick wall to the front of No. 1 is also considered to be a fine example of a boundary treatment within the Conservation Area. In parts of the Conservation Area, including along Top Street, footways only run along one side of the road and so grass verges are a feature; as is the case to the front of the site. Classic 20th century design is represented on Top Street by the Type K6 telephone kiosks (a 1935 design by Giles Gilbert Scott) on the verge to the front of the site.

The site is visible in views from within and outside of the Conservation Area and within views of some listed buildings, in particular. As such it is part of the 'surroundings in which a place is experienced; its local context embracing present and past relationships to the adjacent landscape' and therefore forms part of the setting to the designated heritage assets. Therefore the historic and visual relationship of the site with the wider historic core of the village forms an important part of the setting of the group of inter-related heritage assets.

Therefore the listed and unlisted buildings, the Conservation Area, scheduled monument and archaeological remains form an important part of the history of this part of the village and the village as a whole and are considered to be heritage assets of significance which have value for this and future generations.

*Loss of Outbuildings and Walls*

The loss of the outbuildings, as a result of the erection of Plots 1 and 2, was considered under the previous application for these two properties (13/00256/FUL), where it was concluded that their loss would not result in substantial harm to or total loss of the designated heritage assets, some public benefits would occur and whilst some harm would result, a reason for refusal on the basis of the demolition of the outbuildings having a negative impact on the character and appearance of the Conservation Area and on the setting of heritage assets could not be justified. It was also considered that the loss of the frontage wall to No. 3 would not result in significant harm to the Conservation Area.

*New Development*

The impact of Plots 1 and 2 and associated garaging was considered as part of the previous application, where it was concluded that it would preserve the character and appearance of the Conservation Area and would not adversely affect the setting of listed and unlisted buildings and therefore the significance of these heritage assets would be retained. Whilst the proposal does not meet all the criteria set out in the Appleby Magna Village Design Statement it is not so significantly contrary to these guidelines or to the character and appearance of the streetscene and locality that lies within the Conservation Area to justify a reason for refusal. As Plots 1 and 2 are very similar to the approved scheme it is considered that these elements of the proposal are still acceptable in terms of impact on the historic environment.

Consideration therefore turns to the 10 dwellings proposed for the paddock. The National Planning Practice Guidance states that 'Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.'

English Heritage accepts that existing 20th century development has impacted on the setting of this medieval village and the significance of the Conservation Area. However the rural landscape here results in the countryside penetrating the village, a characteristic that is noted in the Village Design Statement, and therefore the site contributes positively to the character and appearance of the Conservation Area, and therefore the setting of the inter-related heritage assets. The continued development of surrounding farm land stretching into the countryside and removing the separation from the former farmstead is considered harmful to the significance of the designated heritage assets. Development of the paddock would result in the loss of a part of the rural setting of this historic settlement, when considered on its own and cumulatively with the three other larger sites in the village that have recently been approved.

The site's survival as farm land and its historic relationship with the designated heritage assets is visible and can be experienced, appreciated and valued and this would be fundamentally altered. The character and contribution of the site to the heritage assets would be lost, in terms of visual impact as the rural landscape is eroded, and in terms of erosion of the relationship of the countryside with the village and the heritage assets.

The paddock also forms a backdrop and foreground to the Conservation Area, being visible in views from Top Street and from the adjacent public footpath, with more limited views from Snarestone Lane due to the change in land levels and hedgerow boundary. The paddock, along with the mature hedgerow and trees along Snarestone Lane, creates a semi-rural feel to this part of the Conservation Area which is on the edge of the village. The proposal would

fundamentally alter the character of the site and the approach to the Conservation Area from the countryside. Therefore the rural and natural character and setting of the Conservation Area and this part of the village would be lost through development of the site, and this would result in a harmful visual impact on the Conservation Area.

The setting of the adjacent listed building, No. 1 Top Street, would not be adversely affected by the 10 dwellings, due to the separation of the paddock from this listed building and the screening in place. The setting to the listed phone box would change as its immediate backdrop will be altered. However it is not unusual for phone boxes to be located with buildings as their backdrop and as such it is considered that its setting would not be adversely affected. The site is visible in the setting of several other listed buildings but it is considered that the new dwellings would not adversely affect their setting due to their design, distance from the listed buildings and location close to existing development.

The 10 dwellings proposed on the paddock are considered to be harmful to significance, which is deemed to be less than substantial. Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal. Clear and convincing justification for the proposal is also required. In this case it is considered that a clear and convincing justification for the proposal has not been put forward. Furthermore, the Authority now has a five year housing land supply. Although contributions towards services/facilities and the provision of affordable housing are proposed, in this case it is considered that these public benefits are not so substantial that they would outweigh the harm to the heritage assets. In addition alternative sites are available elsewhere within the village for new housing. Therefore the proposal would be harmful to the significance of designated heritage assets for which there is no clear and convincing justification or public benefits that would outweigh this harm.

#### *Archaeology*

The County Archaeologist advises that the site lies within the historic settlement core of Appleby Magna, an area defined using available evidence to encompass the likely extent of the medieval and post-medieval village and that buried archaeological evidence, constituting one or more as yet unidentified heritage asset(s) spanning the period from the earliest evolution of the village to its more recent past can be expected within the development area. He also advises that the proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information.

The County Archaeologist also advised that information submitted with the application is incorrect and therefore recommended that an archaeological desk-based assessment of the site and a field evaluation, by appropriate techniques including trial trenching, if identified necessary in the assessment, to identify and locate any archaeological remains of significance, and propose suitable treatment to avoid or minimise damage by the development, should be undertaken.

Following submission of a desk-based Assessment the County Archaeologist advises that an evaluation of the site by trial trenching to establish the significance of any buried archaeological remains within the site should be undertaken.

The agent has advised that this trial trenching has not been undertaken. A condition requiring trial trenching to take place after determination would not be sufficient to prevent any harm. It is therefore concluded that insufficient information has been submitted to ensure that the development would not harm important archaeological remains.

## **Trees**

The two trees to be removed make a limited contribution to the street scene and character of the Conservation Area and are not considered to be worthy of retention by way of a Tree Preservation Order. The goat willow and hedgerow make a more significant contribution to the visual amenities of the area and are proposed to be retained. The Tree Officer advises that an Ash tree, located on the southern boundary, appears to be the only significant tree and has a low (c) retention category and should not be impacted by construction proposals. Plot 2 is likely to impinge on the hedgerow and so it may either need to be trimmed back or replaced to prevent future incompatibility and this can be secured by condition. The canopy of the goat willow is approximately 4.5 metres from Plot 2 which would also have a large rear garden and is such there is unlikely to be significant conflict between the tree and occupiers of the dwellings. Protection of the trees/hedgerows during construction can be secured by condition. A clause relating to management of the open space/areas of landscaping could be included within a legal agreement.

The County Ecologist initially advised that boundary hedgerows would form garden boundaries and given the proximity of the some of the buildings to the hedgerow which could lead to the loss of the hedgerow and inappropriate piecemeal management. She therefore asked for the layout to be amended to allow retention of the hedge as integral units with a buffer zone between them and the garden boundaries, with a condition imposed for their appropriate management. In practice it would be difficult to provide a buffer zone to this hedgerow other than by requiring the erection of a post and rail fences to prevent the hedgerows from being affected by domestic activity, although the Tree Officer raised concerns about future management under this scenario. In addition the hedgerow could be excluded from gardens/curtilages which can be secured by condition. The County Ecologist subsequently visited the site and advised that the hedgerow along Snarestone Road does not meet the County Council's Local Wildlife Site criteria and that it is unlikely it would meet the criteria for an 'important hedgerow' under the Hedgerow Regulations. The County Ecologist therefore advises that she can no longer object to the impact on the hedgerow.

## **Residential Amenities**

The development would lead to vehicles passing close to Nos. 1 and 3 Top Street and the new dwellings, which could result in noise and disturbance to occupiers of these properties. However the situation would not be dissimilar to having a development on a corner site with a side road running close to the dwellings and their rear gardens, which was considered in a recent appeal decision to be a yardstick for an acceptable standard, and which already occurs in other parts of the village. On this basis it is considered that the proposal would not result in significant detriment to nearby residents from noise and disturbance resulting from use of the access drive and parking/turning areas.

The Environmental Protection team raised concerns relating to noise impact from operations at the nearby Jubilee Business Park. Following submission of additional information relating to permitted development rights for these commercial units and their restriction to B1 and B8 use the Environmental Protection team advise that they are satisfied that noise impact has been considered.

The new dwellings would be over 30 metres from the dwellings located on Botts Lane. Plots 1 and 2 and their detached garage would be at least 24 metres from No. 1 Top Street. Plot 12 would be 25 metres from No. 1's rear garden boundary and within 10 metres of the boundary with a rear paddock and outbuilding that appear to belong to No. 1. The garage to Plots 11/12 would be within three metres of the boundary with this paddock. A two metre hedge forms part



of the boundary and No. 1 has an extensive garden area and the outbuilding appears to be in ancillary use.

Whilst there are no side windows in the existing side (southern) elevation of No. 3 Top Street, a proposed rear extension does contain side windows (see 13/00256/FUL). Plot 1 would be 6.2 metres from this elevation and currently contains ground floor side windows which will not result in a significant loss of privacy. Permitted development rights can be removed to prevent the insertion of first floor windows in the side of Plot 1. The double garage to Plots 1 and 2 would be too far away from No. 3 to have a significant impact. Whilst the rear extension to No. 3 will contain side windows that will overlook Plot 1, given that Plot 1 has not yet been constructed the weight attached to the potential for overlooking is less than if an existing property was affected. Furthermore side windows could be erected in No. 3 without the need for planning permission. On this basis it is considered that the proposal will not adversely affect the occupiers of Nos. 1 and 3 Top Street in terms of loss of light, loss of privacy or creation of an oppressive environment.

No. 6 Top Street and parts of the garden to No. 4 Top Street currently enjoy a more open outlook across the site due to the height and scale of the outbuildings. It is also appreciated that their private gardens are located to the front/side of the dwellings. The introduction of Plots 1 and 2 would reduce this outlook and they would be sited at least 1.3 metres higher than Nos. 4 and 6. However Plots 1 and 2 would be located on the opposite side of Top Street from Nos. 4 and 6 and would be at least 19 metres from No. 6, 28 metres from No. 4 and 15.5 metres from their front boundaries. Whilst many of the nearby properties on the western side of Top Street do not face other dwellings across the road, it is not an unusual arrangement for dwellings to face each other across the street, even at different land levels, as is the case with Nos. 1 and 3 Top Street facing Nos. 2 and 4 and elsewhere in the village. It is therefore considered that a reason for refusal on the grounds of loss of light, loss of privacy and creation of an oppressive environment to the occupiers of Nos. 4 and 6 Top Street could not be justified.

### **Highway Safety**

Concerns have been raised by local residents including relating to proximity of the access with the junction with the bus stop and Snarestone Road, dangers for road users joining Top Street, additional traffic using Top Street and inadequate access within the village for additional traffic, including that generated by the 68 dwellings recently approved.

The Highway Authority's objection on the grounds of the site being in an unsustainable location is addressed earlier in this report. The County Highway Authority has no objections in relation to highway safety matters, subject to conditions and a construction traffic route to be secured in a legal agreement.

The existing access to the site would be improvised and 33 metre visibility splays can be provided in both directions. The Highway Authority's requirements for visibility splays and other technical requirements can be met and at least two parking spaces could be provided per dwelling, with more spaces in some cases, all of which can be secured by condition. As the site is served by a new access road, there is likely to be space for any off-street parking to take place within the site. The Highway Authority raises no concerns in relation to the proposal on its own or cumulatively with other recent approved schemes adversely affecting the capacity of the village road network. Based on the above it is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

### **Drainage and Flood Risk**

The site lies within Flood Zone 1 and as it is also under one hectare in size, a Flood Risk Assessment is not required and the Environment Agency has therefore not been consulted as the application is covered by the Agency's Standing Advice. Severn Trent Water has no objections subject to the imposition of a condition relating to drainage details. Consideration of the capacity of Severn Trent Water's treatment works is set out below in the section relating to impact on the River Mease SAC. The submitted information advises that the development would be designed to be neutral in terms of surface water run-off and there is ample space to place soakaways.

The Environment Agency's guidance in relation to surface water drainage states that '...the main flood risk issue to consider is usually the management of surface water run-off. Drainage from new development must not increase flood risk either on-site or elsewhere. Government policy strongly encourages a sustainable drainage system (SuDS) approach to achieve these objectives.' Best practice is for developments of greenfield sites to ensure surface water runoff discharges at greenfield runoff rates (i.e. the rate at which surface water currently discharges from the site when undeveloped), which is usually set at 5l/sec/ha, and this is required by the Environment Agency in respect of developments of larger greenfield sites and can be secured by condition.

Severn Trent Water has advised that it is aware of current issues with the sewerage system which is being looked into by its sewer modelling team and it intends to promote a project into its capital programme within the coming months. Severn Trent Water advises that it will not object to the proposal and that a phasing condition should be imposed, which can be drafted as a Grampian condition to prevent occupation of the proposed dwellings until the works to the sewer/drainage system have taken place. Such an approach has been adopted on other recent proposals for new dwellings in the village at Measham Road and Top Street.

### **Protected Species/Ecology**

The site is predominantly grassland with trees/hedgerows along its boundaries. The site is also adjoined by grassland along with other trees and hedgerows nearby. Several derelict buildings occupy the front part of the site and the existing dwelling is currently empty. Some of these are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions. The habitats could also be used by national protected species.

The County Ecologist initially advised that surveys for bats and badgers and a Phase 1 Habitat Survey needed to be undertaken. The bat survey (which was submitted with the 2013 application for the site) found some evidence of bats and breeding birds and considered that potential existed for bats to use the buildings and therefore an emergence survey was required. The County Ecologist was satisfied with the emergence survey also submitted with the 2013 application which found no bats within the buildings and as such she advised that no further action is required. No evidence of barn owls was found. A condition could be imposed in relation to breeding birds. The badger survey found no evidence of badger setts or latrines within the site although evidence of badgers using the site was found and mitigation measures were suggested which could be secured by condition. The Phase 1 survey found that the grassland is not species-rich and is therefore of low conservation concern. As such it is considered that protected species and ecological features would not be adversely affected by the proposals.

### **Impact on the River Mease Special Area of Conservation/SSSI**

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

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

The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS. The exact contribution cannot be agreed at this time (although the maximum amount would be £4,248) as the exact number of bedrooms per dwelling has not been agreed at this stage. Natural England's Standing Advice sets out that foul water mains drainage development proposals in the River Mease catchment that fully adhere to the now adopted DCS will not sustain an objection from Natural England, providing that the proposal does not result in any other potential impacts on the River Mease SAC either alone or in-combination with other plans or projects and providing that there are no other significant matters of nature conservation concern.

Consideration needs to be given to the capacity of Severn Trent Water's receiving treatment works at Snarestone. The flows from the new dwellings will need to be taken into account against the existing headroom at Snarestone. At March 2014 capacity was available for 129 dwellings but this is reduced by the number of dwellings that have already received a permit from Severn Trent Water and/or are under construction (27), and by the number of dwellings that have subsequently been granted planning permission (77). Taking these into account capacity is currently available at the treatment works.

A condition requiring that only a mains connection is used at the site would also be required as the use of other means for foul drainage discharge could adversely affect the SAC and conditions imposed to secure the details of foul drainage and surface water discharge. Therefore based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

### **Developer Contributions**

Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:

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

Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.

#### *Education*

Leicestershire County Council seeks the following contributions to provide additional places at the nearest schools where there is no capacity:

- £35,845.15 - primary school (Sir John Moore Primary School); £21,451.40 - high school (Ibstock Community College); £22,026.19 - upper school (Ashby School).

#### *Libraries*

Leicestershire County Council is seeking £730.00 to provide additional capacity at Measham Library, which is the nearest library. It is therefore considered reasonable for a contribution to be sought to increase its capacity to cater for additional users.

#### *Play Area/Open Space*

As the site is over 650 metres from the play area at Bowleys Lane an on-site play area needs to be provided on site, which could be located wither of the two areas of landscaped/amenity space located to the west of Plots 3 and 2, which are considered appropriate locations as surveillance would be available from nearby dwellings. A contribution for maintenance would be required if the play area was taken on by the Parish Council. An obligation relating to management plans for the open space to ensure that the land is properly established, maintained and managed in the future would also be required.

#### *Affordable Housing*

The Strategic Housing Team advises that 3.6 on-site affordable homes should be provided to make the scheme policy compliant (30% provision on site). However the Strategic Housing Team advises that in this case the provision of four dwellings would exceed the requirement set out in the SPD and on such a small site would impact on viability. Therefore it has been agreed with the applicant that three on-site affordable homes would be provided on Plots 3, 4 and 5, in the form of one x 2-bed bungalow and two x 2-bed dwellings. The bungalow and one of the dwellings should be affordable rent with the other dwelling being intermediate housing. The Strategic Housing Team is satisfied with the location of the affordable housing

#### *River Mease DCS*

The exact contribution cannot be agreed at this time (although the maximum amount would be £4,248) as the exact number of bedrooms per dwelling has not been agreed at this stage, as outlined earlier in the report.

#### *County Highway Authority*

The Highway Authority requests agreement of a construction traffic route which is considered to be necessary in this case given the site's proximity to residential areas and the village centre and that although existing weight restrictions are in place they would not prevent HGVs from passing through the village to access the site itself.

#### *Other Contributions*

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

*Conclusions in respect of Developer Contributions*

Overall it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF, Circular 05/2005 and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development. The applicant has agreed to all of the above obligations in principle and the legal agreement would be negotiated following any resolution to grant planning permission. The District Council would continue negotiations with consultees and the applicants to ensure the appropriate level of contributions that have been sought could be secured through a S106 agreement.

**Other Matters**

In respect of the previous application for the site the Environmental Protection team requested the imposition of conditions relating to contaminated land which would need to be imposed in this case.

The routes of the adjacent public footpath/bridleway would not be obstructed or diverted as a result of the proposal as it lies outside the site.

Given the proximity of the site to residential properties on two sides and that there is only one access to the site, in this case it is reasonable to impose a condition limiting the hours of construction works.

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

In respect of the concerns raised in the letters of representation that have not been addressed above,

**Conclusion**

As set out in the main report above, the site lies mostly outside the Limits to Development in the adopted Local Plan and constitutes greenfield land. Policies S3 and H4/1 which restrain the supply of housing are now considered to be up-to-date given the Council can demonstrate a five-year supply of deliverable housing land. The proposal would increase the level of housing within the village above the District-wide levels suggested under the former Core Strategy and the SHMA. However the increase above these levels would not be significant and given the scale of the development, that the site is well located in relation to the settlement and its proximity to local services and facilities, whilst it would be contrary to Policy S3 of the Local Plan in this case it is considered that a reason for refusal on this basis could not be justified in this case.

The proposed development would be acceptable in terms of density, layout and design, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to

mitigate the impacts of the proposals on local facilities/services.

However the proposal would have a harmful impact on the significance of designated heritage assets and insufficient information has been submitted to ensure that the development would not harm archaeological remains and there are no material considerations that would outweigh this harm.

The proposed development would, overall, not be considered to constitute sustainable development as defined in the NPPF. It is therefore recommended that planning permission is refused on the grounds of impact on the historic environment and archaeology.

**RECOMMENDATION, REFUSE for the following reasons:**

- 1 The proposal would have a harmful impact on the significance of a scheduled monument, listed buildings and the Appleby Magna Conservation Area, all of which are designated heritage assets. It is considered that clear and convincing justification for the development has not been put forward nor would the public benefits of the proposal outweigh this harm, when assessed against the policies of the National Planning Policy Framework, taken as a whole. As such the proposal would not constitute a sustainable form of development.
- 2 The application includes development within areas where archaeological remains may be located, which would be disturbed by works associated with the proposal. The County Archaeologist advises that some trial trenching, to establish the significance of any buried archaeological remains within the site needs to be undertaken before determination of the application. The required trial trenching has not been undertaken and therefore without this information it is considered that sufficient information has not been submitted to draw the conclusion that the proposed development would not harm archaeological remains. A condition requiring trial trenching to take place after determination would not be sufficient to prevent any harm. It is therefore concluded that insufficient information has been submitted to ensure that the development would not harm the archaeological remains. The public benefits of the proposal would not outweigh this harm when assessed against the policies of the National Planning Policy Framework, taken as a whole. As such the proposal would not constitute a sustainable form of development.

**Notes to applicant**

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Local Planning Authority acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Local Planning Authority has therefore acted pro-actively in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

**2 APPENDIX 1 - COMMENTS MADE BY APPLEBY MAGNA PARISH COUNCIL ON PREVIOUS APPLICATIONS**

- In the absence of an approved NWLDC Core Strategy we would ask that the total number of dwellings for all the applications be taken into consideration. The rejected

Core Strategy considered Appleby Magna as a sustainable village and as such would share a quantity of new dwellings with the other sustainable villages. The proposed quantity was 80 between all the sustainable settlements the proposals before the Council would exceed this level by 20% in a single community. There are several new dwellings already approved or awaiting approval prior to these applications giving a total of 9 new dwellings to be constructed. Please note that the Parish Council does not object to some development within the village, but feels that the proposed 9 dwellings plus 1 or 2 more would more than satisfy this village's quota towards the 5 year plan.

- A major point of concern is the current flooding issues associated with a stream running through the village, this causes flooding in Church Street, Mawbys Lane, Duck Lake, Black Horse Hill and Old End as well as the Caravan Park off Measham Road. The Caravan Park off Measham Road is also the location of the main Severn Trent Water sewage pumping station for the village. With reference to the Severn Trent Water letters included in the Flood Risk Assessments for Applications 13/00797/FULM and 13/00799/FULM which states "the Village system is currently experiencing some hydraulic sewer flooding problems". These problems are associated with Black Horse Hill, Duck Lake, Old End and the Caravan Park off Measham Road. One resident of Black Horse Hill is currently unable to reside in the property because of these known problems. The application 13/00809/OUT would add to this problem and the dwelling may also be affected by it. The Parish Council would ask that further investigation of these known issues be carried out before adding to this problem.

- There is a village survey being carried out (an unbiased, objective questionnaire) re development within Appleby Magna - the results are not yet available, but we will pass these to you on receipt, this, with other planning matters can be discussed when you meet with Councillors to review the planning applications.

- The Parish Council wishes to register interest in any Section 106 funding, should this become relevant - this would be useful to the village and Councillors are open to discussion in the future based on mutually agreed planning applications - however, this does not in any way give approval to any large scale planning applications as long as the infrastructure and inadequate water management in the village remains as is.'

- All of the above applications are responded to by the Parish Council using material considerations, Councillors have acted fairly, openly and apolitically, approaching each application with an open mind and avoiding pre-conceived opinions, all issues have been carefully weighed up and they determined each application on its individual planning merits, avoiding undue contact with interested parties, clearly stating reasons for their decisions.

- It is interesting to note that Christine Fisher, Chief Executive of NWLDC stated in a letter sent 14th October 2014 re Churchyard of St Michael and All Angels, Appleby Magna regarding further burial land - "It is also unlikely that there will be any major development in Appleby Magna that would attract significant 106 funding." This leads the Councillors to feel that their major concerns with the infrastructure of the village are generally held.

- Appleby Environment believes, in light of the cumulative effects of the various housing developments, and taking account of guidance set out in the NPPF on the importance of such cumulative effects, that NWLDC is required to commission an Environmental Impact Assessment (EIA). This is required to assess the cumulative effects of the

proposed developments. This has to be undertaken prior to the determination of these residential applications.

- The Parish Council works closely with Appleby Environment and other key interdependents to ensure the village is looked after and is sustained (and grows) in a strategic and robust manner, taking into account all factors which impact residents and are also material planning considerations, such as water management, road use, access/egress issues, sewage management and ensuring Appleby Magna sustains its character.

- It is worth noting that the Severn Trent water disposal lorry is in the village every day dealing with water problems - this is causing a great deal of concern to residents, especially in light of further possible developments;

- the Talbot Street, Whitwick planning application to build 8 houses has been rejected - in some part due to concerns re flooding and traffic/road safety - similar potential impacts to those causing concern in Appleby Magna village.

The Parish Council also previously forwarded the results of a village survey carried out on its behalf, which had a 57.2% turnout. The responses indicate the following:

- 87% of respondents oppose all or most of the proposed developments;
- 89% of respondents are quite or very worried about flooding and drainage issues;
- 56% of respondents are quite or very concerned about the primary school having to move and 62% of respondents are quite or very concerned that the primary school would have to change its future development plans. 32% and 23% of respondents did not respond to these two questions;
- 75% of respondents are very concerned about the impact of extra traffic;
- 50% of respondents are very opposed to measures to accommodate extra traffic;
- The majority of respondents are in agreement with six out of seven of listed guidelines in the Village Design Statement being important to guide new development, and there being no over-riding view in relation to the seventh listed guideline;
- 60% of respondents are quite or very unhappy with the process of consultation/planning;
- 21% of respondents think 16 to 25 dwellings would be a reasonable level of new housing for the village.

### 3 **APPENDIX 2 - COMMENTS MADE BY APPLEBY ENVIRONMENT**

#### **Letter dated 23 May 2014**

We have already written to you in January laying out our objections to housing development in Appleby on sites outside the existing development limits and again in March developing these arguments and making specific objections to application 14/00082/OUTM. We still hold these views and would like the March letter to stand and ask you to refer back to it.

Since then the planning meeting at the beginning April approved 68 houses for Appleby on green field sites outside the limits to development. At that meeting the officers' report argued that this level of growth when considered alongside other existing permissions and commitments was appropriate for Appleby on the grounds that it was in line with the required housing growth for the village as a whole. Councillor Pendleton is quoted in the Ashby Times as saying the applications approved are "in line with the desired level of growth for the district" (Ashby Times, April 11th 2014). Furthermore the Chairman of the



Planning Committee told residents of Appleby who attended the meeting that these permissions would be the last for the village in this planning cycle.

We have argued repeatedly and extensively that the criteria of proportionate growth across the District is the wrong test for assessing sustainable development (as required by the NPPF). This is shown by the District's sustainability appraisal of the withdrawn Core Strategy which clearly argues that the level of development needs to be much lower in the rural villages. The Council is now going through a new plan development process which will involve another sustainability appraisal (as discussed by the Local Plan working group recently).

The only changes in Appleby since the last sustainability appraisal was done have been in the direction of reducing the services available to residents of Appleby (reduced bus service, closure of GP surgery). As such there is no reason to believe the new assessment will reach a different conclusion. We therefore believe there are no grounds for granting either of these applications. We summarise the arguments below:

*Cumulative Impact - scale of housing development*

These applications are, in total, for an additional 72 houses.

The officers' report in April said that the existing permissions and the ones approved by that planning meeting would constitute a growth of 22% which would be 'appropriate' for the village. Another 72 houses would be an additional 16% which the report says would not be appropriate.

The District Council's previous assessment of villages such as Appleby has been that they were appropriate only for 'small scale housing development'. The earlier Sustainability Appraisal Main Report (Feb 2013) specifically looks at the strategic distribution of housing and alternatives in Section 8. Para 8.11 reads: "In the small rural and sustainable villages there is limited access to services and jobs and the majority of trips would be by car. High levels of rural development risk creating rural isolation as the price of driving increases. More development in these locations would reinforce an unsustainable pattern of development in the district."

This criteria of 'small scale development' has already been far exceeded, breaching sustainability criteria and risking the erosion of the character of Appleby.

*Cumulative Impact - Environment assessment*

We noted in our earlier letters that the larger applications should be accompanied by statutory Environmental Statements in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and that the Council has determined that an EIA is not required for the individual applications. In our earlier letter we spelt out why we thought that such individual EIAs should have been required. The larger application exceeds 0.5 hectares and meets other screening criteria not least because of the cumulative effects of the various proposed developments (air quality, landscape and visual, land use, noise, traffic, water (including possible effects on flooding and the Mease European Designated Special Area of Conservation) and ecology (for example the cumulative effect on Great Crested Newt populations). Please refer back to our earlier letters for a more detailed argument in relation to these assessments.

Any consideration of new applications in Appleby needs to take account of the cumulative environmental impact of the permissions granted over the past 6 months.

*Sustainable Development*

In our previous letter we documented in detail the reasons for assessing all these applications as failing the sustainable development criteria required by the National Planning Policy Framework.

The Council commissioned sustainability assessments of its emerging core strategy and considered its conclusions in a 'consideration of alternatives' document. In that document, under the heading 'Settlement Strategy and Hierarchy' the Council notes that the sustainability appraisal was already critical of the level of development proposed for villages. It notes that the sustainability appraisal "... considered that settlements without relatively good and secure existing or planned public transport access are not sustainable places for growth to occur. New development in these locations would give rise to increased car use, and importantly may risk social isolation for new residents". The sustainability appraisal therefore recommended that the Council should restrict development to locations where there was a 'good bus service'. The Council decided that this assessment had to be balanced against the need for some development for local people. It argued that there should be 'limited development to meet local needs but that 'any development that is allowed is to meet a local need and not more general market provision'.

The final Non technical Summary of the Sustainability Appraisal (March 2013 version) from an external consultant concludes:

"The Core Strategy allows some growth in the rural areas. Past completion rates for housing show that the rural area has always played an important role in housing growth in the District. However, development in villages has led to a pattern of development that is unsustainable. Many new homes are occupied by people who travel outside of the villages for work and also may meet many of their other needs outside these areas, not necessarily supporting rural services" (para 5.11).

As such it is clear that the District Council's own sustainability criteria and assessments show that housing development in the rural villages at all but the smallest scale threatens nationally required sustainability targets. These have already been exceeded.

We provided a detailed account in our previous letters of the ways in which these developments failed to meet the criteria for sustainable development as set out in the National Planning Policy Framework. This analysis still stands and is summarised below. Please refer back to our earlier letter for the detail.

*Sustainable Development issue 1 - increased car journeys in conflict with national low carbon strategy and NPPF*

The NPPF spells out the 3 dimensions of sustainable development at para 7 and under environmental role says that the planning system needs to support the need to 'mitigate and adapt to climate change including moving to a low carbon economy'. Under NPPF para 17 (core planning principles) it says there is a need to 'actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable'.

It is clear that Appleby does not meet these criteria. We have already provided you with extensive evidence to support this assessment. As with previous applications the applicants' transport plans show no understanding of these issues.

*Sustainable Development issue 2 - contributing to protecting and enhancing our natural, built and historic environment as required by national policy in the NPPF*

There is a further dimension to environmental sustainability included in the National Planning Policy Framework. This is that sustainable development should contribute "to protecting and enhancing our natural, built and historic environment" (para 7).

Again we refer you to our previous letter about the impact on the current settlement pattern of the village and the impact on listed buildings.

*Sustainable Development issue 3 - accessible local services that reflect the community's needs and support its health, social and cultural well-being as required by the National Policy in the NPPF (para 7)*

Again previous letters provide extensive evidence that Appleby does not meet this criteria. Sustainable Development issue 4 - supply of housing required to meet the needs of present and future generations as required by NPPF (para 7)

Again we have detailed the evidence that this criteria has not been met in our previous letters. This argument is further reinforced by the large numbers of houses which have recently been granted permission.

*Sustainable Development - Conclusions*

- The Sustainability Appraisal conducted as part of the NWLDC core strategy development clearly argues that any more than very limited development in villages for the period up to 2031 already threatens its sustainability objectives.
- Appleby has already had permissions for 82 houses since this assessment was done (March 2012) and there are a further 15 years to go. It has also had a recent rural exception site.

*Other Material Considerations*

In addition to establishing whether a development would be sustainable the NPPF requires authorities to take into account other material considerations.

The following material considerations are relevant to all applications

- As detailed above social facilities in the village exist but are not extensive. This includes the village school which is housed in a historic building. Its governing body is committed to staying at its current size to retain its current excellent local provision and because of constraints on their existing accommodation.

Furthermore all these applications involve the destruction of hedgerows and open areas which would have an adverse impact on nature conservation.

- VDS guidelines relating to the preservation of village lanes, hedgerows, open areas, the settlement pattern and avoiding solid blocks of development at the edges of the village are broken by these applications.
- All these sites are outside the limits to development.

*Material considerations relating to individual applications:*

This site is surrounded by heritage assets and as such is a completely inappropriate site for this type of development. The front part of the site is actually part of the Conservation Area. The Conservation Area is also opposite and to one side of the site. There are significant listed buildings nearby including the neighbouring Hill House, the Black Horse public house almost opposite and other buildings very close on Top Street. Behind the site is Jubilee Farm which is cited in the Village Design Statement as a classic example of a Leicestershire farm house. The buildings currently on the proposed development site were themselves originally farm buildings and as such their setting in the existing

undeveloped plot is part of the heritage asset that would be destroyed by the proposed intensive development.

Development at this site would also be extremely dangerous in highway terms. Proposed access to the site is very close to both the junction of Top Street & Snarestone Lane (one boundary of the site) and on the other side the junction of Top Street, Mawby's Lane and Black Horse Hill. This junction is a blind bend between Mawby's Lane and Top Street, has no effective pavement, and is sufficiently sharp and narrow that cars meet head on and lorries regularly get stuck trying to negotiate it and have to reverse back.

#### *Conclusions*

On the basis of all of these arguments we would contest that these applications individually and cumulatively fail the test of sustainable development and have additional significant material planning considerations which also support their refusal.

#### **Letter dated 25 March 2014**

We wrote to you in January objecting to 3 out of these 4 applications. We would like this earlier letter to still stand and ask you to refer back to it. The general arguments still stand and also apply to the application (14/00082/OUTM) which had not been submitted at that time. This letter is a summary of the earlier arguments. It also contains new information relating to the general situation, the change in the application for Measham Rd, and the new application for Top Street.

#### *Cumulative Impact - scale of housing development*

These applications are, in total, for 154 houses. There is a need for a strategic assessment of the scale of development which would be appropriate for Appleby to avoid erosion of the village's character and to ensure that the development is sustainable.

The District Council's assessment of villages such as Appleby has been that they were appropriate only for 'small scale housing development'. While this Core Strategy policy has been withdrawn we wish to draw attention to Sustainability Appraisals of the core strategy and various options considered during the process. These form part of the evidence base to the core strategy. These appraisals were independent assessments of whether different policy options could be considered to meet the sustainable development criteria. As such they are in no way affected by the decision to withdraw the Core Strategy. Neither are they affected by the likely increase in the numbers of housing that the District is likely to be required to plan for. The sustainability assessments looked at different options for housing levels in different types of locations and assessed them in terms of their carbon impact and the available provision of jobs and services for the residents of new houses.

The Sustainability Appraisal Main Report (Feb 2013) specifically looks at the strategic distribution of housing and alternatives in Section 8. Para 8.11 reads:

"In the small rural and sustainable villages there is limited access to services and jobs and the majority of trips would be by car. High levels of rural development risk creating rural isolation as the price of driving increases. More development in these locations would reinforce an unsustainable pattern of development in the district."

The numbers of new houses being assessed were judged against a starting point of March 2012. By the beginning of 2014 there had already been permissions granted for 6 houses in Appleby since March 2012 (3 in Church St; 1 in Rectory Lane which has

already been built; 2 in Top Street) following a regular pattern of applications which can be expected to continue. The February 2014 Planning Committee then granted permission for a development of an additional 8 houses on a designated sensitive site within the village. The Sustainability Assessment was made against allocations for village locations across the District (rather than for individual ones such as Appleby). However the numbers considered sustainable for all village locations for the entire plan period (up to 2031) has already been exceeded by planning permissions granted since the assessment was made.

*Cumulative Impact - Environment assessment*

We noted in our earlier letter that the applications are not accompanied by statutory Environmental Statements in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and that the Council has determined that an EIA is not required for the individual applications. In our earlier letter we spelt out why we thought that such individual EIAs should have been required. All these applications exceed 0.5 hectares and meet other screening criteria not least because of the cumulative effects of the various proposed developments (air quality, landscape and visual, land use, noise, traffic, water (including possible effects on flooding and the Mease European Designated Special Area of Conservation) and ecology (for example the cumulative effect on Great Crested Newt populations). Please refer back to our earlier letter for a more detailed argument in relation to these assessments. We contend that each application should be accompanied by an Environmental Statement which takes into account the cumulative effects of individual developments as should their assessments of the impact on the River Mease as a European Designated SAC. We would like the Council to explain why they have determined that no formal Environmental Impact Assessments are required for the developments and provide evidence of their screening decisions.

*Sustainable Development*

In our previous letter we documented in detail the reasons for assessing all these applications as failing the sustainable development criteria required by the National Planning Policy Framework.

The Council commissioned sustainability assessments of its emerging core strategy and considered its conclusions in a 'consideration of alternatives' document. In that document, under the heading 'Settlement Strategy and Hierarchy' the Council notes that the sustainability appraisal was already critical of the level of development proposed for villages. It notes that the sustainability appraisal "... considered that settlements without relatively good and secure existing or planned public transport access are not sustainable places for growth to occur. New development in these locations would give rise to increased car use, and importantly may risk social isolation for new residents". The sustainability appraisal therefore recommended that the Council should restrict development to locations where there was a 'good bus service'. The Council decided that this assessment had to be balanced against the need for some development for local people. It argued that there should be 'limited development to meet local needs but that 'any development that is allowed is to meet a local need and not more general market provision'.

The final Non technical Summary of the Sustainability Appraisal (March 2013 version) from an external consultant concludes:

"The Core Strategy allows some growth in the rural areas. Past completion rates for housing show that the rural area has always played an important role in housing growth

in the District. However, development in villages has led to a pattern of development that is unsustainable. Many new homes are occupied by people who travel outside of the villages for work and also may meet many of their other needs outside of the villages for work and also may meet many of their other needs outside these areas, not necessarily supporting rural services" (para 5.11).

As such it is clear that the District Council's own sustainability criteria and assessments show that housing development in the rural villages at all but the smallest scale threatens nationally required sustainability targets.

We provided a detailed account in our previous letter of the ways in which these developments failed to meet the criteria for sustainable development as set out in the National Planning Policy Framework. This analysis still stands and is summarised below. Please refer back to our earlier letter for the detail.

*Sustainable Development issue 1 - increased car journeys in conflict with national low carbon strategy and NPPF*

The NPPF spells out the 3 dimensions of sustainable development at para 7 and under environmental role says that the planning system needs to support the need to 'mitigate and adapt to climate change including moving to a low carbon economy'. Under NPPF para 17 (core planning principles) it says there is a need to 'actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable'.

It is clear that Appleby does not meet these criteria. In our previous letter we cited a survey of residents from 2010 with responses from a third of households showing that:

- 82% did their main food shopping in a large supermarket whereas 2% said that they used the village shop.
- 89% said that they did this major food shop at least weekly (with a third of these saying two to three times per week).
- 70% of all households said that they drove alone or with other family members to carry out this shop. A further 7% shopped online and had it delivered.
- The most common location for food shopping was Ashby, followed by Tamworth and then Swadlincote (with no-one mentioning Measham for food).

If people choose to use cars despite available alternatives then this might be open to change. However, Appleby already has a poor bus service which is about to become even worse. Leicestershire CC is planning for a reduced Mon-Sat daytime service. Your previous reports have said that there will still be 6 buses a day from Appleby. The provision you need to report on is the number of viable return trips. The new service will see the first bus to Ashby leaving Appleby at 10.30 a.m. with the only return trip giving any time to do anything in Ashby, being the last bus back at 3.00 p.m.

- There will only be one return public transport option per day to the nearest centre with a reasonable provision of shops and it would only allow employment for a few hours in the middle of the day.

Our last letter analysed in detail the inadequacy of the travel plans provided with the 3 applications that were available then. Please refer back to this. The same arguments apply to the new application 14/00082/OUTM. In summary the travel plans for all applications:

- Do not provide adequate analysis of car journeys likely to be undertaken by new residents - they show large numbers of cars as indicated by parking provided, but very

few journeys. This is implausible;

- Do not take account of the changing bus provision;
- Do not take account of the terrain which makes walking or cycling to Measham highly unlikely;
- They focus on road congestion not on sustainable transport. CC Highways have objected to all these applications on their failure to meet sustainable transport requirements.

*Sustainable Development issue 2 - contributing to protecting and enhancing our natural, built and historic environment as required by national policy in the NPPF*

There is a further dimension to environmental sustainability included in the National Planning Policy Framework. This is that sustainable development should contribute "to protecting and enhancing our natural, built and historic environment" (para 7).

Again we refer you to our previous letter. In summary:

- Applications 13/00799/FULM and 13/00697/OUTM are for sites defined in the local plan as 'sensitive areas' which are defined as important open areas within or adjoining settlements which contribute positively to the character of the settlement concerned, its streetscene or its setting or approaches. It is important that such areas are kept free from development in view of the contribution they make to local environmental quality (Local Plan para 4.1). Policy E1 says that 'development will not be permitted within the Sensitive Areas, identified on the Proposals Map, which would adversely affect or diminish the present open character of such areas and the contribution they may make to the character, form and setting of settlements, the streetscene generally or the relationship with adjoining countryside'.
- All the applications are for sites outside the limits for development in the Local plan. These limits respect the settlement pattern which is part of its distinctive character. This is reinforced by the Appleby Magna Village Design Statement which is adopted Supplementary Planning Guidance.
- English Heritage has objected to the applications on Church St and Measham Rd in terms of their impact on the historic environment.

*Sustainable Development issue 3 - accessible local services that reflect the community's needs and support its health, social and cultural well-being as required by the National Policy in the NPPF (para 7)*

Again in summary only:

- There are no significant employment opportunities in the village (as confirmed by the census data that shows only 11% of residents walk or cycle to work). The only existing ones are small scale units located in nearby farms;
- The village shop is treated by the vast majority of residents as only for minor or top up purchases (as demonstrated by a village survey in 2020)
- It is now confirmed that the GP surgery will close at the beginning of May (see Measham Medical Unit website);
- There is no evening bus service to meet the leisure needs of children or adults and very limited village provision.
- The developers misrepresent the NWLDC label of 'sustainable villages'. This was never intended to suggest that any development within them would be sustainable.
- There is no suggestion in the applications that they will lead to any increase in jobs or services.
- These developments will exacerbate the current situation whereby those without access to a car will find it very difficult to access work or services. This actually makes the sustainability of the village even worse by isolating older and poorer residents and

leading to young people to leave as soon as they are independent.

*Sustainable Development issue 4 - supply of housing required to meet the needs of present and future generations as required by NPPF (para 7)*

Again in summary only. There is no credible claim that the level of development proposed by any one of these applications - let alone in total - is required to meet local needs.

- Appleby is one of the few villages in the District that has had a rural exception site (completed in 2011 as an extension to Parkfield Crescent). This was carried out as a result of a proper survey of local housing needs by the Leicestershire & Rutland Rural Housing Enabler (LRRHE) and more than satisfied assessed need;
- Appleby also has affordable rented accommodation in the Alms Houses. Recent vacancies there have met with limited interest;
- The developers provide no credible assessment of local housing need;

*Sustainable Development - Conclusions*

- The Sustainability Appraisal conducted as part of the NWLDC core strategy development clearly argues that any more than very development in villages for the period up to 2031 already threatens its sustainability objectives.
- Appleby has already had permissions for 14 houses since this assessment was done (March 2012) and there are a further 15 years to go. It has also had a recent rural exception site.

*Other Material Considerations*

In addition to establishing whether a development would be sustainable the NPPF requires authorities to take into account other material considerations. In our previous letter we referred to general issues affecting all applications as well as specific comments relating to individual applications. Please refer back to these. The comments below merely summarise these and modify them where applications have changed:

The following material considerations are relevant to all applications

- There is considerable local concern about flooding and sewage capacity which has not been addressed. The developers modification on plans for Church St and Top St / Botts Lane show that their initial claims to provide adequate controls within their sites were not correct.
- As detailed above social facilities in the village exist but are not extensive. This includes the village school which is housed in a historic building. Its governing body is committed to staying at its current size to retain its current excellent local provision and because of constraints on their existing accommodation.
- Furthermore all these applications involve the destruction of hedgerows and open areas which would have an adverse impact on nature conservation.
- VDS guidelines relating to the preservation of village lanes, hedgerows, open areas, the settlement pattern and avoiding solid blocks of development at the edges of the village are broken by these applications.
- All these sites are outside the limits to development.

On the basis of all of these arguments we would contest that these applications individually and cumulatively fail the test of sustainable development and have additional significant material planning considerations which also support their refusal.

Since our previous letter there has also been a survey carried out by an independent Market Research Society accredited organisation of village residents with a 57.2% response rate. The responses showed strong opposition to the proposed developments



with almost nine in ten of villagers saying that they oppose either all or most of the proposed developments. While residents' views are not strictly material planning considerations we maintain that they are an assessment from people who actually live in the village of the rate at which Appleby can grow without destroying its character and the types of impact that are of particular concern. We would draw attention to the following findings:

- Over half of those who responded felt that it would be reasonable to build no more than 15 houses over the next 5 years; and nearly three-quarters said no more than 25. Nobody said that 100 houses or more was reasonable.
- The impact on flooding and drainage were major concerns as was the increase in vehicles. Proposed responses to increased traffic, such as road widening, were not supported. They were felt to affect the character of the village.
- Over 8 in 10 households endorsed principles such as the need for development to be at a slow enough pace to allow newcomers to integrate; that any development should be within the existing village boundaries rather than as blocks of uniform new development at the approaches to the village; and that green spaces within the village and connecting the village to the countryside should be conserved wherever possible (these are all in line with VDS guidelines which are adopted SPG and show that this document is still supported by residents).

Full results are available from the Appleby Magna community website ([www.applebymagna.org.uk](http://www.applebymagna.org.uk)).

#### **Letter dated 18 January 2014**

##### *Cumulative Impact - scale of housing development*

These applications are, in total, for 139 houses (and we understand from a developer who held a meeting in Appleby at the end of last year that another 60 will be applied for shortly). We feel that rather than considering these applications individually you should start by making a strategic assessment of the scale of development which would be appropriate for Appleby to avoid erosion of the village's character and to ensure that the development is sustainable. Such an analysis was carried out as part of the District's Core Strategy and was subject to extensive consultation and evaluation. This categorised Appleby as a 'sustainable village' alongside another 16 villages in North West Leicestershire. Such locations were said to be appropriate for 'small scale housing development'. The March 2013 version of the core strategy assessed housing numbers for the plan period (up to 2031) for such locations based on those already built or given planning permission from 2006 to 2012. This said that the 15+ Sustainable Villages needed to accommodate at least 80 more homes in total by 2031. This was based both on the total level of assessed housing need and the distribution of housing which the council assessed as appropriate between different types of location in the District.

We understand that this Core Strategy has been withdrawn, in part because the total housing needs for the District were not felt to be reliably assessed. However the Council has said that "the vast majority of the work we have already done to develop the strategy is still valid". The criticisms from the Inspector related to housing numbers and the lack of specific identified sites for development. There was no challenge to the issue of distribution of housing. The report to the Council meeting that agreed the withdrawal of the core strategy says that the withdrawal of the submission draft version of the plan does not obliterate the evidence base which was used to inform the Core Strategy and this evidence base can continue to inform a revised document. This evidence base includes Sustainability Appraisals of the core strategy and various options considered during the process. The Sustainability Appraisal Main Report (Feb 2013) specifically looks at the strategic distribution of housing and alternatives in Section 8. Para 8.11

reads: "In the small rural and sustainable villages there is limited access to services and jobs and the majority of trips would be by car. High levels of rural development risk creating rural isolation as the price of driving increases. More development in these locations would reinforce an unsustainable pattern of development in the district."

An equal distribution of 80 houses across 15+ houses would result in 5 houses per sustainable village between March 2012 and 2031. In fact there have already been permissions granted for 6 houses in Appleby since March 2012 (3 in Church St; 1 in Rectory Lane which has already been built; 2 in Top Street) following a regular pattern of applications which can be expected to continue. Even accepting that development cannot be expected to be distributed exactly evenly between the sustainable villages and that the District's housing total might turn out to be an underestimate, it would still be against the sustainability appraisal to grant permission for more than a handful of additional houses.

*Cumulative Impact - Environment assessment*

We note the applications are not accompanied by statutory Environmental Statements in accordance with The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and that the Council has determined that an EIA is not required for the individual applications. As set out in Schedule 2 of the EIA Regulations (Descriptions of development and applicable thresholds and criteria for the purposes of the definition of - Schedule 2 development-) the trigger for schemes of this nature possibly requiring an EIA is that they exceed 0.5 hectares (which is the case for all but the smallest of these applications). In addition to exceeding the 0.5ha threshold consideration should be given to the requirements of Schedule 3 of the Regulations which contains selection criteria for screening Schedule 2 development. If both the size criteria and the screening criteria are met then the applications should be accompanied by an EIA reported in an Environmental Statement.

We believe that the proposed developments meet many of the selection criteria for requiring a formal EIA not least because of the cumulative effects of the various proposed developments (air quality, landscape and visual, land use, noise, traffic, water (including possible effects on flooding and the Mease European Designated Special Area of Conservation) and ecology (for example the cumulative effect on Great Crested Newt populations). In addition, it should be noted that the assessments themselves which accompany the individual applications identify significant environmental effects as a result of the respective schemes (e.g. on visual, ecological and cultural heritage receptors) irrespective of cumulative effects with other developments. Therefore, given that three of the developments each exceed 0.5 hectare and that selection criteria in Schedule 3 are met (particularly in view of cumulative effects) and that individually the various schemes have significant environmental effects irrespective of their cumulative effects we contend that each application should be accompanied by an Environmental Statement which takes into account the cumulative effects of individual developments. We would like the Council to explain why they have determined that no formal Environmental Impact Assessments are required for the developments and provide evidence of their screening decisions.

There is an additional issue in that the failure to supply Environmental Statements (which would bring together all the various effects of the developments individually and in combination with other developments) means that a large amount of disparate documents have been produced. In order to understand the effects on receptors (both individually and in combination) requires a paper chase and we understand that there is

case law relating to this. We note that in these cases the documents consist of a lot of 'cut and paste' material that even the developers don't seem to have read. For example para 2.3 of the bat survey submitted in relation to both applications 13/00799/FULM and 13/00797/FULM reads "Under the Wildlife and Countryside Act 1981 (as amended) it is legal (sic) to recklessly kill, injure or take any wild animal ...".

The River Mease is a European Designated Special Area of Conservation. Although the applications contain consideration of the effect on the SAC again none deal with the potential cumulative effects. Under Article 6(3) of the Habitats Directive, an appropriate assessment is required where a plan or project is likely to have a significant effect upon a European site, either individually or in combination with other projects.

- Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives - Article 6(3)

The River Mease Impact Statement accompanying the application for 8 properties on Measham Road contains the following:

- In 2012 Severn Trent Water assessed the treatment works at Snarestone as having current headroom (capacity) for the equivalent of up to 22 dwellings; there have been no developments in the Snarestone area since 2012 that would affect this figure and therefore the proposed 8 dwellings would only take up 36% of that capacity.

As with all the other applications no consideration is given to other applications and as such the requirement of the Habitats Directive to assess effects in combination with other project has not been considered.

### **Sustainable Development**

The National Planning Policy Framework states that there is a presumption in favour of sustainable development unless material considerations indicate otherwise. The first question this raises is are these developments sustainable within the meaning of policy? As already noted North West Leicestershire District Council commissioned a consultant to carry out a sustainability assessment of their emergent core strategy. In so far as this relates to the distribution

of housing between different types of location, there is no reason to think that this is not still a relevant assessment. We would draw attention to the following extracts from the Non technical Summary of the Sustainability Appraisal (March 2013 version).

"The core strategy sets growth targets for the plan area of 9,700 new homes to be delivered between 2006 and 2031" (para 5.5). "The housing figure is not intended to be a maximum allowance. However, to deliver the strategy in a sustainable way there needs to be reasonable certainty that there will not be a significant departure from the preferred distribution of this growth. If development happens in a way that departs from the strategy it could lead to unforeseen adverse impacts for sustainable development" (para 5.6). "To achieve the intended distribution of residential development in North West Leicestershire there needs to be a marked change in the locations where housing is being delivered. For instance the rural housing requirement is already largely taken up by existing commitments and completions. Therefore, tighter controls need to be put on development in these areas in the future to help deliver objectives related to reduce car dependence." (para 5.7). "The Core Strategy allows some growth in the rural areas. Past completion rates for housing show that the rural area has always played an important role in housing growth in the District. However, development in villages has led to a pattern of development that is unsustainable. Many new homes are occupied by people

who travel outside of the villages for work and also may meet many of their other needs outside of the villages for work and also may meet many of their other needs outside these areas, not necessarily supporting rural services" (para 5.11). As such it is clear that the District Council's own sustainability criteria show that housing development in the rural villages at all but the smallest scale threatens nationally required sustainability targets.

**Sustainable Development issue 1 - increased car journeys in conflict with national low carbon strategy and NPPF**

We have Appleby specific data to back up a pattern of village living dependent on car travel. Appleby Environment carried out a village-wide survey in 2010 where we had responses from a third of all households. The questionnaire asked about shopping for food and other goods. In response to a question asking where they did the majority of food shopping, 82% said that they did this in a large supermarket whereas 2% said that they used the village shop. The village shop is used and valued by many but is seen as appropriate for the main shop by only a tiny minority. 89% said that they did this major food shop at least weekly (with a third of these saying two to three times per week). 70% of all households said that they drove alone or with other family members to carry out this shop. A further 7% shopped online and had it delivered. Less than 10% shared a car and even fewer took public transport. For non-food shopping 80% said that they drove alone or with another member of their household. The most common location for food shopping was Ashby, followed by Tamworth and then Swadlincote (with no-one mentioning Measham for food), with Tamworth being the preferred location for non-food shopping (followed by Burton, Ashby and Birmingham). This pattern of travelling to the shops is required because there is only a very limited bus service to Ashby (and then only to the town centre, not to the out of town Tesco that most people mean by the major supermarket in Ashby) and no service at all to the other locations mentioned.

In 2012 and 2013 Leicestershire County Council consulted on reductions to the No 7 bus which is the only one which serves Appleby. This bus goes to Measham, Ashby and Nuneaton but the service which is currently at 90 min intervals in the daytime Mon - Sat is being reduced to a 4 hourly service

(see

[http://www.leics.gov.uk/index/highways/passenger\\_transport/transportconsultation/service\\_7\\_consultation\\_2013.htm](http://www.leics.gov.uk/index/highways/passenger_transport/transportconsultation/service_7_consultation_2013.htm)). The service to Measham and Ashby will then be particularly badly affected by this change with the first bus service leaving Appleby at 10.30 a.m rather than 08.10 as currently. This arrives at Measham at 10.37 and Ashby at 10.48. It turns round at Ashby and so, assuming that one wants more than 12 minutes there, the only return journey is the last bus back leaving Ashby at 15.00. The journeys to Measham are slightly better with 2 buses a day allowing one to spend approximately three-quarters of an hour there before returning!

The travel plans provided with these applications are seriously inadequate in their assessment of car travel that will be created by their proposed developments. Again they seem to have produced standardised reports without paying any attention to the specific features of this location or the use of any up to date material. Some specific examples:

26 Houses Church St / Bowley's Lane

- The developers' application indicates the intention to provide 63 parking spaces for 26 houses implying an average 2.4 cars per property. The Transport Statement says that the development is predicted to generate 23 new vehicle trips in the a.m. peak period and 24 in the p.m. peak period. There is no indication of how this prediction is compatible with travel to work census data quoted in the same document which says

that 81% of journeys to work in the parish are undertaken by car. The developers do not cite employment data but the 2011 census data for the ward shows that 16-74 year old residents are economically active, including 55% of women.

- There is nothing about any other journeys that might be taken by residents.

- The developers claim they can reduce the proportion of travel to work journeys by car to 73% by the end of 5 years, in part by providing details of the bus service which they think will run every 2 hours (rather than every 4 hours which Leicestershire County Council anticipates).

- They seem to think the location of this development is in Cambridgeshire (see paras 5.1.1 and 5.1.4 of the Framework Residential Travel Plan).

73 Houses Measham Rd

- The developers' application indicates the intention to provide 166 parking spaces for 73 houses implying an average 2.3 cars per property. The travel plan predicts 64 vehicle trips in the a.m. peak and 66 in the p.m. peak. There is no indication of how this prediction is compatible with travel to work data quoted in the same document (81% travelling to work in a car).

- There is nothing about any other journeys that might be taken by residents.

- Para 4.2.1 of the Transport Statement says that cycling to work journeys of 5km are considered acceptable and this makes the whole of Measham accessible by a sustainable route. Presumably the writers failed to notice the gradient of the road from Appleby to 'Birds Hill' in Measham nor of the level of heavy traffic on the main road. Anyone local could have told them that very few people cycle up the Tamworth Rd (the direct route for those living on Measham Rd) and those that do tend to use the footpath ... which is used by no pedestrians. Perhaps this explains why the data taken from the census shows that only 1% of Appleby residents travel to work by bicycle.

- Para 4.3.1 says that the No 7 bus service "offers the opportunity for residents of the proposed development to commute sustainably to Ashby de la Zouch for work based journeys". With the new timetable this will no longer be true unless one can find a job which starts after 11am and finishes before 3pm.

8 houses Measham Rd

- Here the developers' application says they are intending to provide 23 car spaces (according to the application form) implying 2.9 cars per household (but rather less if you read their highway statement).

- The highway statement says that these 8 houses will generate an additional 64 traffic movements per day from the site. This is far higher than the predicted ratios for the other 2 sites. There is no referencing here so it is not possible to compare methodologies.

- This developer also refers to a 2 hourly bus service - but mentions that the increase in use of the service generated by the development is not likely to put it under any strain!

- They expect residents to walk to Measham for work (2 km up the route described above and including walking on Measham Rd with no pavement).

32 houses Top St / Botts Lane

- Here the developers are proposing 64 spaces for 32 houses.

- This is an outline application and gives no indication of traffic movements but again mentions the existing bus service (with no awareness that it is soon to be curtailed).

As can be seen the data provided on the vehicle trips created by these developers is inadequate. It provides evidence that large numbers of cars are expected to be owned by residents of these new houses. Where the developers do provide data it is only about peak time travel to work movements

(and these seem implausible). The developers seem to think that the only issue relating to car travel is congested roads. This is a complete misunderstanding of the issue of the impact of car use for sustainability which instead relates to the need to move to a low

carbon economy by reducing unsustainable transport particularly car use.

**Sustainable Development issue 2 - contributing to protecting and enhancing our natural, built and historic environment as required by national policy in the NPPF**

There is a further dimension to environmental sustainability included in the National Planning Policy Framework. This is that sustainable development should contribute "to protecting and enhancing our natural, built and historic environment" (para 7). Three out of the four applications (all except 13/00797/FULM) are planned for 'sensitive areas' as identified in the existing NWLDC Local Plan. These 'sensitive areas' are defined as important open areas within or adjoining settlements which contribute positively to the character of the settlement concerned, its streetscene or its setting or approaches. It is important that such areas are kept free from development in view of the contribution they make to local environmental quality (Local Plan para 4.1).

Policy E1 says: Development will not be permitted within the Sensitive Areas, identified on the Proposals Map, which would adversely affect or diminish the present open character of such areas and the contribution they may make to the character, form and setting of settlements, the streetscene generally or the relationship with adjoining countryside.

All these proposed developments involve tearing out existing hedgerows to create 'visibility splays'.

The applications further contain statements such as "the development of this site would seem to be a logical 'rounding off' of the village" (26 houses Church St / Bowley's Lane), "The Measham Road site does not extend, northwards or westwards, the furthest extent of the village" (73 houses Measham Rd). This shows no understanding of the "character of the settlement" as experienced by the residents of Appleby. Rather than seeing Appleby as a settlement that needs straight lines drawing around its existing settlement pattern the Village Design Statement includes the views of residents (endorsed by the District Council as Supplementary Planning Guidance) such as "The rural aspect of the village seen from the approach roads should be retained by avoiding solid blocks of development visible at the boundaries. Spaces should be left to retain views into and out of the village" (guideline 26), "Green and other underdeveloped spaces in the village, and the green corridors connecting them, both within the village and from the village to the surrounding countryside, should be conserved whenever possible" (guideline 32), "Leafy green lanes are a characteristic of Appleby and should be conserved" (guideline 58), "Undue widening of roads at junctions should be avoided" (guideline 61), "The natural features of the countryside around Appleby should be protected, in particular old woodland and ancient hedgerows. Hedges and trees should be conserved..." (guideline 23). These views have been endorsed by external assessors. These include the planning inspector who considered the last planning application for the site applied for by 13/00829/OUT. He said "the village is partly characterised by a number of relatively narrow lanes bounded by mature hedgerows. Also evident are several open spaces extending into the settlement which contribute towards its attractive rural character. In my opinion that character is worth of preservation and enhancement" (para 12, The Planning Inspectorate ref: T/APP/G2435/A/96/265258/P2). These views about the value of undeveloped fields in providing a general setting for the village were endorsed by the inspector who was responsible for deciding on objections to the NWLDC Local Plan in 1999. These will be quoted in detail below under material conditions since they throw light on the value of sites currently under consideration for housing.

The applications focus on areas which have been identified in the local plan as sensitive

areas which contribute to the character of Appleby. They also plan to destroy features and characteristics which have been defined as significant for the characteristics of Appleby as defined by residents in the Village Design Statement and endorsed by the planning process as supplementary planning guidance.

*Sustainable Development issue 3 - accessible local services that reflect the community's needs and support its health, social and cultural well-being as required by the National Policy in the NPPF*

The applications currently under consideration exaggerate the level of services that are available in Appleby. These do include pubs, a village shop, primary school, and a recreation ground. However there are no significant employment opportunities (as confirmed by the census data that shows only 11% of residents walk or cycle to work), our survey shows that the shopping facilities are treated by the vast majority of residents as only for minor or top up purchases; the GP currently limited hours service is due to close (and the parent medical facility have said that however many new houses are built this decision will not be reversed); and the village offers minimal leisure facilities. There is a current limited bus service which does not meet the District Council's criteria for a sustainable village -once an hour 7am to 6pm - and is about to come even more restrictive. There is no bus service in the evenings, when adults and teenagers want to go out, and in any case doesn't go to the places they would want to go (e.g. cinemas in Tamworth and Swadlincote). In the next few months the bus service will effectively offer a once a day service to Ashby which is the nearest place with a reasonable range of shops and other services.

These circumstances are not just an issue for environmental sustainability through increased car use. They also threatens social sustainability through failing to provide accessible local services which reflect the needs of the local community and economic sustainability by failing to provide any access to employment opportunities. Even the developers' optimism does not stretch to suggesting that these houses will create any increase in jobs or services.

They do however distort the District Council's labelling of Appleby as a sustainable village to suggest that it means that any development within it has been judged as 'sustainable'. For example the application for 26 houses in Church St says "Appleby Magna is a sustainable village, having a good range of facilities and services. The sustainability of the village can only be seen as a merit of the proposed development and provides significant support for the NPPF's presumption in favour of sustainable development" (planning application supporting statement para 4.60). The application for 8 houses on Measham Rd says "Appleby Magna is one of the villages identified in the submission Core Strategy (as a sustainable village) ... (and) the proposal is consistent with the thrust of the NPPF which seeks to promote development in sustainable locations ... ." (planning statement 4.4. to 4.6). This is nonsense. The designation of 'Sustainable Village' is a label used by District Council to distinguish villages with some services. The planned core strategy policy CS7 states that in such locations "Small-scale housing and employment development will be permitted within the existing built-up area as defined by Limits to Development". Only one of these applications can plausibly be said to meet this criteria.

With the loss of the GP surgery Appleby will only have the minimum number of facilities required for a 'Sustainable Village'. As our recent survey of shopping patterns and the census data show, more residents will travel elsewhere by car for employment and other services rather than increase the 'sustainability' of Appleby and those without access to

a car will find access to work and services very difficult.

*Sustainable Development issue 4 - supply of housing required to meet the needs of present and future generations as required by NPPF*

The developers make the further spurious argument that these houses are needed in order to provide housing for local people. Appleby is one of the few villages in the District that has had a rural exception site (completed in 2011 as an extension to Parkfield Crescent) and not subject to any local opposition. This was carried out as a result of a proper survey of local housing needs by the Leicestershire & Rutland Rural Housing Enabler (LRRHE). Appleby also has affordable rented accommodation in the Alms Houses. Recent vacancies there have met with very limited interest.

In contrast to the way in which local housing need was assessed for the rural exception site, the developers' survey does not meet any criteria of objective or meaningful data collection. For example they report that 32 people said they knew someone who had moved out of the village because they couldn't find a suitable home. This provides no way of knowing whether all 32 knew the same one or two people or whether any house built in the village would have met their criteria of 'suitability'.

There is thus no credible evidence that there is significant unmet local need, and in contrast there is evidence that Appleby has taken a responsible position in relation to assessing and addressing local need as recently as 2 years ago. As such there is no reason for departing from the distribution of housing decided by NWLDC in their core strategy as subject to a sustainability appraisal.

*Sustainable Development - Conclusions*

- The Sustainability Appraisal conducted as part of the NWLDC core strategy development clearly argues that the planned level of development in villages for the period up to 2031 already threatens its sustainability objectives.
- Appleby has already had permissions for 6 houses since this assessment was done (March 2012) and there are a further 15 years to go. It has also had a recent rural exception site.
- Furthermore NWLDC last month granted permission for more houses in Ravenstone than were intended in all the sustainable villages for the whole of the plan period. As such we cannot see any basis for considering any of these applications as fulfilling the sustainable development criteria.

*Other Material Considerations*

The following material consideration are relevant to all applications

- You will have received a lot of information via individual objectors about flooding experienced in Appleby Magna close to all of these application sites and we will not repeat the detail here. In recent years all access roads to the village have become impassable at the same time on several occasions.- There are also concerns relating to sewage both in specific locations and more generally in relation to capacity for the village overall. The application in support of the smallest of these proposed developments reviews provisions for sewage treatment and reports that Severn Trent Water say that the Snarestone Treatment works has capacity for another 22 dwellings. This is clearly far below the number of houses currently under consideration. However there are reasons for thinking even that figure is an overestimation. Vehicles pumping out sewage have been regularly seen in Measham Rd including continuously in the week of writing (starting 20th January 2014).
- As detailed above social facilities in the village exist but are not extensive. This



includes the village school which is housed in a historic building. Its governing body is committed to staying at its current size to retain its current excellent local provision and because of constraints on their existing accommodation.

- Furthermore all these applications involve the destruction of hedgerows and open areas which would have an adverse impact on nature conservation.

*Conclusions*

On the basis of all of these arguments we would contest that these applications individually and cumulatively fail the test of sustainable development and have additional significant material planning considerations which also support their refusal.