

UPDATE SHEET

PLANNING COMMITTEE – 03 November 2020

**To be read in conjunction with the
Head of Planning and Infrastructure's Report (and Agenda)
This list sets out: -**

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

A1	19/02102/FUL	Erection of three detached dwellings and three double garages (one attached and two detached) with associated access, landscaping and drainage Land at Drum and Monkey Lane, Packington
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Additional Information Received:

An amended site plan and amended soft landscaping plan have been submitted which both show details of the trees and hedgerows to be retained and new trees to be planted.

The Council's Environmental Protection team has requested that a condition be imposed requiring the bin collection point to only contain waste and recycling receptacles on bin collection day and for them to be removed within 24 hours. The Environmental Protection team has also confirmed that it has powers to ensure bins are removed from collection points regardless of any conditions imposed on a planning permission.

The County Ecologist has concerns regarding the use of hornbeam hedgerows and requests that native species are used to compensate for loss of native hedgerow. She also advises that she does not need to be consulted further and that it is for the Council to decide on this matter.

The County Highway Authority (CHA) has confirmed that a condition should be imposed requiring warning signs to be erected to alert users of the public footpath to traffic using the lane and the site access once the development is complete.

Three further letters of representation (including three photographs) have been received from local residents, which object on the following grounds:

- area for bin collection may not always be available for use and so would be unsatisfactory and unsafe as a significant number of waste and recycling receptacles could then be scattered along the edge of the highway, restricting visibility, close to a confluence of seven lanes of traffic;
- the recent comments of the CHA are flawed and either has significant shortcomings or shows clear bias towards pushing through the application in support of Councillor Rushton who is Leader of Leicestershire County Council;
- the CHA has made an unrealistic assessment of the speed of traffic on Drum and Monkey Lane, has not used its own highways guidance for visibility splays and underestimated daily vehicle movements from the dwellings;
- the CHA suggests that visitors to Plot 3 will use the parking/turning space to the rear of the dwelling which is unrealistic;
- the CHA has failed to consider the safety of pedestrians and users of the public right of way;
- if more frontage hedgerow needs to be removed to provide larger visibility splays, then the County Ecologist should be consulted;
- the CHA recently objected to an application for a dwelling on Ashby Road (20/01166/OUT) due to concerns regarding conflict between vehicles using a narrow driveway resulting in vehicles reversing back onto the road or waiting within the highway;
- this application should be refused as seven dwellings would use Drum and Monkey Lane in a location with likely higher road speeds, compared to two using the Ashby Road driveway;
- visitors to Plot 3 will block Drum and Monkey Lane and reverse along the lane;
- removal of the hedgerow within the site and parts of the frontage hedgerow before the application was made should mean the Council applies some censure and sanctions;

- no capacity at Severn Trent Water's Packington treatment plant, which will set a precedent that other development can go ahead in the village;
- photos of flooding have been provided including of nearby gardens;
- surface water from the site will enter the watercourse, place additional pressure on the brook and cause further flooding to nearby gardens and elsewhere in the village;
- refusal of other similar applications elsewhere sets a precedent.

A package of information has also been sent to Andrew Bridgen MP and members on Planning Committee, including 18 photographs, three videos and a letter setting out the following concerns which are summarised below:

- the application should be deferred until all unresolved issues have been dealt with;
- Councillor Rushton's financial interest in the application needs to be made clear;
- delivery of Harris fencing to the site means the developer has assumed a decision on the application has already been made;
- removal of trees and hedgerows from the site;
- highway safety and safety of users of the public right of way;
- developer and owner do not have legal vehicular access rights to Drum and Monkey Lane;
- surfacing of the lane unsuitable and cost to be shared;
- flooding near to the site and elsewhere within Packington;
- inaccurate Flood Risk Assessment (FRA);
- impact on River Mease SAC and SSSI;
- visual and highway safety impacts from bin collection point;
- no sustainable features;
- visual impact on character of village and setting of listed buildings and Conservation Area;
- existing garden spaces should be protected in particular due to impacts of coronavirus pandemic;
- setting of precedent.

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

Officer Comments:

The amended plans do not propose any changes to the site layout but have been amended to ensure that both the site plan and the soft landscaping plan show the same retained and new trees and hedgerows.

The applicant's landscaping consultant has advised that native species cannot be used in the new hedgerows within the site as this would cause major issues with foundations. A condition could be imposed to address this matter and agree appropriate species for the hedgerows.

Matters relating to the sustainability of the development, the visual impact on the character and amenities of the locality, impacts on the setting of the listed buildings and Conservation Area and adjacent gardens, and removal of trees and hedgerows from the site are addressed in the Committee Report and no new issues are raised in respect of these matters.

The CHA was asked to specifically address matters raised by residents in respect of the suitability of Drum and Monkey Lane for additional traffic, the proposed visibility splays, the access and parking/turning arrangements for Plot 3 and the level of vehicle trips generated by the proposed dwellings. The CHA has also considered the impact on users of the public footpath. The CHA's comments on these matters are set out in the Committee Report. The CHA concluded that the use of Drum and Monkey Lane would not have a severe impact on the highway network and raises no objections in respect of the visibility splays, the access and parking/turning arrangements to Plot 3, visibility at the junction of the lane with Normanton Road/Coleorton Lane and impacts on users of the public footpath.

Whilst it is acknowledged that Drum and Monkey Lane and the driveway to serve the dwelling proposed at Ashby Road would fall below the minimum widths for driveways, the set of circumstances at Ashby Road are different from those at the application site, in particular the lack of space available between the Ashby Road driveway and the road.

If the CHA had advised that larger visibility splays were required at the site access, then the County Ecologist's view on the extent of frontage hedgerow that would need to be removed as result would have been sought.

The CHA has not requested conditions requiring Drum & Monkey Lane to be resurfaced or to prevent the lane from being blocked and so there would be no justification in terms of highway safety or for users of the public footpath to impose conditions relating to these matters. As the lane is not adopted highway any damage caused to the surface above the standard the CHA can require for a public right of way would be a civil matter. The blocking of the public footpath is covered by separate legislation. The condition requested by the CHA relating to measures for users of the public footpath is considered to be reasonable.

Matters relating to the legal rights for vehicular access along Drum and Monkey Lane are also set out in the Committee Report. As set out in the report approving a planning application does not affect or override any legal rights or other legislation, nor does it mean that it is inevitable that an illegal action would take place. Conditions cannot be imposed on planning permissions that require other legislative requirements to be met.

The photographs provided by residents showing a representation of what the waste and recycling receptacles for seven dwellings (i.e. from the two existing dwellings on the former poultry farm site, the extant dwelling on that site that could still be built, No. 17 Normanton Road

and the three proposed dwellings) would look like. The impacts of the proposed bin collection point, including on the character and visual amenities of the area and on highway safety, are set out in the Committee Report. The CHA has not raised any objections in respect of the bin collection point or impacts on visibility from receptacles left in this area, and a plan will be provided as part of the presentation at Planning Committee to show that there is space at this point for receptacles to be left that would be clear of the 2.4 metre set back required for visibility splays.

As noted in the Committee Report, the bin collection point is within the public highway and so a condition requiring a bin collection point could not be imposed. For the same reason the condition required by the Council's Environmental Protection team requiring the bin collection point to only contain waste and recycling receptacles on bin collection day and for them to be removed within 24 hours could not be imposed. However the Environmental Protection team has confirmed that it has powers (under the Environmental Protection Act 1990) to ensure bins are removed from collection points regardless of any conditions imposed on a planning permission.

The photographs provided by residents show the watercourse at high capacity with fast flowing water, the overland flow of surface water through the nearby fields and flooding within Kingfisher Lodge. However limited evidence has been provided of flooding on the site itself or of Drum and Monkey Lane. The photograph of flooding on Normanton Road is at its junction with Heather Lane.

The LLFA has been consulted on the FRA and has not raised any objections to the application in respect of surface water flooding. Therefore it is still considered that a reason for refusal on the basis of an inadequate FRA, an inadequate surface water drainage system and the proposal increasing flood risk on the site or elsewhere could be justified in this case under Policies CC2 and CC3 of the Local Plan and the NPPF.

No comments have been received from Severn Trent Water. As set out in the Committee Report, a small amount of capacity under the River Mease Developer Contribution Scheme (DSC2) has become available which has been allocated to applications in chronological order. There is now no further capacity available under DSC2. Capacity of Severn Trent Water's treatment works is a separate matter from capacity within DSC2. The Committee Report sets out the current position regarding capacity at the Packington treatment works, and concludes that capacity is available there for the foul drainage from the site.

In its most recent set of formal comments Packington Parish Council has referred to the refusal of eight dwellings at Normanton Road (15/01051/OUT) on the grounds of the site being outside the Limits to Development and so not in a sustainable location for new development given the limited capacity under DSC2. A subsequent appeal was dismissed but the reason for refusal relating to the River Mease SAC was not upheld by the Planning Inspector and so therefore could not be applied to this application.

It is a fundamental principle of planning legislation that each application should be assessed on its own merits. Other sites and proposals will be affected by a different set of circumstances and changes to national and local planning policies and guidance.

With regard to Councillor Rushton's interest in the site and application this is set out in the Committee Report. The Council's Legal team and Monitoring Officer are in the process of responding directly to Packington Parish Council and residents who have raised this as an issue but this is not a material planning consideration.

RECOMMENDATION: NO CHANGE TO RECOMMENDATION subject to the imposition of a condition relating to measures for users of the public footpath