

Hybrid planning application for redevelopment of the site comprising: Outline application (all matters reserved) for the erection of Class B8 distribution unit(s) and ancillary offices (B1a), service yards and HGV parking, fuel and wash facilities, vehicular and cycle parking, gatehouse(s) and security facilities, plant, hard and soft landscaping including boundary treatments and retaining walls, pedestrian and cycling infrastructure, internal roads, and foul and surface water drainage infrastructure. Full application for site clearance works (including removal of railway, existing trees/hedgerows and existing hardstanding), access from (and alterations to) Corkscrew Lane, brook diversion and crossings, earthworks and structural landscaping (including boundary treatments), associated utilities infrastructure, surface water drainage outfall, and construction access and compounds
Former Lounge Disposal Point Ashby Road Coleorton
Leicestershire LE65 1TH

Report Item No
A1

Application Reference
19/00652/FULM

Grid Reference (E) 437485
Grid Reference (N) 316475

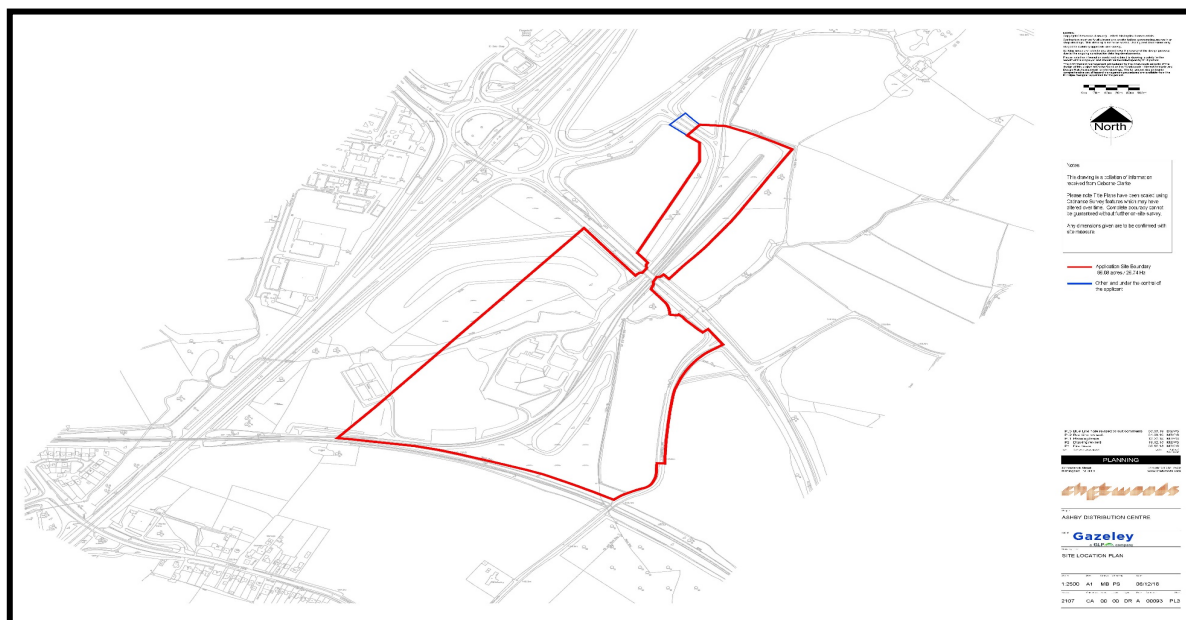
Date Registered:
2 April 2019
Consultation Expiry:
26 December 2020
8 Week Date:
2 July 2019
Extension of Time:
20 January 2021

Applicant:
Gazeley UK Ltd

Case Officer:
Ebony Mattley

Recommendation:
PERMIT subject to S106 Agreement

Site Location - Plan for indicative purposes only



Executive Summary of Proposals and Recommendation

Call In

The application is brought to Planning Committee, as it raises matters which should be referred to the Planning Committee.

Proposal

This is a "hybrid" application (i.e. part full and part outline), accompanied by an Environmental Statement (including addendum) and seeking planning permission on a site of 26.74 hectares for the erection of distribution unit(s) (within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), together with ancillary office use and other associated development at the former Lounge Disposal Point, Ashby Road, Coleorton.

Outline consent is sought for the Development Plots (comprising Zones 1 and 2) for B8 use class (plus ancillary offices (B1a)) and associated parking infrastructure, servicing areas, internal roads and development plot landscaping.

Full consent is sought for the new road access off Corkscrew Lane, including alterations to the existing road alignment and width, the diversion of the Gilwiskaw Brook tributary through the site with the proposed diversion within the site designed to connect with the realignment of the brook outside of the site (approved under planning permission 07/01372/FUL). Detailed consent is also sought for up to three crossings over the diverted brook, structural landscaping in all areas outside of the development plots, attenuation features, earthworks (including development plot plateaus), utilities infrastructure and foul drainage infrastructure. Full consent is also sought for construction access and compound locations.

Consultations

Members will see from the main report below that letters from 38 addresses have been received, in addition to objections from Ashby Town Council, Packington Parish Council and Coleorton Parish Council, Ashby Civic Society and Councillor Bigby.

No objections on technical issues have been raised by other statutory consultees.

Planning Policy

The majority of the site is identified within the Local Plan as "Employment Provision: Permission" under Policy Ec1(a), with the exception of the eastern most parcel of the site which adjoins Corkscrew Lane, which falls outside the Limits to Development and within an area of countryside.

A significant number of National and development plan policies are applicable to these proposals. Of particular relevance is the application part employment site allocation and part location outside Limits to Development and thus Policies S3, Ec1 and Ec2 of the Local Plan and Policies S3 and E1 of the Ashby Neighbourhood Plan are applicable.

Conclusion

Having regard to the three dimensions of sustainable development, therefore, and having regard to the conclusions in respect of various technical issues set out within this report, it is accepted that the contribution to the economic growth associated with the proposed development, would ensure that the scheme satisfied the economic and social dimensions.

Insofar as the environmental role is concerned, whilst the proposed development would, have some landscape and visual impacts, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and will provide for a sustainable travel choice for employees and, as such, (and notwithstanding its location) has the potential to perform reasonably well in terms of need to travel and the movement towards a low carbon economy, subject to the provision of the measures proposed.

It is therefore concluded that the proposed development would comply with the provisions of the development plan as a whole, and would benefit from the presumption in favour of sustainable development.

The key planning issues arising from the application details are:

- Principle of Development
- Assessment of Alternatives
- Landscape and Visual Impacts
- Design
- Means of Access, Highways and Transportation
- Biodiversity
- Impact upon Existing Trees
- Drainage and Flood Risk
- Impact on the River Mease Special Area of Conservation (SAC)
- Coal
- Air Quality
- Impact upon Residential Amenity
- Agricultural Land Quality
- Historic Environment
- Climate Change
- Planning Obligations

RECOMMENDATION:- PERMIT, SUBJECT TO CONDITIONS AND THE SIGNING OF A SECTION 106 AGREEMENT

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

MAIN REPORT

Proposals and Background

This is a "hybrid" application (i.e. part full and part outline), accompanied by an Environmental Statement (including addendum) and seeking planning permission on a site of 26.74 hectares for the erection of distribution unit(s) (within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), together with ancillary office use and other associated development at the former Lounge Disposal Point, Ashby Road, Coleorton.

The hybrid application comprises a part full and part outline application, which comprise the following:-

Outline

An outline application (all matters reserved) for the erection of Class B8 distribution unit(s) and ancillary offices (B1a), service yards and HGV parking, fuel and wash facilities, vehicular and cycle parking, substation, gatehouse(s) and security facilities, plant, hard and soft landscaping including boundary treatments and retaining walls, pedestrian and cycling infrastructure, internal roads, and foul and surface water drainage infrastructure.

The outline element includes two Development Plots (Zone 1 and 2).

Development Plot - Zone 1 would extend to approximately 11.68 hectares, is located in the western portion of the site, adjacent to the HS2 safeguarding land and extends from the A511 to the Midlands Railway Line). Development Plot - Zone 1 would comprise of B8 land use with ancillary offices. The ancillary offices (where required) would be incorporated within the building(s) envelope.

Development Plot - Zone 2 would extend to approximately 2.58 hectares, is located in the eastern portion of the site adjacent to Corkscrew Lane and extends the width of the site. Part of the internal road network is sought in outline.

The supporting information states that the development plots need to remain flexible (in terms of the number of buildings provided) given that the end user is currently unknown, however, Development Plot - Zone 2 would exclusively be used for parking with no built form (except gatehouse(s) and a single small sub-station).

The indicative and illustrative plans show buildings of a rectangular form, with building lines close to the development plot boundary, unless fronted by staff/visitor/HGV parking or amenity space and soft landscaping. The exact design and massing of the building(s) within Development Plot - Zone 1 is unknown at this time, (and would be dealt with by future reserved matters approvals if planning permission is granted), however the intention is for the materials to comprise of graduated blue cladding, that the ancillary office would include extensive glazing to all floors and that the building (s) entrance would comprise a curtain walling system.

The accompanying Flood Risk Assessment sets out a proposed drainage strategy for Zones 1 and 2. The site is to be drained by separate foul and surface water systems. It is proposed that foul flows would outfall to a sealed tank (s) (cesspit) which would be emptied by tankers and removed from the site.

Full

A full application for site clearance works (including removal of railway, existing trees / hedgerows and existing hardstanding), access from (and alterations to) Corkscrew Lane, brook diversion and crossings, earthworks and structural landscaping (including boundary treatments), associated utilities infrastructure, surface water drainage outfall, and construction access and compound locations.

The site clearance works include the removal of the railway tracks, existing trees and hedgerows and existing hardstanding across the site.

The proposed site access arrangement would consist of a new singular vehicular access point off Corkscrew Lane in addition to amendments to the existing Corkscrew Lane carriageway to incorporate a ghost island right turn lane into the site.

The watercourse (brook) traversing the site is a tributary of Gilwiskaw Brook, which is a tributary of the River Mease. The brook crosses the site in a north-westerly direction. Planning permission to divert the brook was granted as part of application ref: 07/01372/FUL. In order to facilitate the development, the brook is again required to be diverted around the southern perimeter of the site adjacent to the existing railway. The brook diversion will increase its route by around 1,000 metres. Whilst three crossings are proposed over the brook, however it should be noted that only the central crossing will be required for the two unit scheme shown on the illustrative masterplans.

The proposals also indicate a diversion to the brook outside of the red line application boundary. This application does not seek permission to divert the brook in this area. The applicant intends to divert this part of the brook under the previous consent ref: 07/01372/FUL. This will connect to the proposed diversion that is the subject of this application. The means of ensuring a suitable connection have been subject of extensive discussion and will be considered in further detail within the assessment below.

Earthworks and structural landscaping are applied for in full. The accompanying landscaping drawings cover the detailed seeding plan along the brook diversion, a detailed seeding plan at the access road and a detailed infrastructure planting plan.

A temporary site security fence is proposed along the Corkscrew Lane boundary during the construction phase of the development, a 2.4m paladin fence is proposed along the boundary fronting the A511 and the HS2 safeguarded area (this area will include openings for badger crossings and gates at various points). It is proposed that the existing Network Rail fence along the southern boundary will be retained.

To the north of the site, an ecological receptor area is applied for in full. This part of the site currently comprises former rail sidings and has an existing site access from Ashby Road (A512). The access will be retained and the site used for some habitat and key species, which are to be translocated, including Great Crested Newts to this receptor area.

Site and Surrounding Area

The site was formerly occupied by 'The Lounge Coal Preparation and Disposal Point'. The use of the site ceased in 2004. The site is currently covered in dense vegetation, mainly along the existing brook and overgrown scrubland. The foundations of some demolished buildings, some internal roads and hardstanding, and the rail sidings and track are also still on site.

The site has an area of 26.74 Ha, with land falling away to the west. There are mature trees and the brook traversing the site is a tributary of Gilwiskaw Brook, which is a tributary of the River Mease.

There are no Public Rights of Ways (PRoW) or permissive paths within the site. Beyond the site, Footpath M60 is located adjacent to the northern boundary. Land adjacent to the north west of the site has been designated as the preferred land for the HS2(B) route, and therefore adjoining land has been designated as the "safeguarding zone."

The site is bounded by agricultural fields to the north, with the A512 beyond; Corkscrew Lane to the east, the Leicester - Burton upon Trent line to the south and reclaimed land to the west (with the A42 beyond it). Ashby de la Zouch lies to the north-west of the site.

The site lies outside the Limits to Development on the Policy Map to the adopted Local Plan. The site is also within the catchment of the River Mease Special Area of Conservation (SAC) and Site of Specific Scientific Interest (SSSI) and within the boundaries of the National Forest. In addition, the south western part of the site contains an area of District level ecological interest (designated by the Local Plan) which was destroyed during the construction of the Lounge DP.

Amendments

The application was validated in April 2019, and since that time has been subject to a number of amendments and updates to the suite of reports and technical documents which accompanied this submission. The amendments include but are not limited to the following:-

Following a request from the Council's Tree Officer a new landscaping bund has been included in the north-eastern corner of the site between Development Plot Zone 2 and Corkscrew Lane. Resultant of the changes, the substation and gas governor will be re-located into Development Plot Zone 2 (within the outline part of the site).

During the course of the application, the applicant has submitted a Highways Technical Design Note, including a Road Safety Audit and revisions to the Transport Assessment and Framework Travel Plan following concerns raised by the County Highway Authority.

The first update to the Environmental Statement (ES) was undertaken in August 2019 and the second in December 2019, to specifically respond to comments raised by the County Ecologist and Natural England. The third amendment was undertaken in May 2020, to specifically respond to comments raised by the County Ecologist and the Council's Tree Officer.

Subsequent amendments and additional information has been submitted to support the Habitats Regulations Assessment (HRA) to address comments raised by Natural England the Council's consultant on Habitats Assessments.

Planning History

The Lounge Coal Preparation and Disposal Point (Lounge DP), which formally occupied the site was granted a series of planning permissions by Leicestershire County Council as the minerals and waste authority.

Planning permission for the Lounge DP was originally granted in August 1986 (ref:84/0640) for a temporary period of 5 years for the construction of a rail-connected coal preparation and disposal point to serve the nearby Lounge Opencast Coal site.

In December 1999 planning permission was granted for the continued use of Lounge DP for the dispatch of coal by rail from the Hicks Lodge Extension opencast coal site until 31 July 2004.

Following the cessation of the use, the weighbridge and all plant and equipment were removed from the site and the remains of three buildings were demolished in 2007. Various internal roads, hardstanding's, the rail sidings and track are still in situ and comprehensive restoration of the site has not taken place.

In 2007, under application ref: 07/01372/FUL Gazeley and UK Coal Ltd submitted a full planning application for the "erection of a rail connected distribution building and associated works" The application was approved in 2012 and a material start on the approved development has occurred. The approved scheme was for a distribution building with a gross floorspace of 78,740 sqm. This measured 416 metres by 189 metres with a ridge height of 18.6 metres. In order to facilitate the development, the watercourse running through the site was to be diverted around the southern and eastern parts of the site.

A Certificate of Appropriate Alternative Development was applied for in November 2018 ref: 18/02114/CAAD following the receipt of a notification from High Speed Two (HS2) Ltd of its intention to acquire the site as part of the HS2 project. A Certificate of Appropriate Alternative Development is intended to identify development which is considered to be acceptable and likely to obtain planning permission from the Local Planning Authority (were a submission to be made). The application for employment development and was approved in January 2019.

2. Publicity

1 neighbor notified.

Press Notice published Leicester Mercury 10 June 2020.

3. Summary of Consultations and Representations Received

Members will note that full copies of all correspondence received are available on the Council's website.

Statutory Consultees

Following re-consultations, the following are summaries of the latest representations:-

Ashby De La Zouch Town Council objects on the following grounds:-

- Highway safety - several points have been raised on this, chiefly with regards to the speed of the road and vehicles having to turn right into the site.
- Inadequate travel plan - lack of infrastructure to support the anticipated amount of workers walking or cycling. Also removal of the railway sidings etc (there are several other objections raised around travel planning)
- Air quality caused by increase in HGV movements
- Environmental concerns - specifically on the Gilwiskaw Brook and River Mease
- The District Council has now met the requirements within its local plan for B8 distribution facilities at junction 11 of the A42 so this development is no longer necessary

Coal Authority has no objections, subject to conditions.

Coleorton Parish Council objects on the following grounds:-

- Road network is not suitable to carry the volume of HGV/traffic proposed;
- Increased volume of traffic through the village of Coleorton would be unacceptable if the traffic were to access the A512 for example from or towards M1/Loughborough;
- The volume of traffic would be an issue on the A512 and A511 around Flagstaff Island, junction 13, A42. (traffic accidents would increase - probability ratio - more vehicles more accidents)
- Volume or traffic / HGV: concerns of safety to pedestrians along the A512, the main route through the village of Coleorton.
- Clarification on routes HGV and other vehicles accessing and leaving this site will be taking.

The Environment Agency has no objections subject to conditions.

East Midlands Airport Safeguarding Authority has no objections, subject to a note to applicant.

Highways England has no objections.

HS2 Ltd raise no objection, subject to a note to applicant.

Leicestershire County Council Archaeologist has no objections.

Leicestershire County Council - Ecologist raises no objections, subject to conditions and a Section 106 obligation to secure an off-site financial contribution in the interests of biodiversity net gain.

Leicestershire County Council Footpath Officer has no objections, subject to conditions.

Leicestershire County Council Highway Authority has no objections, subject to conditions and S106 obligations.

Leicestershire County Council - Lead Local Flood Authority has no objections, subject to conditions

Leicestershire County Council - Minerals Officer has no objections.

Leicestershire Police raises no objections to the application, making general recommendations regarding lighting, fencing and parking.

Ministry of Housing, Communities and Local Government Planning Casework Unit advises that it has no comments on make on the Environmental Statement.

The National Forest Company has no objections, subject to conditions.

Natural England has no objections, subject to conditions.

Network Rail has no objections, subject to conditions.

North West Leicestershire District Council - Conservation Officer has no objections.

North West Leicestershire District Council - Environmental Health has no objections, subject to conditions.

North West Leicestershire District Council - Environmental Health (Air Quality) has no objections.

North West Leicestershire District Council Tree Officer has no objections.

Packington Parish Council raise concerns regarding flooding and the potential increase of water run off which will exacerbate this. The Parish Council ask that the Council ensure that drainage and run-off water from the site will be adequately managed and will in no way impact the Giliwiskaw or River Mease, nor Packington village itself.

Severn Trent Water has no objections.

Third Party representations

Councillor David Bigby objects to the application on the following grounds:-

Principle

- This application does not just move an existing permission a few metres to the East to make room for HS2, it is fundamentally different with the application completely doing away with the rail freight link which was one of the fundamental justifications for locating a warehouse in this location on the currently undeveloped side of junction 13;
- The only reason why this site was not returned to its original state after the end of the Lounge opencast site was that it was argued that the sidings should be preserved for a future rail freight facility;
- The development is outside the Local Plan Limits of Development and extends beyond the area designated for economic development under Local Plan Policy EC1a with completely different access arrangements;
- The development will have a significant detrimental impact on visual amenity at this important gateway to Ashby;
- The development is not economically justified - There is currently very little local unemployment (according to our MP) and an over provision of local warehouse employment, especially with the East Midlands Gateway Development at Castle Donington and the threatened large warehouse site at Appleby Magna. Therefore, it would generate an enormous number of long distance vehicle trips to site by employees from the neighbouring cities;

Highway Matters

- The means of road access is completely different from the previous permission. Access is now from Corkscrew Lane with no improvements to cater for the heavy goods traffic and additional car movements that will be generated, except at the very entrance to the yard;
- The proposed road access arrangements are inappropriate and dangerous. Corkscrew lane has suffered from 5 accidents in the last 5 years without Heavy Good Vehicles;
- The development will have a significant impact on the overloaded A42 junction 13 and the developer's case relies on an upgrade to the A42 which is by no means certain of happening;
- The Transport Assessment (TA) is full of errors and cannot be trusted as an objective document. The TA claims that cycling would be a viable mode of transport and that 11% of employees would walk or cycle to work, but there are no footpaths and none are proposed

along Corkscrew Lane and the Lane is already a highly dangerous route to cycle before the added dangers from HGV's and cars accessing the site; and

- The TA claims that the site benefits from access by bus, albeit somewhat limited but goes on to state that the nearest bus stop is 2.2km away and that the site can be accessed within 60 minutes by public transport from Bedford. The plan shown in the text is completely wrong and refers to some completely different site. In fact, Loughborough, Kegworth and Markfield are all outside the 60-minute accessibility zone, let alone Bedford.

Third Party Neighbour Letters

Letters of neighbour representation from **36 addresses** have been received between May and August 2019 raising the following objections:-

Principle

- The proposal would result in many harmful impacts to the environment and would result in a loss of countryside;
- The site is outside the limits to development;
- There is no economic sense in this project - there are many large distribution centres under construction offering over 10,000 jobs;
- The previous application was allowed on the basis it would remove freight from road to rail and would create between 8000 and 10,000 jobs;
- There would be no chance of locals filling the jobs as unemployment in the District is the lowest it has ever been;
- The proposal will result in industrialisation of the countryside;
- The development would result in a harmful visual impact by virtue of its excessive scale; and
- The proposal would be contrary to policies within both the NWLDC Local Plan and the Ashby Neighbourhood Plan.

Highways

- The TA does not accurately reflect what the impact will be on the highway network;
- The Ghost junction is too small for the number of cars/trucks;
- The road connections needs re-thinking and improving;
- There are no footpaths within 300 yards of the site;
- With all the planned development there is a desperate need for further highway improvements;
- There is scepticism as to whether the proposed highway improvements would succeed;
- The rail sidings have now been removed - meaning that there will be more HGV's on the road;
- There would be a harmful impact on traffic in the locality which would negatively impact on travelling/journey times;
- The removal of the rail facility in favour of road haulage is a retrograde step and will result in additional highway pressures; and
- The proposal would result in more illegal tonnage vehicles using the surrounding highway network, which is not policed.

Other Matters

- Concerns relating to the additional air pollution that will be caused by the proposal, including from diesel and other fuel and the adverse impact on human health;

- A health impact assessment should have been undertaken to look at the potential health implications of the proposal;
- The development is contrary to the Public Health England Strategy and the declaration of a Climate Change Emergency by Parliament;
- What aspects of climate change have been considered by the proposal?;
- The building is 6 stories high and will be visually prominent within the landscape;
- The hedgerow along Corkscrew Lane would be demolished, killing wildlife;
- There is no environmental report submitted with this application;
- The rail sidings should not be removed until it is clear that there is a solid occupier who has started a full build to completion;
- The previous S106 should be implemented in full as the previous planning permission is extant and the same S106 requirements should form part of this application;
- Concerns that this application will set a precedent that will allow for more warehousing in this location;
- Concerns related to the associated earthworks or infrastructure development that may place further restrictions on the future conversion of the Ashby - Coalville section of the line from single to double track. Assurances are required in this regard prior to the work being carried out;
- If the cause of the change is the planned usage of some of the former site by HS2, have alternative sites developments railhead been investigated?;
- The proposal will have an adverse impact on local tourist facilities;
- There would be a fire risk caused, concerns over the cost and practicality of providing a water hydrant at the site. Where is the nearest hydrant?; and
- Increase in air pollution - NWLDC area has the highest fraction of attributable deaths to particulate air pollution in Leicestershire; one of the highest in the East Midlands and air pollution is especially concentrated around the area of the Marks and Spencer food store and envelopes the whole of Ashby-de-la-Zouch.

An additional **nine letters of representation** from two addresses have been received between January and November 2020 raising the following objections and queries:-

- the works are still proposed to vast areas outside of the Ashby town plan in green belt land;
- HGV traffic will take a short cut along Corkscrew lane to Packington and onto the M42 south of Ashby; the traffic along it is never policed;
- Corkscrew Lane is dangerous and heavily trafficked;
- There are no footpaths, bus stops, bus routes or cycle tracks from the site, over the M42 to Ashby;
- The amended application is clearly a request to extend the existing proposals beyond the Ashby development plan into green belt land for the benefit of the development owners rather than the benefit of the local community and countryside environment that would be destroyed if this extension and amended application is granted; and
- The green belt land is now already ruined with the recent erection of the developers huge advertising boards;
- The current methods adopted for assessing the impact on air quality have not been taken into account;
- Concerns that the predictive assessments of G-Park have been decreed "invalid" by DEFRA,
- The assessment compiled for the applicant is invalid and worthless, due to the predictive algorithm AQC adopted was validated with incorrect measurements taken at Sinope;
- The Council has a duty of care to protect the public's health and lives and this reckless use of invalid data shows a total disregard;
- The Council has approved the initial application of G-Park on an invalid assessment;

- Queries have been raised in regard to the use of the proposed cesspit in relation to its period of operation and the controls that would be in place to ensure it was being managed in accordance with the clauses within the S106;
- It is stated that an assessment of the impact of the increased traffic movements associated with such proposed development should be provided for review along Corkscrew Lane beyond the Planning Application boundary since almost immediately beyond the same is a couple of dangerous and poorly lit bends in the road approaching and crossing the railway line from Ashby, where the road also narrows to just about the width of two cars;
- Clarity has been requested of the impact on the cross roads junction where Corkscrew Lane crosses Leicester Road/Alton Hill; and
- It is noted that the main access to the construction compounds will be from Corkscrew Lane, in this regards, clarity is sought on what road cleaning facilities would be offered, maintained and policed to prevent mud deposits arising along Corkscrew Lane from construction traffic during the period of construction?

Ashby Civic Society objects on the following grounds:-

- The scale of the development is too large and will have an adverse visual impact;
- The site is outside the limit of development for Ashby, within the countryside and will result in a further loss of this;
- The road network will be adversely impacted on and the road network will not be able to accommodate the additional traffic and could cause gridlock;
- There are too many assumptions regarding the schemes to mitigate the impact of this development on the road network.
- It is highly unlikely that 17% of employees will walk to the site, there are no footpaths within 300 yards;
- Travel by bus and cycle is suggested but are highly unlikely;
- There is no economic sense in this project. The jobs created will not go to residents of the area as unemployment is very low, so why allow such a monstrous ugly building?;
- There are numerous developments of this type within 8 miles of Ashby; and
- There has been no Environmental Report submitted with the application.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2019)

The following paragraphs of the NPPF are considered relevant to the determination of this application:

Paragraphs 8, 11 and 12 (Achieving sustainable development)

Paragraphs 47, 54, 55 and 56 (Decision-making)

Paragraphs 80, 82 and 83 (Building a strong, competitive economy)

Paragraphs 102, 103, 106, 107, 108, 109, 110 and 111 (Promoting sustainable transport)

Paragraphs 117 and 118 (Making effective use of land)

Paragraphs 124, 127, 128, 130 and 131 (Achieving well-designed places)

Paragraphs 148, 150, 153, 155, 157, 163 and 165 (Meeting the challenge of climate change, flooding and coastal change)

Paragraphs 170, 175, 177, 178, 179, 180 and 181 (Conserving and enhancing the natural environment)

Paragraphs 189 and 190 (Conserving and enhancing the historic environment)

Adopted North West Leicestershire Local Plan (2017)

The following policies of the adopted Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

Policy S2 - Settlement Hierarchy
Policy S3 - Countryside
Policy Ec1 - Employment Provision: Permissions
Policy Ec2 - New Employment Sites
Policy D1 - Design of New Development
Policy D2 - Amenity
Policy IF1 - Development and Infrastructure
Policy IF4 - Transport Infrastructure and New Development
Policy IF5 - Leicester to Burton Rail Line
Policy IF7 - Parking provision and New Development
Policy En1 - Nature Conservation
Policy En2 - River Mease Special Area of Conservation
Policy En3 - The National Forest
Policy En6 - Land and Air Quality
Policy Cc2 - Flood Risk
Policy Cc3 - Sustainable Drainage Systems

Ashby de la Zouch Neighbourhood Plan (2018)

Policy S1 - Presumption in Favour of Sustainable Development
Policy S2 - Limits to Development
Policy S3 - Development proposals outside of the Limits to Development
Policy S4 - Design Principles
Policy S5 - Support to be Given to Brownfield Sites
Policy E1 - Employment Land and Buildings
Policy E3 - Connecting People in the Plan Area to the New Employment Development
Policy T1 - Traffic Management
Policy T2 - Travel Plans
Policy T4 - Walking and Cycling
Policy T5 - Leicester to Burton Railway Line
Policy NE4 - Nature Conservation
Policy NE5 - Trees and Hedgerows

Other Policies and Guidance

Planning Practice Guidance
Good Design for North West Leicestershire Supplementary Planning Document (SPD)
Leicester & Leicestershire Strategic Growth Plan (Leicester & Leicestershire 2050: Our Vision for Growth)
Leicestershire Highway Design Guide (Leicestershire County Council)
The Habitats Regulations (The Conservation of Habitats and Species Regulations 2017)
Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)
River Mease Water Quality Management Plan - August 2011
River Mease Development Contributions Scheme - November 2012

5. Assessment

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 comprises of the adopted North West Leicestershire Local Plan and the Ashby de la Zouch Neighbourhood Plan.

Paragraph 11 of the NPPF requires that plans and decisions should apply a presumption in favour of sustainable development and that, for decision-taking, this means: "... c) approving development proposals that accord with an up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. 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".

The areas or assets referred to under Paragraph 11 (d) criterion (i) include habitats sites (including Special Areas of Conservation (SACs)) and Sites of Special Scientific Interest (SSSIs). Furthermore, Paragraph 177 provides that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Paragraph 12 of the NPPF provides that *"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan...permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed"*.

In effect, therefore, it is necessary to consider whether the development complies with the policies of the adopted Local Plan and Neighbourhood Plan (when considered as a whole) and, if not, whether (in accordance with NPPF Paragraph 12), other material considerations indicate that planning permission ought to be granted (and whether Paragraph 11 subsections (c) or (d) are applicable). For the purposes of applying the tests in the NPPF, the view is taken that the adopted North West Leicestershire Local Plan and the Ashby de la Zouch Neighbourhood Plan are up-to-date.

Planning History/Background

In 2012 planning permission ref: 07/01372/FUL was granted for the erection of a rail connected distribution building and associated works on the former Lounge Disposal Point site near Ashby de la Zouch and a material start on the approved development has occurred. However, as detailed within the supporting documentation, owing to the proposed route of the HS2 high speed rail link through the western part of the site, this development cannot now be completed in its intended form. On this basis, the current scheme has been submitted.

The size of the development being proposed (in outline) is similar to, albeit smaller in scale to the previously consented scheme, with the built development part (with the exception of the proposed car parking area) of the site falling wholly within the area previously granted permission. The main differences being that this proposal is not rail connected and the associated car parking (Development Zone 2) is proposed on land that is not part of the permitted application site.

The schemes are compared below:-

Previously Approved Scheme	Proposed Scheme
Use: and distribution	Rail connected storage Distribution
Job Creation:	800-1000 jobs 800-990 jobs
Application Area:	30.2 hectares 26.74 hectares
Vehicular Access:	From the A512 From the A512 and Corkscrew Lane
Floor space:	78,740 sqm up to 70,000 sqm
Height to eaves:	15m 18m
Height to ridge:	18.6m 23m
Car parking spaces:	501 up to 600
HGV parking spaces:	150 up to 198

Part of the scheme is in outline, and the floor areas, parking and HGV spaces are maximums, in order to provide the necessary flexibility depending on the final end user.

The applicant states that quantum of development has been informed by an appraisal of layout options for facilities required for B8 land use and general operator requirements, based upon the applicants experience of similar sites and market trends. Further, the applicant contends that the height of the built form has been informed by the consideration of potential future occupants, with the internal haunch height been set at the minimum requirements with the roof pitch at approximately 6 degrees.

Local Plan and Neighbourhood Plan Policies

The majority of the site is identified within the Local Plan as "Employment Provision: Permission" under Policy Ec1(a), with the exception of the eastern most parcel of the site which adjoins Corkscrew Lane which falls outside Limits to Development and within an area of countryside.

In terms of the Ashby Neighbourhood Plan boundary, with the exception of the same eastern most parcel of the site, as mentioned above, the remainder and majority of the site falls within the Ashby Neighbourhood Plan boundary. As is the case with the adopted Local Plan, most of the site is also designated as employment land within the Neighbourhood Plan.

Accordingly, both the Local Plan and Neighbourhood Plan are consistent in their designations of most of the application site as employment land and would therefore fall to be considered against Policy EC1 of the Local Plan and Policy E1 of the Neighbourhood Plan, and consistent in their exclusions of the easternmost part of the site being located outside of Limits to Development, where the scheme is to be considered against Policy S3 of the Local Plan and Policy S3 of the Neighbourhood Plan.

Policies EC1 of the Local Plan and E1 of the Neighbourhood Plan

Policy EC1 of the Local Plan states that:-

"[The site has] the benefit of planning permission for employment development and where development has yet to commence. In the event that planning permission lapse on these sites it will be renewed subject to the policies of this Local Plan and any other material considerations including any evidence in respect of deliverability of any particular site."

As stated above, the site with extant permission is included in the Local Plan under Policy Ec1(a). This policy gives a presumption that where a permission lapses, it will be renewed subject to the policies in the Local Plan (and Neighbourhood Plan in this case) and any other material considerations. As set out, however, permission has not lapsed (and indeed the development has commenced), although what is being proposed is similar in size and scale to what already has permission, albeit with a revised site boundary.

Policy E1 of the Neighbourhood Plan supports the retention of sites or buildings that provide employment (B1, B2 and B8) or future potential employment opportunities (as set out in Policy Ec3 in the Local Plan) however Policy Ec3 is not applicable to this application, because it deals with proposals as existing, established employment areas, which this scheme is not.

Policies S3 of the Local and Neighbourhood Plan

The remainder of the proposed site (the part to the east adjoining Corkscrew Lane) falls within an area designated as Countryside.

Policy S3, criterion (i) supports the expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings. Whilst a material start on the previously approved development has occurred, the business is not present and the part of the site to which Policy S3 applies is not intended to contain any new buildings.

Policy S3 of the Local Plan sets out the circumstances in which development will be permitted outside Limits to Development. Policy S3 of the Neighbourhood Plan states *"that land outside the defined Limits to Development will be treated as countryside, where development will be carefully controlled in line with local and national strategic planning policies"*.

The part of the current proposal that falls within the countryside designation is proposed car parking relating to the employment use, with the built development part of the site falling wholly within the area previously granted permission, therefore no buildings (other than the security gate house and substation) would be located within the countryside. The car park area is considered to be ancillary to use and would serve the adjoining land for employment purposes.

The land which is greenfield and that which falls within the countryside is 4.2 hectares, representing 15.7% of the overall 26.74 hectare site. Development Zone 2 where the car park is proposed would extend to approximately 2.58 hectares. The developed part of the greenfield land in the countryside therefore represents 9.6% of the overall site area.

A summary of the areas and percentages is provided below:-

- Total site area - 26.74 hectares
- Brownfield land - 22.54 hectares (84.3% of the total site area)
- Greenfield land - 4.2 hectares (15.7% of the total site area)
- Development on greenfield land - 2.58 hectares (9.6% of the total site area)

The eastern greenfield part of the site would be bound to the east by Corkscrew Lane to the north by the A511, to the south and south west by the Leicester-Burton rail line. To the west it is proposed to be adjoined by employment land and beyond the site to the west, the existing A42 and proposed route of HS2.

As such the greenfield part of the site is bound by existing and proposed infrastructure on all sides and the immediate southern border at Corkscrew Lane, is a physical and visual separation from the countryside beyond. Therefore it is considered that Corkscrew Lane acts as a defensible boundary of the site is considered to be an "infill" element, ancillary to and necessary to serve the wider employment site.

Accordingly, it is considered that there would be limited harm to the environment in this regard and such harm would need to be balanced, against the economic and social benefits of the scheme as a whole and subject to satisfying criteria i - vi of Policy S3 of the Local Plan which will be considered in further detail within the relevant sections of this report. The loss of agricultural land is also considered later in the report.

Policy Ec2 of the Local Plan

As set out above, Policy S3 allows certain types of development including employment land in accordance with Policy Ec2 - New Employment Sites.

Policy Ec2 (subsection (2)) states that:-

"Where evidence indicates an immediate need or demand for additional employment land (B1, B2 and B8) in North West Leicestershire that cannot be met from land allocated in this plan, the Council will consider favourably proposals that meet the identified need in appropriate locations subject to the proposal: (a) Being accessible or will be made accessible by a choice of means of transport, including sustainable transport modes, as a consequence of planning permission being granted for the development; and (b) Having good access to the strategic highway network (M1, M42/A42 and A50) and an acceptable impact on the capacity of that network, including any junctions; and (c) Not being detrimental to the amenities of any nearby residential properties or the wider environment."

A material start on the previously approved development has occurred and the principle of employment use has been established. In terms of applying Policy Ec2, in this particular situation, the extant permission is already included under Policy Ec1 and no additional floorspace to what has already been permitted/included in the District's employment need figures is being proposed as part of this proposal.

Summary of Policies

In summary, the proposal does not necessarily fit naturally under just one of the Local Plan policies - S3, Ec1 or Ec2.

It is not a re-submission of an existing permission, although what is being proposed in terms of

size and scale is similar to what already has permission. The site has in effect, shifted eastwards, due to the proposed route of HS2, and part of the site now lies within an area designated as Countryside, with this part of the site is to be used as car parking which is ancillary to the employment use, previously permitted.

Most of the site affords the benefit of planning permission and designation under Policy Ec1 (a), although the provisions of Policy Ec1 do not strictly apply as the site's consent has not lapsed, but the principle of employment use has already been established.

On the basis that the extant permission has already fed into the District's existing supply of employment sites, the provision here is not considered as 'additional' as set out in Policy Ec2.

The part of the development that lies within the defined Countryside area comprises parking, which is ancillary to the main employment use, is subject to satisfying criteria i - vi of Policy S3 of the Local Plan which will be considered in further detail within the relevant sections of this report.

Need and Demand for Development

The floorspace has already been reduced to up to 70,000 sqm, from the previous approved 78,740 sqm and there has been a reduction in the overall site area by 3.46 hectares.

Any reduction in the developable area or restricting the site area entirely to the previously approved scheme/the Ec1 designation would result in a considerably lower floor area further still, representing a further reduction from the previous approval.

Furthermore the applicant contends that there is strong market demand for Class B8 floorspace in the locality and that there has been a number of firm enquiries from potential occupiers of the scale now envisaged.

An analysis of demand is not considered necessary given that this proposal is not for additional employment land, due to fact that the extant permission already has already fed into the District's existing supply of employment sites.

Employment Benefits

The application is accompanied by an Economic Impact Assessment. This states that the development will provide a major benefit in terms of employment. During the construction phase the information contends that the scheme is expected to support c.200 - 290 workers onsite and that these construction workers are expected to support up to £185,000 of expenditure in the local economy over the construction period. During the operational phase, the report states that the scheme would contribute the following:-

- A direct contribution of 800 - 990 jobs on site;
- An indirect contribution of between 420 and 510 net additional jobs across the District;
- An additional yearly worker expenditure of up to £910,000 in the local area;
- An increase of 5-6% in Gross Value Added (GVA) to North West Leicestershire's annual economic activity
- An increase in yearly tax revenues of between £10-17 million; and
- Up to 2 million paid in yearly business rates (equivalent to 2-3% of North West Leicestershire's total business rates from 2017/18).

The assessment continues that the site lies within the UK's 'golden triangle' for logistics so is exceptionally well located to deliver sustainable economic growth.

Summary - Principle of Development

In summary, for the reasons set out above, it is considered that the release of a small section of greenfield land in this instance is only considered to be acceptable due to the following factors:-

- No buildings would be located within the countryside; built development would be predominantly restricted to the areas identified as previously developed land and falling within the Ec1 designation, with only an area of car parking proposed within the countryside
- Development Zone 2 where the car park is proposed would extend to approximately 2.59 hectares out of the entire site area of 26.74 hectares, representing 9.7% of the site area;
- The greenfield areas would be for the ecological receptor areas, and for car parking, which is ancillary to and necessary to serve the wider development;
- The greenfield land is located to the eastern part of the site where they would be bordered by the defensible boundary of Corkscrew Lane to the east the A511 to the north and the remainder of the site and existing built infrastructure to the south and west; and
- Any reduction in the developable area or restricting the site area entirely to the previously approved scheme/the Ec1 designation would, result in a considerably lower floor area from the previous approval, and have reduced outputs in terms of economic benefits.

Overall, due to the fact that application site in local plan terms, is located part within the countryside and part employment allocation, the scheme falls to be considered against Local Plan Policies, S3, Ec1 Ec2, although none of these policies apply to all parts of the site.

Given the extant planning permission on the substantive part of the site and its inclusion in the district's employment land supply, together with the sites access to the strategic highway network and the identified economic benefits, the principle of development is considered to be acceptable and on balance and for the reasons discussed in this report, it is considered that any potential harm would be limited and would be outweighed by the positive economic and social benefits of the scheme.

Detailed Issues

In addition to the issues of the principle of development, consideration of other issues relevant to the application (and including those addressed within the Environmental Statement) are set out in further detail below. The Environmental Statement considers the environmental effects of the proposed development, both in their own right, and also cumulatively with a number of other developments (with their respective cumulative effects being assessed to a varying degree depending on the nature of the environmental effect type under consideration).

Assessment of Alternatives

Owing to the sites employment allocation and planning history, it was agreed that it was not necessary to consider alternative sites.

Whilst Project Mercia (18/01443/FULM) at Junction 11, Stretton-en-le-Field is not considered to be a potential alternative site, this application was required to consider the in-combination and cumulative effects. Project Mercia was evaluated and was considered to be of a relevant scale and having the potential for concurrent phases. The applicant contends that given the distance between the two sites, Project Mercia is not considered to be within a relevant geographical

boundary and the potential for common receptors with the proposed scheme is considered to be limited to only those relating to traffic and transport. For the reasoning set out above, Project Mercia has been reviewed against the methodology for assessment of in-combination and cumulative effects and found that it would not result in a change to the existing assessment or its outcomes.

Landscape and Visual Impacts

Policy S3 of the Local Plan also sets out a series of criteria for assessing development in the countryside, including impacts on the appearance and character of the landscape. Policy Ec2 of the Local Plan also requires that any employment proposals on land not allocated are not detrimental to the amenities of the wider environment.

Chapter 10 within the Environmental Statement (ES) assesses landscape and visual impacts.

The ES confirms that two distinct landscape character areas, within the study area were identified, each having key characteristics. Landscape Area 1 "Area 1" was identified as the area beyond the urban extent of Ashby, which contains the site and Landscape Area 2 "Area 2" is the area covered by the urban extent of Ashby de la Zouch.

The ES identified five 'sensitive receptors', and a summary of the effects are provided below.

The ES confirms that in order to ensure the worst case scenario for the future environment the 'likely effects' will be considered in winter when all deciduous vegetation and trees have shed their leaves.

Construction Phase

- 1) Landscape character for Area 1 (the area beyond the urban extent of Ashby, including the site) - 'minor adverse'
- 2) Landscape features, specifically established woodland - 'minor adverse'
- 3) Visual receptors: residential - ranging from 'negligible' to 'moderate adverse'
- 4) Visual receptors: users of PRoW - 'negligible' to 'minor adverse'.
- 5) Visual receptors: users of road/rail network - 'negligible' to 'moderate adverse'.

Operational Phase

- 1) Landscape character for Area 1 (the area beyond the urban extent of Ashby, including the site) - 'minor adverse'.
- 2) Landscape features, specifically established woodland - 'negligible'
- 3) Visual receptors: residential - 'minor adverse'.
- 4) Visual receptors: users of PRoW - 'minor adverse'
- 5) Visual receptors: users of road/rail network - 'minor adverse'.

Mitigation

Within the ES mitigation is proposed in the form of a temporary site hording along the perimeter of the site where it abuts Corkscrew Lane. As well as securing the site the ES contends that this this would lessen the adverse landscape character and visual effects for some receptors during the construction phase.

A construction logistics plan, forming part of the CEMP is also proposed to route construction

traffic to the M42 and it is considered that this will help preserve character of the areas associated with the 'A' class roads within the study area for the construction period.

No works are proposed within the northern parcel of land and therefore there will be no changes to the landscape character or visual environment associated with such.

It is considered that the strategic landscape planting will strengthen the landscape character and will soften and partially screen the development from some receptors. In addition to the strategic landscaping, native planting and species-rich wildflower seeding is proposed around the periphery of the development plots to enhance the existing landscape character of the areas reserved for ecology.

In the south eastern corner of the site will be a raised bank planted with native woodland trees. It is considered that these will help soften and partially screen views for certain receptors in the operational phase.

During the course of the application, the Council's Tree Officer raised concerns over how exposed the site appeared from the A511 at the junction with Corkscrew Lane. Amended plans and additional sections have been submitted to incorporate a landscape bund in this corner of the site and changes to the proposed planting scheme to satisfy this. The site also sits lower than Corkscrew Lane, so Corkscrew Lane is in a slightly elevated position. The Council's Tree officer has confirmed that his concerns are resolved and no objection is raised.

The ES explains that the on-plot landscaping within development Zones 1 and 2 will form part of the future reserved matters planning application(s) and that it is likely that this will be designed to partially screen and soften the appearance of the building(s) and hardstandings as far as possible. In time it is suggested that the new landscaping may provide a positive contribution to landscape character and landscape features within the site and Area 1 within the operation phase.

Summary - Landscape and Visual

During the construction phase, officers have identified that of all of the receptors identified, all residual effects were considered to be 'negligible' or 'minor adverse', bar two; the changes to the visual environment from the residential receptors and the users of the road and railway, which were both considered to be 'moderate adverse' effects. There are considered to be no major adverse effects.

During the operational phase in in year 0 (short term) the effects are all classified as 'minor adverse' and by year 15 the changes to landscape features would be 'negligible/ following established planting, with all other receptors being assessed as 'minor adverse'. There are considered to be no major adverse effects.

In terms of the development itself, the site is bound to the east by Corkscrew Lane to the north by the A511, to the south and south west by the Leicester to Burton rail line. To the west it is proposed to be adjoined by employment land and beyond the site to the west, the existing A42 and proposed route of HS2. The development and building(s) would therefore be viewed in conjunction with and against the backdrop of existing infrastructure.

Whilst the site and proposed building(s) are of significant scale, the indicative design of the building(s) and suggested materials, a use of horizontally emphasised metal cladding in graded shades to the elevations of the buildings would help to break up the massing and reduce their

prominence within the landscape against the backdrop of the sky.

Land levels are also higher on Corkscrew Lane and the A511 and the site sits in a natural hollow. This enables to the scale of the building(s) and the overall development to be reduced.

On the basis of the information included within the ES, officers are satisfied that there would be relatively few locations from which the development would have its full scale experienced. The approach to cladding would assist in terms of breaking up the mass of the building(s) and helping it/them to blend into the sky and whilst a significant extent of landscape mitigation is proposed, the scheme would nevertheless have a visual impact upon the landscape. However, this would be reduced and limited overtime as a result of the mitigation, particularly the landscaping methods proposed.

Officers therefore consider that the landscape and visual assessment element of the ES comes to a reasonable assessment as to the likely level of effects.

When the effects are considered as a whole, on balance, they are largely limited to a small number of receptors within the immediate local environment and on this basis the proposal is considered to accord with Policy S3 (i) of the Local Plan.

The relationship between Policies S3 and Ec2 of the Local Plan is set out in more detail earlier in the report (Principle of Development).

Policy Ec2 requires, amongst others, that development for new employment purposes on land not within the site allocated under the policy (and for which an immediate need or demand has been identified) will be subject to a number of criteria, including criterion (c) (i.e. the development not being detrimental to the wider environment).

Policy S3 provides that, should Policy Ec2 be satisfied, a number of other criteria also apply, and including criteria (i), (ii), (iv), (v) and (vi) which are assessed in the relevant sections of this report.

Further, as set out earlier within the report, there is an extant permission and a relatively small expansion of development (Development Zone 2 proposing car parking) into the countryside.

Having regard to the specific criteria impacting upon issues assessed under this section, and to the above findings in respect of landscape and visual impact, it is considered that the key criteria relevant to this part of the assessment would be (i) (safeguarding and enhancement of the appearance and character of the landscape) and (ii) (not undermining the physical and perceived separation and open undeveloped character between nearby settlements).

Given the limited visual impact over and above that of the extant planning permission, and the level of mitigation landscaping it is considered that the character and appearance of the landscape would be safeguarded. In terms of criterion (ii), given the location of the site, and the distances between nearby settlements, it is accepted that there would be no perceived material loss of separation between settlements in the vicinity, and no conflict with this criterion would arise.

Design

This site is located within the National Forest and the need for good design is set out within Policy D1 of the Local Plan, together with the Council's Good Design SPD, Policy S4 of the

Ashby de la Zouch Neighbourhood Plan and relevant sections of the NPPF.

As mentioned within the introduction, the building(s) within Development Zones 1 and parking within Development Zone 2 are in outline, with all matters being reserved for approval at a later stage. Accordingly the layout, design and appearance and landscaping within these areas, are not for consideration within this application.

On this basis it is not possible to undertake a comprehensive design appraisal on the detail of this element of the proposed built development. This said, however, the indicative details and the parameters plans do provide detail on which to base an initial assessment in this regard.

The application is supported by a Design and Access Statement (DAS) explaining the applicant's rationale for the scheme as proposed, and setting out the principal design considerations.

The DAS explains that the proposed development seeks to provide sufficient flexibility to ensure potential occupiers requirements can be accommodated. To ensure this, a parameter approach has been applied to the outline element of this scheme. This sets out clearly defined parameters, to which future development will accord. Two parameter plans have been developed in this case, which encapsulate the schemes concept and which from the 'envelope' in which the specific future design details will need to evolve. The two plans are the 'full parameter plan' and the 'outline parameter plan'.

In terms of the developments proposed layout, the outline parameter plan identifies two development plots (Zones 1 and 2). The siting of these has been based upon (and informed by) the site constraints and potential mitigation. It is explained that Zone 1 would comprise of the B8 land use with ancillary offices (B1a) in the form of either 1 or 2 buildings and that Zone 2 would contain no built form, aside from gatehouse(s) and substation, but would provide parking.

Two illustrative site plans have been provided, one showing a single building and the other, two separate buildings. To respond to the sites topography and to minimise cut and fill, the finished floor level would range between 134.75m and 135.75m

Many of the design elements of the scheme have been informed by the operational requirements of the likely end users, however the key operational criteria for the building has been identified as the haunch height (the clear internal height). The proposed B8 element would have to have a haunch height of 18m and the indicative details illustrate a building height of up to 23 metres.

A summary of the outline proposals is as follows:-

- o Number of Units: ranging from 1 to 2
- o Maximum Floor space: up to 70,000sq.m. GIA
- o Maximum Unit Height: 23 m from FFL
- o Maximum Haunch Height: 18m
- o FFL for Development Plot 1: between 134.75m to 135.75m AOD
- o Finish Carpark Level for Development plot 2: between 135m to 139m AOD
- o Finish HGV Yard Level for Development plot 2: between 137m to 144.5m AOD

The DAS suggests that the window and door frames would be a contrasting colour to the surrounding cladding. A materials pallet has also been provided, which includes 6 shades of blue (gradually graded), which will help minimise and soften the appearance of the building

within the landscape when view against the backdrop of sky. To break the expanse if the warehouse elevations, rows of level access and dock loading doors are proposed. These would be finished in a darker shade of blue, due to their lower level and different profiles and panel finishes are shown which would add interest and relief to the elevations.

In terms of hard landscaping (roads, paths, service areas) the submitted details suggests tarmac/concreate with standard edging materials. Such details will be considered at the relevant reserved matters stage.

In terms of boundary treatments, the types and design of solutions have been primarily been influenced by the security requirements of the proposed use. Primarily the site would be secured by a 2.4 metre high paladin type fence. Whilst this would be a substantial feature, attempts have been made to soften its appearance through finishing it in a green colour and by setting it within the proposed boundary landscaping. This approach to security fencing has also been proposed around the service yards, which would help maintain a consistent visual approach. The operational requirements of the proposed use are considered paramount on this case and the related visual harm would be reduced to a degree by way of the methods outlined above.

In terms of the design of the soft landscaping, it is stated that the choice of species has been informed by the specific soil and ground conditions of the site as well as on the basis of the commonly found species within the area. The proposed infrastructure woodland mix in particular has been selected to strengthen the original site landscape character, with Oak and Lime being dominant and the majority of other species proposed would be native in their origin.

In terms of on plot landscaping, this would be selected on much the same basis as for the structural landscaping and will be considered at the relevant reserved matters stage. To enhance on plot green infrastructure, primarily evergreen species have been proposed, with various flowering specimens interspersed, to add colour. Generally a 2m wider verge would be proposed to perimeter hedgerow, to enhance ecology and a wet wildflower grassland mix has been proposed to the banks of the drainage lagoon.

To mitigate for the loss of large areas of grassland features across the site, large areas of species rich dry grassland comprising a primary feature within the landscaping strategy and additional woodland blocks have been proposed to replace those lost as well as to provide necessary screening for the HGV yard.

The proposed planting is supported by the National Forest Company, the County Ecologist and the Council's Tree Officer.

Summary - Design

Overall in terms of design issues, the intended building(s) finish would add interest to the built development and assist in reducing its massing and softening its appearance within the wider landscape. The proposed soft landscaping, by virtue of its native species mix would be appropriate within its landscape setting, however further consideration need to be given to the hard surfacing materials selected and to the design of the ancillary office elements of the development at the relevant reserved matters stage.

On balance, however and on the basis of the indicative details provided, it would appear that a scheme could be designed at the relevant reserved matters stage(s) that could conform with the Policy D1 of the Local Plan, Policy S4 of the Ashby de la Zouch Neighbourhood Plan and

relevant sections of the NPPF.

Means of Access, Highways and Transportation

The relevant policies of the Local Plan are IF1 and IF4 and the relevant criteria within Policy Ec2, as well as Policies E3, T1, T2 and T4 of the Neighbourhood Plan.

The full application proposes the vehicular access into the site via a new access point off Corkscrew Lane in addition to amendments to the existing Corkscrew Lane carriageway to incorporate a ghost island right turn lane into the site. Access to the northern ecological receptor area would be via the existing site access from the A512.

The submitted documents, including Chapter 6 within the Environmental Statement (ES) and associated Transport Assessment (TA) and Framework Travel Plan (TP) have been assessed by both the County Highway Authority (CHA) and Highways England, and their conclusions are set out in more detail below.

During the course of the application, following concerns raised by the CHA, the applicant has submitted a Highways Technical Design Note, including a Road Safety Audit and confirmation of the potential for a dedicated shuttle bus service and revisions to the TA and TP. Further matters regarding the need to assess the impact of the development on junctions in and around Coalville, are also discussed in further detail below.

Site Access

As set out above, the proposed development which will occupy the main part of the site is to be served by one access from Corkscrew Lane, situated approximately 130 metres to the south of the junction with the A511.

Off-site works also include amendments to the existing Corkscrew Lane carriageway to incorporate a ghost island right turn lane into the site.

Neighbouring letters of objection have referred to HGV traffic taking a short cut along Corkscrew lane to Packington and onto the M42 south of Ashby.

In response, officers have questioned the CHA on this matter, and they have confirmed that there is nothing to stop HGVs accessing the site from Corkscrew Lane (via Packington and New Packington), however the CHA confirmed that it is unlikely that a significant issues would arise given the close proximity of the site to the A511 and the A42. The CHA would consider signage via a corresponding Traffic Regulation Order, only in the future should a problem arise.

In terms of movements from the site along Corkscrew Lane, a traffic island has also been designed into the access junction to remove the ability for HGV vehicles to turn right out of the site onto Corkscrew Lane (although it would be possible for cars to turn right out of the access). The scheme proposes that foul waste be disposed of by way of a cesspit (which is discussed later in this report) and there will be requirement for other waste vehicles to enter the site, in addition to the HGVs. To demonstrate that the site access can be accessed safely and effectively a swept path analysis of a large car and a 16.5 metre long articulated vehicle has been undertaken.

The access has been considered by the CHA who have confirmed that a safe and suitable access can be achieved. Conditions requiring the access, associated vehicular visibility splays

and off-site highway works would be imposed, in the event the application was approved.

Access to the northern ecological receptor area would be via the existing site access from the A512. Access for HS2 Ltd for both construction and maintenance purposes is currently being discussed with the applicant and may be provided via this route, from the A512 and via the road which currently exists under the A511. For the avoidance of doubt no access would exist from the proposed building(s) via this route, under the A511.

Construction Site Access

Initially the construction access would be via the A512 and via the road which currently exists under the A511, until such a time as the access from Corkscrew Lane has been implemented and both accesses available for construction use.

The applicant has agreed to a construction traffic routing agreement which would be secured within the S106 Agreement, ensuring that construction traffic is restricted to the routes as set out above. A construction logistics plan, forming part of the Construction Environmental Management Plan (CEMP) is also proposed to route construction traffic to the M42 and the CEMP confirms that road traffic directional signage will be erected to aid construction traffic.

In response to the neighbouring letters of objection questioning what cleaning facilities would be offered during the period of construction, the submitted CEMP confirms that wheel wash facilities will be in place, located on hard standing sufficiently sized to allow vehicles to carry out one full wheel revolution whilst within the wheel wash area - this is to allow washing of the entire circumference of the tyre.

Parking

The car parking is proposed to be located within Development Zones 2, with HGV parking proposed in both Zones 1 and 2. The scheme proposes up to 600 car parking spaces, including disabled spaces and up to 198 HGV spaces. The scheme also proposes secure cycle facilities for 57 cycle parking spaces and 18 motorcycle spaces.

This part of the proposal is in outline only, therefore the full number of and layout of the parking spaces is indicative only and will be presented as the relevant reserved matters stage.

Site Accessibility

A number of neighbouring letters of objection have referred to errors within, the inadequacy of the TA and TP and statements made within the document regarding cycling and walking being genuine, viable and safe modes of transport.

The TA Assessment incorrectly referenced destinations which could be travelled to within 60 minutes, and the TA has been updated, accordingly. The statements made within the documents relating to the other sustainable modes i.e. by walking, cycling and bus provision are the applicant's assessment and these have been reviewed by the CHA and officers, are set out below:

The TA incorrectly referenced destinations which could be travelled to within 60 minutes, and the TA has been updated, accordingly. The statements made within the documents relating to the other sustainable modes i.e. by walking, cycling and bus provision are the applicant's assessment. These have been reviewed by the CHA and officers as set out below:

Insofar as public transport is concerned, whilst Ashby is well served by buses, officers are of the opinion that the site itself is not currently well served, with the closest pair of bus stops being on Upper Packington Road, located 2.2 km to the west of the site. In terms of pedestrian and cycle connectivity, there is no pedestrian footway which exists along the length of Corkscrew Lane nor the A511. The local highway network provides a pedestrian footway along the northern side of Leicester Road, which terminates to the south of Corkscrew Lane.

The submitted TP identifies that, having regard to the 2011 Census Journey to Work data for North West Leicestershire 74% of people who work in the area travel by car/van as single occupancy journeys, with an additional 4% as passengers.

Whilst it is acknowledged that it is difficult to set targets for the site prior to any recruitment, the accompanying TP suggested a modal shift target of 10% so as to reduce single occupancy car journeys to 64%. The TP also proposes to make a significant modal shift target for passengers in a car (i.e. car sharing) to 20%.

This would equate to 84% of the employees still accessing the site by car, who would therefore not be accessing the site by sustainable modes of travel. However, this needs to be considered in the context of what levels would be likely to be achievable in other comparable locations in the areas considered for the purposes of the employment land need / demand / supply assessment, and a balanced approach needs to be taken to consideration of issues in respect of accessibility and employees' modes of travel.

Following concerns raised by the CHA, in respect of a lack of public transport strategy during the course of the application, the applicant has confirmed that they are prepared to identify the demand and need for a dedicated shuttle bus service or other form of bus provision.

Accordingly, the CHA have confirmed that they raise no objection, subject to the imposition of a planning condition relating to a 'Public Transport Strategy' to reduce the need to travel by single occupancy vehicles and to promote the use of sustainable modes of transport. The condition would allow either an appropriate shuttle bus or service bus solution, providing it met with the requirements of the CHA.

Such measures were also proposed within the previous planning permission ref: 07/01372/FUL through a TP which was secured by a Section 106 Agreement.

In addition to the condition suggested for the Public Transport Strategy (to secure the shuttle bus/service bus solution), the CHA also seeks mitigation as follows:

- o Travel Packs; to inform new employees from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack);
- o Six-month bus passes per employee, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car;
- o A Framework Travel Plan monitoring fee of £11,337.50 for LCC's Travel Plan Monitoring System; and
- o Appointment of a Travel Plan Coordinator.

It is also noted that, for the purposes of meeting the policy test set out in Policy Ec2 of the Local Plan, the requirement is in respect of what sustainable travel choices are *available* for employees. On this basis, it is accepted that, in terms of meeting the requirements of Policy Ec2(2)(a), subject to the imposition of a condition to secure an appropriate shuttle bus or service bus solution, the scheme would therefore provide for an acceptable degree of accessibility by a

sustainable transport mode.

In respect of Policy Ec2 (b) of the Local Plan, which requires the site to have good access to the strategic highway network (M1, M42/A42 and A50) the site is well positioned immediately adjoining the A511 which leads to A42. On this basis, the scheme is in conformity of this element of Policy Ec2 (b) of the Local Plan.

Impact upon the Wider Highway Network

During the construction phase, the ES confirms that all construction traffic are to use the internal access road under the A511, until the new construction of the access road off Corkscrew Lane has been implemented and the anticipated construction traffic would equate to less than 1% increase in daily 24-hour traffic flows, which is described as a 'negligible effect' on the local highway network.

In relation to the operation phase, the ES confirms that the study area for traffic and transport effects, as agreed by Highway England and the CHA is as follows:-

- 1) Proposed Site Access/A511 Ashby Road;
- 2) Corkscrew Lane/A511 Ashby Road; and
- 3) A42 Junction 13/A511 Ashby Road Roundabout Junction.

The ES confirms that the following studies and surveys have been undertaken; traffic surveys on local roads, 'Junctions 9' modelling and LINSIG modelling.

1) Proposed Site Access/A511 Ashby Road

The ES confirms that this junction will operate well below the theoretical capacity during the AM and PM peaks in both the 2020 and 2025 scenarios and as a consequence there will be no driver delay at this junction. The magnitude of change is therefore considered to be 'negligible'.

2) Corkscrew Lane/A511 Ashby Road

The ES states that this junction will operate well below the theoretical capacity during the AM and PM peaks in both the 2020 and 2025 scenarios across all arms.

Whilst the scenarios ran would increase delays in all instances (between 31-56 seconds in 2020 and 41-102 seconds in 2025) the ES confirms that given the low frequency of vehicles along Corkscrew Lane this is not considered to give rise to any large queues or capacity issues and therefore the magnitude of change is therefore considered to be 'negligible'.

Officers have queried whether any alterations would be required at the junction between Corkscrew Lane and the A511 to enable HGVs to turn right out of Corkscrew Lane and onto the A511, with the CHA. The CHA have confirmed that the existing A511 / Corkscrew Lane junction is forecast to operate within capacity for all movements, however should HGVs heading towards Coalville which wish to avoid the right turn movement, they would be able to do so by turning left out of Corkscrew Lane and then going around the Flagstaff Island roundabout. The CHA have confirmed that they raise no objection and that the impact on the junction is not such that improvements could be warranted in connection with the proposals.

3) A42 Junction 13/A511 Ashby Road Roundabout Junction

The ES confirms that in general all junctions will be operating below practical capacity operation, with the exception of two arms that will operate within practical capacity, but that both these same two arms based upon future scenarios without the proposed schemes exhibit similar circumstances.

As such, the ES contends that the vehicle impacts associated with the scheme does not explicitly result in these arms of the junctions operating beyond capacity and as such motorised users of the junction would not be able to determine any degree of comparison to the future baseline, and as such the long-term adverse effect is considered to be 'negligible'.

The ES concludes that even though the A42/A511 junction was found to be over capacity for two of its arms, in the absence of the proposed scheme the same two arms experienced the same outcome (and it is not as a result of the proposed scheme).

Officers have queried this outcome with the CHA who have confirmed that whilst there is an impact, the CHA agrees with the modelling results that this would not be severe.

The ES concludes that in assessing the increased driver delay and congestion of the three key junction in close proximity to the site, taking into account future baselines of 2020 and 2025, and including Arla Dairies and Money Hill, all three junctions were considered to have a 'negligible effect'.

The CHA initially raised an objection to the application on the grounds that the application as submitted, did not fully assess the highway impact of the proposed development on related trips which are predicted along the A511 to and from the direction of Coalville.

The CHA confirmed that the TA needed to be updated to assess this, including detailed capacity assessments of relevant off-site junctions taking into account committed developments and proposal / costing of appropriate measures to mitigate any severe impacts which may be identified from the proposed development. Alternatively, the CHA confirmed that the updates to the TA would not be necessary, subject to the applicant being agreeable to a contribution to the continuation and implementation of improvements to the A511, which are considered necessary to mitigate the impact of the development.

The applicant has confirmed that they are agreeable to make the contribution towards the Coalville Transport Strategy Contribution (as part of the Coalville Growth Area Strategy) of £756,963.58 to mitigate the impacts of the development. Such improvements include the upgrading of lane layouts and junction improvements to improve the flow of traffic between Ashby (A42 Junction 13) to Markfield (Field Head roundabout near junction 22 of the M1).

The CHA have subsequently confirmed that subject to the contribution, the impacts of the development when considered cumulatively with other developments, upon the road network would not be severe.

Policy Ec2 (b) of the Local Plan requires that the proposal has an acceptable impact on the capacity of that network, including any junctions. On the basis of the discussions above, the scheme is in conformity of this element of Policy Ec2 (b) of the Local Plan.

Summary - Means of Access, Highways and Transportation

The previous planning permission ref: 07/01372/FUL confirmed that the proposed development would not be detrimental to highway safety or adversely affect the local highway network.

North West Leicestershire Local Plan Policy Ec2(2) sets out a number of criteria against which proposals for employment development will be considered, including in respect of accessibility by a choice of transport modes, and good access to (and an acceptable impact upon the capacity of) the strategic highway network. Also relevant are Local Plan Policies IF1 and IF4 which seek to ensure the provision of suitable infrastructure (including transportation infrastructure) necessary to accommodate new development.

The site is considered to provide a safe and suitable access and whilst it is considered that the site is not currently well served by public transport, the CHA raise no objections, subject to the imposition of a Public Transport Strategy and other mitigating measures such as a Travel Plan, to be secured by way of a legal agreement.

By virtue of its location close to Junction 13 of the A42, the site would also be well related to the strategic highway network, and it has been demonstrated to the satisfaction of both the CHA and Highways England that the impacts on the operation of the network could be appropriately mitigated. Other impacts in terms of the local highway network are also considered acceptable, subject to the Coalville Transport Strategy Contribution, to be secured by way of a legal agreement.

In summary, it is therefore considered that the proposals meet the requirements of Policies IF1 and IF4 and the relevant criteria within Policy Ec2 of the Local Plan, as well as policies E3 and T2 of the Neighbourhood Plan.

Biodiversity

Policy En1 of the Local Plan and Policy NE4 of the Neighbourhood Plan presumes in favour of development that would conserve, restore or enhance biodiversity, and that proposals that would result in significant harm to a number of protected sites or areas will be refused unless that harm is unavoidable, and can be mitigated or compensated for; similar principles are set out in Chapter 15 (Conserving and enhancing the natural environment) of the NPPF.

Chapter 9 within the Environmental Statement (ES) assesses Biodiversity and the application is accompanied by a Habitat Creation and Maintenance Plan.

The County Ecologist originally raised an objection to the application on the basis of the inadequate habitat surveys and great crested newt mitigation and the impact on biodiversity in terms of loss and gain.

During the course of the application, to address comments raised during the consultation, additional ecological surveys and corresponding reports have also been submitted and various amendments have been made to the ES and the planning application. As per the amended plans there has been a change to the overall habitat areas being retained, created, recreated and lost.

The submitted ES includes a detailed assessment of the ecological implications of the proposed development on various receptors of ecological value, informed by a range of ecological appraisals, surveys and reports. In addition to assessment of the anticipated impacts, mitigation measures are also proposed.

The following receptors of ecological value during the construction phase are discussed:-

- 1) Local Wildlife Site and loss/damage of ecologically valuable habitat;

- 2) Loss of breeding bird habitat;
 - 3) Killing and or injury of protected and/or priority/BAP species;
- and the following matters during the operation phase:-
- 4) Operational lighting; and
 - 5) Operational noise and traffic.

A summary of the residual effects (following mitigation) are provided below:-

Construction Phase

- 1) Local Wildlife Site and Loss/damage of ecologically valuable habitat - 'negligible'
- 2) Loss of breeding bird habitat - 'negligible'.
- 3) Killing and or injury of protected and/or priority/BAP species 'negligible'.

Operational Phase

- 4) Operational Lighting - 'negligible'.
- 5) Operational Noise and Traffic - 'negligible' to 'minor'.

Mitigation

The partial loss of the wildlife site and loss of habitat on site has been considered by and subject to extensive review by the County Ecologist who has confirmed the Biodiversity Impact Calculator shows that there will be a loss of 16.68 biodiversity units (equating to 6.14 hectares) as a result of the proposals.

In respect of mitigation, the ES contends that the scheme would propose 12.48 ha habitat that has been created at a much higher quality than what was previously present, providing 8 ponds and 4 ditches for Great Crested Newt (GCN) use. The species used in the creation of these receptor areas together with those introduced by the landscaping scheme would contribute to a much-increased floral/habitat biodiversity. The hedgerows to be created, together with those to remain total 1704m, which is a greater than 2:1 ratio to what is to be lost and measures have been included to ensure continued local provenance and genetic diversity.

The County Ecologist has confirmed that whilst a shortfall in habitat loss still remains, no objection is raised, subject to a financial contribution to secure off-site mitigation.

Within the previous application ref: 07/01372/FUL the loss of habitat amounted to a loss of 111 biodiversity units and within that application a financial contribution was secured for National Forest Planting of £50,000.

The applicant states that:-

"Given that the 2012 planning permission would result in a far worse impact on biodiversity (-111 units) compared to our current application (-16.68) we propose that an appropriate form of off-site compensation would be a financial contribution of £50,000 towards the National Forest. This obligation was secured through the S106 Agreement for the 2012 permission and it would therefore seem reasonable and proportionate to carry this contribution forward to the new permission."

Overall, whilst the site results in the loss of 16.68 biodiversity units, given that the current planning application results in a betterment of 94.32 biodiversity units, in comparison to the

previous loss of 111 units, the County Ecologist is supportive of the proposal for the £50,000 to be secured elsewhere in the interest of biodiversity.

The ES states that as the site supports a large population of Great Crested Newts (GCN) which are susceptible to killing and injury as a result of construction activities, the GCN will be translocated to the pre-built receptor areas, prior to any construction activities. The ES also proposed additional GCN mitigation measures.

Identified orchid colonies will require an orchid translocation strategy to be prepared in full by the contractor and will be subject to conditional approval. The ES proposes mitigation in the form of a fish rescue strategy to be entered into in the CEMP as a method statement and adhered to through the construction phase. The ES also proposes specific mitigation for bats and badgers during the operational phase.

In addition to the above, a range of biodiversity specific mitigation measures as to be committed to as part of the CEMP, as set out in the Schedule of Mitigation. These will be secured by way of condition.

Summary - Biodiversity

Under Regulation 55 of the Habitat Regulations, activities which would otherwise contravene the strict protection regime offered to European protected species under Regulation 43 can only be permitted where it has been shown that the following three tests have been met: - the activity must be for imperative reasons of overriding public interest or for public health and safety; - there must be no satisfactory alternative; and - the favourable conservation status of the species in question must be maintained.

Case law sets out that Local Planning Authorities must engage with these three tests at the planning application stage and demonstrate that they are satisfied that the three tests have been met prior to granting planning permission. In this case, it is considered that the tests would be met as (i) for the reasons set out under Section 5.1 (Approach to Determination and Principle of Development) above, it is considered that the site needs to be released for the proper operation of the planning system in the public interest; (ii) the works affecting the protected species would be necessary to enable the development to proceed in a logical / efficient manner; and (iii) the proposed mitigation measures would satisfactorily maintain the relevant species' status. It is therefore considered that the proposal would meet the requirements of the Habitats Regulations 2017 in respect of protected species, and would also comply with Local Plan Policy En1.

The scheme has been considered by the County Ecologist who has confirmed that the habitat enhancement and creation required to off-set the loss of habitats on site is now acceptable. The Ecologist confirms that the compensation for the loss of the most important habitats and species-rich grasslands can be achieved within the application site; some habitat and key species can be translocated to the northern receptor area, and some translocation into the new streambanks and other parts of the southern area of the site. The County Ecologist confirms that as a shortfall in habitat loss still remains and this is to be provided through off-site measures, as discussed within the Planning Obligations section of this report.

Overall the County Ecologist has confirmed that she raises no objection to the proposal, subject to a series of conditions to ensure adequate mitigation and protection, including but not limited to a detailed methodology for translocation, habitat management, invertebrate surveys and mitigation plan, Great Crested Newt habitat management, botanical surveys, updated badger survey, filago species survey, and a number of biodiversity specific mitigation measures.

Subject to the imposition of suitably-worded conditions, therefore, the submitted scheme is considered acceptable in ecological terms, meeting the requirements of Local Plan Policy En1 of the Local Plan and Policy NE4 of the Neighbourhood Plan.

Existing Trees

Policy NE5 of the Neighbourhood Plan seeks opportunities to enhance the coverage of trees and hedgerows and the preparation of arboricultural impact assessments to assist the evaluation of development proposals.

Paragraph 170 of the NPPF provides, amongst others, that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, including the economic and other benefits of trees and woodland; Paragraph 175 provides that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient or veteran trees) should be refused. In this case, no ancient or veteran trees are proposed to be lost to the development.

The application is accompanied by a Tree Survey. This identifies that there are no Tree Preservation Orders on the site, that the site does not fall within a Conservation Area and that there is no Ancient Woodland on the site.

The Tree Survey assessed 1 individual tree, 10 groups of trees and 1 hedgerow, which consisted of mostly scattered, self-seeded species such as Birch and Willow (predominantly located within the centre of the site). It was also identified that the site is also host to several broad-leaved wooded areas, surrounded by dense scrub and expanding margins and that these areas had been poorly managed. The survey found 1 individual tree that was unable for retention due to its condition (T1), which should be removed regardless of the development proposals.

To facilitate the proposed development the Tree Survey identified that the removal of 1 group of trees would be necessary (G10) which were classified as low quality (Category C). In addition, the removal of sections of 7 further groups of trees would be required. Of the trees to be removed, 3 were identified as moderate quality (Category B) (G2, G4 and G7) and 4 low quality (Category C) groups of trees (G1, G3, G5 and G9).

The Tree Survey considers the removal of these trees to be necessary on the basis of the proposed development, and states that mitigation will be necessary, by way of additional appropriate planting to replace the loss of amenity value.

Overall, the District Council's Tree Officer raises no objection to the proposal and having regard to the limited amount of harm (in terms of the overall quantum of lost trees in the context of a site of this size and the categorisation of the trees to be lost) and when taking into account the significant amount of new tree planting proposed as part of the landscaping proposals, it is considered that the harm that would arise would not be so significant as to warrant refusal (whether on its own or in combination with other material considerations).

In summary, it is therefore considered that the proposals meet the requirements of Policy NE5 of the Neighbourhood Plan and the advice in the NPPF.

Drainage and Flood Risk

The relevant policies of the Local Plan are Cc2 and Cc3, in addition to Policy S4 (criteria 9 and

10) of the Ashby de la Zouch Neighbourhood Plan.

The application has been accompanied by a Flood Risk Assessment, Flood Risk Addendum; and Flood Risk Modelling Report which have been subject to consultation with Lead Local Flood Authority (LLFA).

Flood Risk and Surface Water

Insofar as fluvial flood risk is concerned, the application site lies within Flood Zone 1 (i.e. low probability of flooding) as defined on the Environment Agency's flood risk mapping and the District Council's Strategic Flood Risk Assessment. As such, there is no requirement to apply the sequential test in this case.

In respect of surface water flood risk, the site is predominantly 'very low' risk, with some patches of 'high' along the line of the existing watercourse.

Surface water run off generated by the proposed development will be conveyed to below ground infrastructure and attenuated on-site before the run outfalls, which will be restricted to the greenfield run-off rates.

All built development is restricted to the parts of the site which have been submitted under the outline planning permission. The design principles of the drainage strategy for the site include the rate of run-off leaving the site being restricted to the rate of 5 l/s/ha (equivalent to greenfield runoff rate, an assessment of the 1 in 100 year storm event, plus 20% climate change will be carried out at the detailed design stage.

The LLFA have reviewed the flood modelling undertaken and have no objections to the information submitted. The LLFA recommend the imposition of conditions, including details of the long-term maintenance of the surface water drainage system.

The Environment Agency (EA) have specifically commented upon the proposed watercourse diversion and have raised no objection, subject to the imposition of a condition.

In relation to potential flooding impacts downstream, as raised by Packington Parish Council, based upon the responses from and subject to the recommended conditions from the LLFA and EA, the proposals will not lead to an increase on flooding downstream of the site.

Subject to the imposition of conditions, the LLFA (and the EA in relation to the watercourse diversion) do not raise no objections to the application, and the development is considered acceptable in this regard. Accordingly, should the application be approved, appropriate conditions would be imposed.

Foul Drainage

Insofar as foul drainage is concerned, the scheme proposes the foul flows will outfall to a sealed tank (cesspool) which will be emptied by tankers and removed from the site.

Proposals that would increase foul drainage discharge from a site would have been subject to a developer contribution under the River Mease Developer Contribution Scheme Second Development Window (DCS2), however, the available capacity under DCS2 has been used up.

The implication of this is that, the Council, in its capacity as competent authority, cannot approve developments in the River Mease SAC catchment area that would increase foul drainage discharge from a site to the mains sewer system, as the Council will be unable to conclude that such development would not result in an adverse impact on the SAC; nor could it decide that any adverse impacts could be properly mitigated. Therefore the only means of

dealing with foul drainage discharge from such proposals would be via the use of a non-mains drainage system.

Suitability of Non-Mains Drainage

Ordinarily an assessment would be undertaken setting out a sequential basis for assessing disposal options, in the following cascade:- foul sewage to public sewer, then package treatment plant, then a septic tank, then a cesspool.

It should be noted that within application ref: 07/01372/FUL a cesspool was the approved foul drainage discharge from the site and a sequential assessment was considered and thoroughly assessed at that time.

As set out above, connection to the public sewer is not feasible due to the issues with the River Mease and a detailed assessment was previously undertaken as part of application ref: 07/01372/FUL to confirm that a Package Treatment Plant would not be feasible.

This would leave a septic tank and a cesspool. The difference between these is that with a septic tank, this partially processes the waste and the contents leach out which has implications on contamination with the surrounding land and watercourse. Accordingly, in this case a cesspool is the most suitable option as it is a contained and sealed tank, which requires removal from the site.

The system is proposed to ensure the longevity and future health of a SSSI until such that pumping of foul sewage out of the River Mease catchment occurs, and as the system will be sealed and so there should be no risk the environment or amenity.

In terms of sustainability, as the cesspool will be constructed alongside the rest of the site it will not result in significant additional construction work. Furthermore journeys made to and from the site by tanker to empty the plant would be limited in the context of the vehicles on site for the operation of the site. Accordingly, this would not make the proposal unsustainable due to the limited additional fuel consumption and CO2 emissions from such tankers in relation to a commercial development of the size proposed.

Given that the site falls within the catchment for Packington sewage treatment work, the use of a non-mains drainage system would be on a temporary basis only (as an interim measure until flows within the mains sewer system are pumped out of the SAC catchment area) which would be secured on a temporary basis through the use of a Section 106 Agreement. The Section 106 Agreement would also require decommissioning of the cesspool at that stage and for the land on which it is located to be reinstated to the reasonable satisfaction of the District Council.

In summary, officers are in agreement that in this case that the cesspool system would be the most suitable for foul drainage of the site. Furthermore, Members are advised that this would only be a temporary solution until pumping out occurs and the use of the cesspool on site is not considered to set a precedent for non-mains drainage on other sites as all such proposals would be assessed on their own merits.

An assessment of the foul drainage in relation to the River Mease, is discussed further in the report, below.

Summary - Drainage and Flood Risk

Overall, whilst it is acknowledged that cesspools are generally not considered to be a suitable

non-mains drainage alternative, in this case given the matters set out above it is considered that a reason for refusal in respect of use of a cesspool under Policies CC2 and CC3 of the Local Plan and the guidance in the NPPG could not be sustained, in this case.

For the reasons set out above, the scheme is in conformity with Policies Cc2 and Cc3 of the Local Plan and Policy S4 of the Ashby de la Zouch Neighbourhood Plan.

Impact on the River Mease Special Area of Conservation (SAC) (including Appropriate Assessment)

Local Plan Policies En1 and En2 set out the relevant requirements in respect of nature conservation and the River Mease SAC, respectively and Policy NE4 of the Ashby de-la Zouch Neighbourhood Plan is supportive of proposals that conserve or enhance the network of important local biodiversity features and habitats, such as hedgerows, tree-lines and water courses, including the River Mease.

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC) / Site of Special Scientific Interest (SSSI). 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 would have a significant effect on the SAC is required.

The application has been accompanied by a Brook Diversion Methodology, a River Mease SAC Report, Phase I and II Environmental Assessments, a Construction Environmental Management Plan (CEMP), a Ground Investigations Factual Report, a Habitats Regulations Land Quality Assessment (HRA LQA); and a Stage 1 and 2 Shadow Habitats Regulation Assessment (HRA) which have been subject to consultation with the Environment Agency (EA), Lead Local Flood Authority (LLFA), Natural England (NE) and the Council's specialist consultant.

As set out within the Principle of Development section above, Paragraph 177 of the NPPF provides that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

Watercourse Diversion

An existing brook crosses the site in a north-westerly direction. The watercourse (brook) traversing the site is a tributary of Gilwiskaw Brook, which is a tributary of the River Mease.

Planning permission to divert the brook was granted as part of application ref: 07/01372/FUL. In order to facilitate the development, the brook is again required to be diverted around the southern perimeter of the site adjacent to the existing railway. This scheme proposes a watercourse diversion is proposed which would be fairly consistent with the route of the existing railway on the site, resulting in a more southern alignment within the site, which would divide development zones 1 and 2. The brook diversion will increase its route by around 1,000 metres.

The route and design of the watercourse diversion through the site has been subject to extensive discussions between the applicant and NE. During the course of the application, to address comments raised during the consultation, various amendments have been made to the ES and the planning application. These largely relate to the realignment of the brook through

the site and have been made as a result of comments and on-going consultation with NE. NE raise no objections to the scheme, requiring a condition to be imposed ensuring the watercourse is undertaken in accordance with the amended details.

The EA have confirmed that as the proposed watercourse diversion is to an 'ordinary' watercourse, therefore consent will be required from the LLFA for the works to be carried out and that they would expect that the necessary measures are put in place (both during and post construction phase) such that the diversion does not cause a pollution risk nor have an adverse effect on the water environment. It is considered that, should the application be approved, an appropriately worded condition would be imposed to secure this.

During the course of the application the applicant has submitted a Land Drainage Consent application to the LLFA and following discussions with the LLFA and EA it was considered that should the application be approved, a condition is recommended to be imposed, requiring a scheme to be submitted, which incorporates the detailed design of the culverts and bed and bank levels.

Planning permission was also granted under the previous consent ref: 07/01372/FUL to divert a part of the brook, which now falls outside of this current application boundary. For the avoidance of doubt, this application is not re-seeking permission to divert the brook in this area, beyond the application site and the applicant intends to divert that part of the brook under the previous consent ref: 07/01372/FUL. It is, however, considered necessary to ensure that the two elements of the diversions can be joined, and should the application be approved, a condition is recommended to secure this connection.

A series of crossing points are shown linking development zone 2 intended as the car park to the east, to development zone 1 where the building(s) would be located. As the application is in outline the number of buildings are not known at this stage and therefore the number of crossings required is subject to change. Accordingly, should the application be approved, a condition is recommended requiring the final number and detail of the crossing(s) is first submitted to and agreed in writing by the Local Planning Authority, in conjunction with the EA, LLFA and NE.

Ground Conditions, Pollution and Controlled Waters

As a result of the formal EIA scoping process, land contamination issues were scoped out of the Environmental Statement. Nevertheless, in commenting on the application, the Environment Agency has had regard to the submitted documentation as set out above.

The site is identified to have previous potentially contaminative uses including a coal crushing plant and associated spoil heaps and colliery spoil.

The Phase I and II Environmental Assessment reports submitted with the current application details a site investigation that was carried out previously between 2006 and 2007 over part of the site and in 2018 over the remainder of the site and ground water sampling was undertaken in 2014.

During the course of the application, at the request of the Council's specialist consultant, additional soil and ground water samples have been collected and analysed, in order to assess the presence of contamination along an area of the site where an existing brook will be diverted.

The EA have reviewed the concentrations of contaminants identified within the soil and

groundwater samples submitted and have confirmed that these were predominantly identified at below the laboratory limits of detection. Of those in the vicinity of the proposed brook diversion, there were some minor exceedances, and these were in relation to non-hazardous metals. Accordingly, the EA is of the view that the exceedances are, in the main, limited to isolated samples, and do not appear widespread and the EA do not consider these minor exceedances to represent a significant risk to controlled waters receptors.

NE have confirmed that following the submission of amended reports, they are satisfied that the amended documents have addressed their previous concerns and that providing all mitigation measures are appropriate secured, that NE concur with the assessment conclusions.

No objections are raised from the Council's Environmental Protection Team (Land Contamination Officer).

The Council's specialist deferred final approval to these matters to the EA and NE, who have confirmed (as set out above) that they raise no objection, subject to the imposition of conditions.

Surface Water Pollution

Surface water run-off from the car park(s) and HGV loading bays would be directed via a bypass separator and full retention separator, prior to attenuation.

Insofar as the applicant's findings are concerned, it is noted that the CEMP is intended to control site drainage and hazardous materials during the construction phase, and incorporating a number of measures relating to water quality such as provision of measures to trap and reduce the transfer of sediment and appropriate storage of any potentially hazardous materials. It is considered that, subject to appropriate monitoring and enforcement by the District Council's Environmental Protection Team, the protections afforded by the CEMP would achieve the aims identified and, as such, secure the mitigation envisaged.

The EA raise no objection subject to the imposition of conditions to secure details in regards petrol and oil interceptors and a condition to treat and remove suspended solids from surface water run-off during construction. Similarly, NE states that appropriate conditions are to be imposed ensuring that any waste water from wheel washing or other contaminated waste water produced during the construction phase must not involve discharge into the River Mease tributary.

Accordingly, should the application be approved, subject to appropriate conditions, including the measures set out within the CEMP, the development is considered acceptable in this regard.

Foul Drainage

As set out above, as the available capacity under DCS2 has been used up, the implication of this is that, the Council, in its capacity as competent authority, cannot approve developments in the SAC catchment area that would increase foul drainage discharge from a site to the mains sewer system, as the Council will be unable to conclude that such development would not result in an adverse impact on the SAC; nor could it decide that any adverse impacts could be properly mitigated.

The scheme proposes the foul flows will outfall to a sealed tank (cesspool) which will be emptied by tankers and removed from the site.

Cesspools need to be emptied regularly, with the effluent being collected by a tanker and taken

to a sewage treatment works. It will need to be ensured that the effluent is taken to a sewage treatment works outside the SAC catchment area by a licensed waste carrier, as the discharge from such treatment works within the catchment area is contributing to the increased phosphate levels within the river.

As required by both the EA and NE, and also in planning terms, the Authority needs to have enforceable control over the collection and treatment of this waste. As an Environmental Permit is not required from the EA for a cesspool and the Building Regulations cannot control this matter, it falls within the remit of the Authority as the competent authority.

Given that none of the Severn Trent Water (STW) treatment works in the SAC catchment area accept foul waste from licensed waste collectors, which STW has confirmed, and advises that this arrangement will continue in perpetuity. The foul waste from the site would therefore not be emptied within the SAC catchment area.

The EA have confirmed that they are satisfied that the temporary use of a cesspit in this instance will enable the development to proceed and have confirmed that the cesspool system should be fitted with a high level alarm/ monitoring system to alert the operator to any failures, adequate signage for a 24 hour emergency contact and a longer term sewer connection should be sought via either an appropriately worded clause within the S106 agreement or via an appropriately worded planning condition.

NE have stated that conditions should be imposed to confirm that no discharges of foul water should be made into the River Mease tributary, foul water must not be discharged into the River Mease catchment and emergency storage capacity is required for use in the event of unexpected delays to collection.

In terms of risk to the water table, rising ground water levels and flooding, as the cesspool system would be sealed, there will be no impacts upon local hydrology, controlled waters or flooding events.

Accordingly, should the application be approved, subject to the imposition of appropriate conditions, neither the EA, or NE have raised an objection to the use of a sealed cesspool solution for the proposed development.

Summary - River Mease (including Appropriate Assessment)

The submitted information has been assessed on the Council's behalf by a specialist consultant, the EA, NE, LLFA and the Council's Land Contamination Officer. Subject to the imposition of appropriate mitigation to be secured by way of planning conditions and obligations within the S106 Agreement, no objections have been raised by statutory consultees.

The EA raise no objection subject to the imposition of the following conditions - a scheme to treat and removed suspended solids, petrol and oil interceptors, any further contamination not previously identified on site, detailed water course diversion plans and securing the foul drainage through the S106 Agreement.

NE notes that the applicant has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). NE is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process. NE confirm that the applicant's appropriate assessment concludes that the applicant is able to ascertain that the proposal will not result in adverse

effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, NE advises that they concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

For the reasons set out in the applicant's Appropriate Assessment document, which the Council adopts, the proposal will, either alone or in combination with other plans or projects, have no adverse effects 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 and would comply with the Habitat Regulations and Local Plan Policies En1 and En2 and Policy NE4 of the Ashby de-la Zouch Neighbourhood Plan.

Coal

Policy En6 of the Local Plan sets out the approach for determining proposals for development on land that is (or is suspected of being) subject to land instability issues or contamination.

The application is accompanied by a Coal Mining Risk Assessment, a Phase I and Phase II Environmental Assessment and Remediation Method Strategy and Environmental Action Plan. The application site falls within the defined Coal Mining Development High Risk Area.

In relation to the part of the site where the detailed layout is sought for approval (i.e. the full element), in considering the nature of the development proposed in these areas, The Coal Authority has no objections to this element of the proposal.

In respect of the outline part of the site, the Coal Authority confirm that the investigation of the highwall of the former surface extraction and shallow workings should be undertaken, as recommended within the accompanying Coal Mining Risk Assessment.

Accordingly, the Coal Authority have raised no objection to the application subject to pre-commencement conditions requiring the undertaking of an appropriate scheme of intrusive site investigations for the highwall of the former surface extraction, and the undertaking of an appropriate scheme of intrusive site investigations for the shallow coal workings. Further conditions have also been suggested; the submission of a report of findings arising from the intrusive site investigations, including the results of any gas monitoring.

Air Quality

Policy D2 of the Local Plan also seeks to ensure that adverse effects of development on residents' amenities is minimised (and including in respect of pollution).

For the avoidance of doubt the site is not located within an Air Quality Management Area (AQMA), and as such Policy EN6 of the Local Plan is not applicable.

Chapter 8 of the ES reports the outcome of the assessment of the likely significant environmental effects arising from the proposed scheme in relation to:-

- 1) Construction Phase - Changes to NO₂, PM₁₀ and PM₂₅ as a result of the construction traffic movements
- 2) Operational Phase - Changes to NO₂, PM₁₀ and PM₂₅ as a result of the operational traffic movements

Seven receptors (at range of locations in the surrounding area, including addresses in Sinope and Coalville) have been used for the purposes of modelling potential impacts.

1) Construction Phase - Changes to NO₂, PM₁₀ and PM_{2.5} as a result of the construction traffic movements

The ES considers the changes to the concentrations of Nitrogen Dioxide (NO₂) and particulate matter (PM₁₀ and PM_{2.5}) as a result of construction traffic along with any operational impacts.

The ES contends that based upon the construction traffic generation this would lead to an increase in concentrations of 1% compared to the baseline scenario, which would lead to a negligible impact. In terms of the effects, although the sensitivity of all existing residential receptors is high, the likely effect at these receptors is considered to be 'negligible'.

During the construction phase the inclusion of dust mitigation measures are proposed, including the transport of dust and dirt from the construction site onto the public road network to ensure impacts will be insignificant. These measures would be encompassed within the Construction Environmental Management Plan (CEMP) which would be secured by way of a planning condition, should the application be approved.

2) Operational Phase - Changes to NO₂, PM₁₀ and PM_{2.5} as a result of the operational traffic movements

The ES considers the changes to concentrations of NO₂, PM₁₀ and PM_{2.5} resultant of operational traffic movements.

In terms of the operational phases, it is noted that the site is located within an area with few residential properties, therefore reducing the potential for significant effect.

In terms of the operational phase, the changes to NO₂, PM₁₀ and PM_{2.5} as a result of the operational traffic movements was assessed on the basis of trip generation of the proposed scheme on local roads, which has been compared to the screening criteria set out in the EPUK/IAQM guidance and on the basis of the average daily traffic movements per day.

The annual average NO₂ concentrations are below the objective at all receptors, with the annual average PM₁₀ and PM_{2.5} concentration well below the relevant criteria at all receptors.

The ES judges the overall operational air quality impacts as negligible, with the likely environmental adverse effects to be 'negligible'.

In regards to mitigation and enhancements, the ES states that the assessment has demonstrated that the proposed scheme would not cause any exceedances of the air quality objectives and that the air quality effect of the proposed scheme would be negligible, therefore there would be no requirement for mitigation (beyond that proposed for the construction phase).

Matters of air quality have been considered by the District Council's Environmental Protection Team and an independent air quality consultant, who has been instructed by the Council, both of whom raise no objections. Therefore there would not be any significant environmental effects in relation to air quality and the proposal is in accordance with Policy D2 of the Local Plan.

During the course of the application, objections have been received from local residents in relation to air quality, including that this area, concentrated around Marks and Spencer food store and envelopes within Ashby-de-la-Zouch are some of the highest in the East Midlands, that the predictive assessments have been decreed "invalid" by DEFRA based on issues with the monitoring site used as part of the assessment. The letters of objection are being reviewed

by an independent air quality consultant commissioned by the Council and a written response will be provided to Members by way of the update sheet.

Impact upon Residential Amenity

Policy D2 of the Local Plan also seeks to ensure that adverse effects of development on residents' amenities is minimised (and including in respect of pollution). Policy EC2 (criterion c) also stated that the proposal should not be detrimental to the amenities of any nearby residential properties. Policy S4 of the Ashby Neighbourhood Plan states that proposals should minimise the impact on general amenity and give careful consideration to noise, odour, light and loss of light to existing properties and light pollution should be minimised wherever possible.

Noise and Vibration

A Noise Impact Assessment is included within the ES and Chapter 7 within the ES sets out the likely significant environmental effects in relation to:-

- 1) Noise from onsite activities; and
- 2) Traffic noise from the local road network.

1) Noise from onsite activities

The likely significant effects in terms of noise during the operation phase were identified as noise from on-site operational activities associated with the proposed land uses including vehicle movements and service yard activities.

Noise from on-site activities was limited to receptors within the immediate vicinity, with the nearest being 'Cornworthy', a residence approximately 250m south of the site and the furthest being residences on Abbotsford Road, approximately 400m to the west.

In relation to noise from onsite activities, the assessments were informed by noise modelling work provided within the Noise Impact Assessment. This assessment was on the basis of the illustrative site layouts, the 'parameter plan' and the 'development applied for in full/detail' plan. The noise assessment was based on the perceived 'worst case scenario' circumstances.

The ES contends that on account of the results of the assessment modelling, in residential receptors, the residual effect is considered to be 'negligible' to 'minor' adverse effects.

In terms of mitigation, the ES confirms that following finalisation of the layout and with full knowledge of the operational activities, further acoustic analysis will be undertaken in support of any reserved matters application(s) and this will inform the exact extent of the noise effects and the requirement for specific mitigation.

2) Traffic noise from the local road network

The likely significant effects in terms of noise during the 'operation' phase were identified as noise from the change in traffic flows on the surrounding local road network.

The following roads were considered in the assessment of noise from traffic on the surrounding local road network: Corkscrew Lane, A511 Ashby Road; A42; Lountside and Nottingham Road.

The ES states that basic noise levels were calculated for three scenarios and in all cases, the

operational traffic associated with the proposed scheme results in no change, or negligible change across all road links. The change in traffic flows on Corkscrew Lane, east of the site entrance in both the short-term and long-term are considered to be small, but as there are no noise-sensitive receptors along its length, has been omitted. On this basis the ES states that the effects are 'negligible'.

The scheme has been considered by the Council's Environmental Protection Team who raise no objections on noise or vibration grounds, subject to the imposition of conditions/mitigation should the application be approved. There are therefore no likely significant environmental effects in relation to noise.

Overall in terms of noise and vibration, therefore, whilst there would clearly be significant amounts of activity on the site both during construction and once the site was operational, the impacts in this regard are considered to be acceptable, subject to the mitigation measures as set out in the ES which, should the application be approved, would be secured by way of planning conditions.

External Lighting

The application is accompanied by an external lighting report, street lighting calculation report and lux level lighting plans.

This supporting documentation explains that the lighting strategy would be fully LED, on the basis that it is more energy efficient and has a reduced light source intensity, which minimises glare. The street lighting lux level plan shows the proposed lighting along Corkscrew Lane and it is stated that the scheme will be designed in accordance with various British Standards and Codes. The report explains that the lighting scheme has been designed to minimise potential light pollution from glare or light spillage.

The lighting scheme has been considered by the District Council's Environmental Protection Team who raise no objections, subject to the imposition of a condition to ensure the external lighting plan is adhered to.

In respect of the outline element of the scheme, it is considered necessary to attach a condition requiring lighting works for each plot, within the Development Zones.

Subject to the imposition of conditions, the lighting proposals would not appear to have any adverse effects in terms of amenity issues, and the approach used would, it is considered, be proportionate to the reasonable requirements of such a facility. On this basis, it is considered that the scheme accords with Policy S2 of the Local Plan and Policy S4 of the Ashby Neighbourhood Plan.

Other Impacts upon Amenity

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, the application site is in close proximity to a limited number existing residential properties, albeit, given the proposed unit(s) scale and surrounding topography and landscaping, they are likely to be visible to a varying extent from residential properties in a number of directions from the site. These existing dwellings would, however, be some distance from the proposed buildings and, whilst the proposed development would clearly be of some scale in terms of height and width when viewed from surrounding land, it is considered that significant impacts on existing dwellings in terms of loss of light / overshadowing or overdominance would seem unlikely (and at any time of year) given the distances involved.

Loss of a view from a dwelling is not a material planning consideration.

Summary - Impacts upon Residential Amenity

In summary, the Council's Environmental Protection Team have raised no objections to the application and subject to the imposition of conditions, it is not considered that the scheme would give rise to any unacceptable impacts with regards to light pollution or noise and disturbance. Therefore, the proposed development is considered to be in accordance with Policy D2 of the Local Plan and Policy S4 of the Ashby Neighbourhood Plan.

Agricultural Land Quality

Policy En6 of the Local Plan provides that development should avoid any unacceptably adverse impact upon soils of high environmental value, and explanatory paragraph 5.26 of the Local Plan provides that *"Whilst policy seeks to facilitate the diversification of the rural economy, there are also benefits to the protection of the best and most versatile agricultural land. Where appropriate we shall seek the use of areas of poorer quality land in preference to that of agricultural land of a higher quality"*.

Paragraph 170 of the NPPF provides that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst others, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the Best and Most Versatile (BMV) agricultural land. Footnote 53 to Paragraph 171 suggests that, where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be used in preference to those of a higher quality. BMV agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification.

In terms of the agricultural land quality of the site, the ES identifies parcel C, which comprises of approximately 4.2ha of Grade 3 (moderate to good quality) agricultural land, which would be lost as a result of the proposal. The other areas of the site are considered to be previously developed land.

Whilst the NPPF does not suggest that release of smaller BMV sites is acceptable, it nevertheless appears reasonable to have regard to the extent of the loss in the decision-making process and the loss of 20 or more hectares is generally considered significant.

The loss of this quantum of higher quality agricultural land would weigh against the proposals in assessing whether the scheme constitutes sustainable development in the overall planning balance, although would also need to be considered in the context of any demonstrated need for the development (and whether it could reasonably be provided on a site not currently in agricultural use (or of a lower grade)). Having regard to the applicant's conclusions in respect of availability of alternative sites and the justification for this specific site, it is considered that there would be no other available and suitable land, of a lesser quality that would meet the requirements of the development. This issue would nevertheless still be considered to weigh against the proposal in terms of the environmental objective of sustainable development, and an irreversible loss of 4.2ha of BMV land would arise as a result of the proposed scheme. The loss would not, however, be considered unacceptable when weighed against all other material considerations.

Historic Environment

Policy He1 of Local Plan sets out the approach to assessing the impact of development on heritage assets; similar principles are set out in Chapter 16 (Conserving and enhancing the historic environment) of the NPPF.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting; Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

The application is accompanied by an Archaeological Desk Based Assessment and Built Heritage Statement.

Impact upon Heritage Assets

There are no World Heritage Sites, Registered Battlefields, Registered Parks and Gardens, Scheduled Monuments or Listed Buildings located within or immediately adjacent to the site.

Within 1km of the site there are seven Listed Buildings, two Scheduled Monuments one Registered Park and Garden and two Conservation Areas. The scheme has been considered by the Council's Conservation Officer who raises no objection to the application.

Archaeology

The western part of the site contains buried remains associated with the former Lounge Coal preparation and disposal point. These are of no archaeological interest and will have removed associated previous archaeological remains within the area. The undeveloped eastern part of the site has been assessed through a geophysical survey which found the parcel of land to be devoid from 'anomalies' suggesting archaeological assets of significance are considered unlikely. The scheme has been assessed by Leicestershire County Council Archaeologists, who raise no objection to the application.

Summary - Historic Environment

In conclusion, the scheme is considered to be in conformity with Policy He1 of the Local Plan and overarching national guidance.

Climate Change

Chapter 11 within the ES assesses climate change.

The ES includes an assessment of the proposed development's implications in respect of climate change, both during the construction phase and once operational and includes two sections, the first assessing climate change mitigation and the second assessing climate change adaptation.

In relation to climate change mitigation, the likely significant effects during the construction and operation phase would be the direct and indirect release of Green House Gas (GHG) emissions and during the operational phase, the risks of the building overheating, affecting the health and well-being of the occupants.

A number of measures have been set out to mitigate the potential impacts of climate change. These measures relate to flood risk, overheating, habitats and species and fresh water supply. During the operational phase, the various primary and tertiary mitigation has been evaluated within the ES, including, a sustainable drainage strategy, the selection of climate-tolerant native planting and specialist temperature foundation design.

Various low carbon renewable technologies are proposed for the build, along with adopting building practices to raise the energy efficiency of the building, including designing the roof to comprise of 15% roof lights, which would both control the amount of natural light and would reduce overheating.

In chapter 11 of the ES and the Design and Access Statement state that the building will achieve a BREEAM 'Excellent' rating as a minimum.

Overall, chapter 11 of the ES has shown that the effects in terms of climate change would not be significant and that appropriate mitigation will reduce GHG emissions throughout the construction and operational phases. Furthermore, appropriate design measures are suggested to be employed to ensure a reduction in overheating risk. Table 11.22 within chapter 11 provides a summary of the effects, receptors, residual effects and a conclusion as to whether the effect would be significant or insignificant and concludes that the identified effects would not be significant.

The conclusions reached within the ES appear to assist in tackling climate change and should the application be approved, a condition would be imposed requiring that the proposal meetings the BREEAM 'Excellent' rating.

Planning Obligations

Paragraph 56 of the NPPF sets 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.

Highways Contributions

Leicestershire County Council (Highways) request:-

- o Coalville Transport Strategy Contribution (as part of the Coalville Growth Area Strategy) of £756,963.58;
- o Travel Packs; to inform new employees from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack);
- o Six-month bus passes per employee, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car;
- o A Framework Travel Plan monitoring fee of £11,337.50 for LCC's Travel Plan Monitoring System; and
- o Appointment of a Travel Plan Coordinator.

In respect of the Coalville Transport Strategy Contribution, LCC Highways confirmed that they have an evidenced understanding of the cumulative effects of development on the highway network within the Coalville Area and that a mitigation package of network improvements known as the Coalville Transport Strategy is planned to safeguard against rates of deterioration and optimise traffic flow, whilst maintaining safety on the A511. The comprehensive package of transport works includes walking, cycling, and bus service improvements, as well as highway link and junction improvements. The Highway Authority therefore advises a contribution to the continuation and implementation of improvements to the A511 is required. The Contribution is based upon the outline area, which measures 14.26 hectares, which when multiplied by £53,083 equates to a contribution of £756,963.58.

Biodiversity Contribution

Leicestershire County Council (Ecology) has confirmed that the scheme would result in the loss of 16.68 biodiversity units.

As set out earlier within the report, within the previous application ref: 07/01372/FUL the loss of habitat amounted to a loss of 111 biodiversity units and within that application a financial contribution was secured for National Forest Planting of £50,000.

The applicant states that:-

"Given that the 2012 planning permission would result in a far worse impact on biodiversity (-111 units) compared to our current application (-16.68) we propose that an appropriate form of off-site compensation would be a financial contribution of £50,000 towards the National Forest. This obligation was secured through the S106 Agreement for the 2012 permission and it would therefore seem reasonable and proportionate to carry this contribution forward to the new permission."

Overall, whilst the site results in the loss of 16.68 biodiversity units, given that the site, results in a betterment of 94.32 biodiversity units, in comparison to the previous loss of 111, the County Ecologist is supportive of the proposal for the £50,000 to be secured elsewhere in the interest of biodiversity. The applicant has indicated that a site where a scheme can be provided on site. Accordingly, it is advised flexibility within the S106 for an, add or arrangement.

On consideration of these requests received in respect of this application it is considered that all of the requests meet the tests and should members be minded to approve this application, the requests would be secured through a Section 106 Agreement.

S106

Accordingly should the application be approved, the S106 would secure the following:-

- o Coalville Transport Strategy Contribution - £756,963.58;
- o Travel Packs - can be supplied by LCC at £52.85 per pack;
- o Six-month bus passes per employee;
- o Framework Travel Plan monitoring fee - £11,337.50;
- o Appointment of a Travel Plan Coordinator;
- o Biodiversity Financial Contribution of £50,000 or a scheme off-site;
- o Construction Traffic Routing Scheme; and
- o Installation and maintenance of the Non-Mains System for foul drainage.

Conditions

This is a "hybrid" application (i.e. part full and part outline).

Full consent is sought for the new road access off Corkscrew Lane, including alterations to the existing road alignment and width, the diversion of the Gilwiskaw Brook tributary through the site with the proposed diversion within the site designed to connect with the realignment of the brook outside of the site (approved under planning permission 07/01372/FUL, structural landscaping in all areas outside of the development plots, attenuation features, earthworks (including development plot plateaus), utilities infrastructure and foul drainage infrastructure.

Outline consent is sought for the Development Plots (comprising Zones 1 and 2) for B8 use class (plus ancillary offices (B1a)) and associated parking infrastructure, servicing areas, internal roads and development plot landscaping.

It is necessary to impose a series of conditions, specifically for each of the full and outline parts of the site. In respect of the outline, the applicant has requested that the submission of the reserved matters is increased from the standard three years to five years, as it is intended that the floorspace could be delivered either as a single building or in multiple phases (with several occupiers) and if the latter, it would be necessary to prepare and submit more than one reserved matters application.

Further, the applicant states that the site is subject to a specific sequence of enabling works which need to be completed - translocation of Great Crested Newts, diversion of the brook, access road construction, earthworks and strategic landscaping, before the site is able to accommodate built floorspace.

Officers are of the opinion that whilst the enabling works are the subject of full planning permission so can commence immediately, it is likely that any occupier's interest is reliant upon planning permission being granted and tangible progress being made on these substantial enabling works. On this basis it is reasonable to allow additional time and flexibility for occupiers to formulate detailed proposals and submit reserved matters application(s).

Conclusion

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.

In summary, the proposal does not necessarily fit naturally under just one of the policies - S3, Ec1 or Ec2. Most of the site affords the benefit of planning permission and designation under Policy Ec1 (a), although the provisions of Policy Ec1 do not strictly apply as the site's consent has not lapsed.

It is not a re-submission of an existing permission, although what is being proposed in terms of size and scale is similar to what already has permission.

On the basis that the extant permission has already fed into the District's existing supply of employment sites, the provision here is not considered as 'additional' as set out in Policy Ec2. On account of the above, on balance the proposal is not therefore considered contrary to Policies Ec2 of the Local Plan.

The part of the development that lies within the defined Countryside area occupies a smaller

portion of the site, and proposes car parking, ancillary to the main employment use and in which there would be no buildings proposed. This part is considered a natural and logical extension to the employment site, with Corkscrew Lane acting as a defensible boundary with the countryside beyond.

In addition to the need to determine the application in accordance with the development plan, regard also needs to be had to other material considerations (and which would include the requirements of other policies, such as those set out within the National Planning Policy Framework). As set out above, the NPPF contains a presumption in favour of sustainable development. Having regard to the three objectives of sustainable development, it is concluded as follows:

o Economic Objective:

The application documents suggest that this proposal would create around 880-990 FTE direct jobs and 420 to 510 additional indirect jobs.

o Social Objective:

The economic benefits associated with the proposed development would, by virtue of the jobs created, also be expected to provide some social benefits. The NPPF refers to the need to foster a well-designed and safe built environment; the scheme is considered to be acceptable in terms of its design, and would provide for a safe form of development.

o Environmental Objective:

The majority of the site is identified within the Local Plan as "Employment Provision: Permission" under Policy Ec1(a), with the exception of the eastern most parcel of the site which adjoins Corkscrew Lane, which falls the outside Limits to Development and within an area of countryside.

The application is accompanied by an Environmental Statement which assesses the impacts of the development and, whilst there would be landscape and visual effects, the view is taken that, overall the proposed development (and mitigation) would ensure that the environmental impacts would be acceptable.

The application is accompanied by an Appropriate Assessment document under the Habitats Regulations which the council adopts. With appropriate mitigation, there will be no adverse effect on protected habitats. So far as protected species are concerned, the Council is satisfied that the appropriate licenses are likely to be granted.

It is considered that the site is not currently well served by public transport. As such, a significant proportion of employees and other users of the site would be expected to access it by the private car. A Public Transport Strategy is proposed to be imposed by way of a planning condition, to provide transport choice for staff, and it is considered that this will be an important contributor to modal shift.

The scheme would also, it is considered, perform relatively well in terms of other aspects of the environmental objective, and including in respect of its associated biodiversity enhancements and mitigating and adapting to climate change, and with the majority of the site being brownfield.

Having regard to the three dimensions of sustainable development, therefore, and having

regard to the conclusions in respect of various technical issues set out within this report, it is accepted that the contribution to the economic growth associated with the proposed development, would ensure that the scheme satisfied the economic and social dimensions.

Insofar as the environmental role is concerned, whilst the proposed development would have some landscape and visual impacts, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and will provide for a sustainable travel choice for employees and, as such, (and notwithstanding its location) has the potential to perform reasonably well in terms of need to travel and the movement towards a low carbon economy, subject to the provision of the measures proposed.

It is therefore concluded that the proposed development would comply with the provisions of the development plan as a whole, and would benefit from the presumption in favour of sustainable development. Overall, there are no material considerations which indicate the determination of this application other than in accordance with the development plan.

Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions and S106 Agreement.

RECOMMENDATION- PERMIT, subject to Section 106 Obligations, and subject to the following conditions

Full

1. Time (3 years)
2. Plans
3. Earthworks and levels
4. Landscaping plans
5. Landscape management plan
6. External lighting
7. Noise
8. Compliance with Construction Environmental Management Plan
9. Construction hours
10. Ecology
11. Highways Works
12. Drainage, Surface Water, Brook Diversion and Crossings
13. ES and HRA mitigation (where not covered elsewhere)

Outline

1. Time period for submission of the reserved matters application (5 years)
2. Reserved Matters to follow
3. Reserved Matters in accordance with parameter plan
4. Reserved Matters to include substation and gas governor
5. Restrict Floor Space
6. Landscape management plan
7. Levels
8. External Lighting
9. Coal investigations
10. No build zones
11. Unidentified contamination during construction
12. Noise Impact Assessment for each plot

13. Construction Environmental Management Plan
14. Hours of Construction
15. Internal access road
16. Parking
17. Amended Travel Plan
18. Public Transport Strategy
19. Drainage and Surface Water
20. BREEAM
21. Limitation on use