

**Demolition of existing structures and the erection of new building to accommodate up to 78,967sqm of storage and distribution (Use Class B8) and ancillary office (Use Class B1) floorspace, with associated infrastructure including access, parking, servicing and landscaping (outline - all matters other than part access reserved)**

**Land At Netherfields Lane Sawley DE72 2HP**

**Report Item No  
A1**

**Application Reference  
20/00316/OUTM**

**Grid Reference (E) 446684  
Grid Reference (N) 329935**

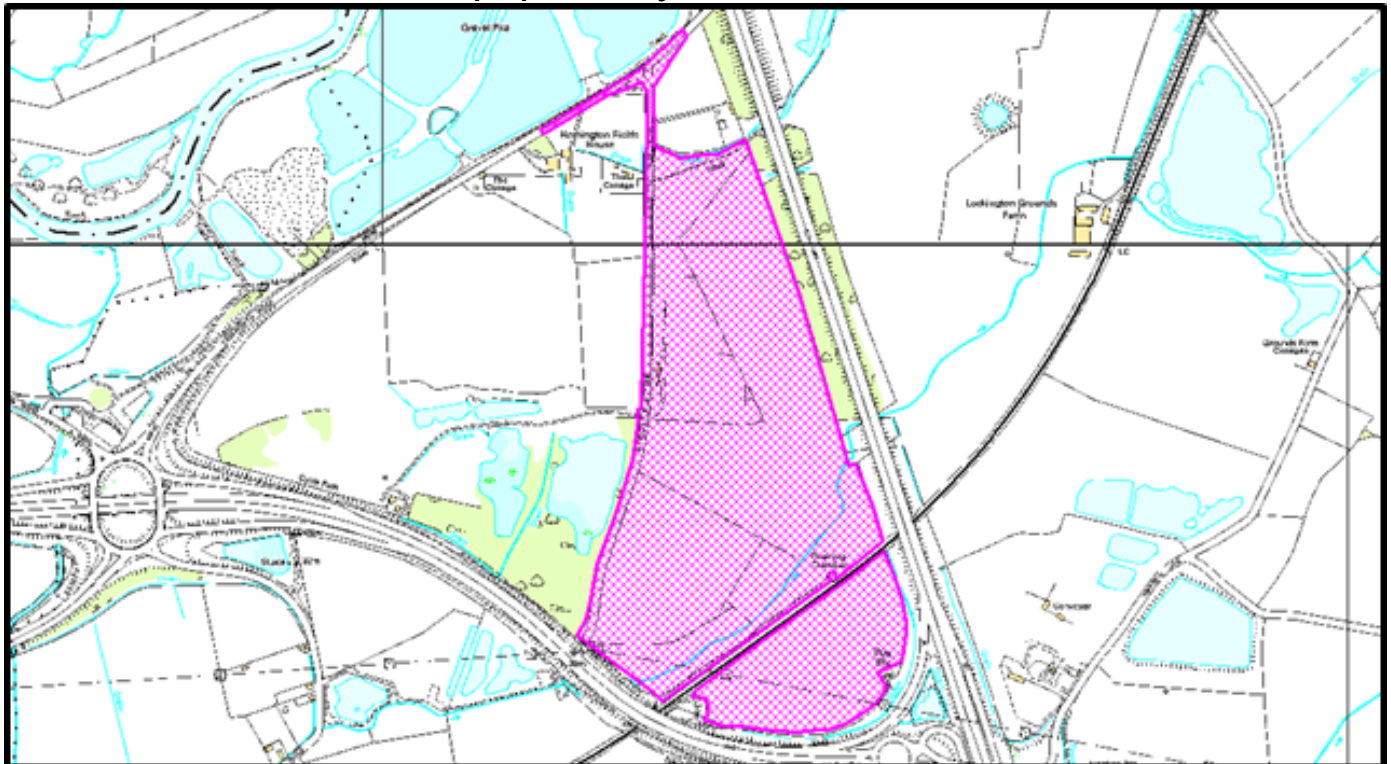
**Date Registered:  
19 February 2020  
Consultation Expiry:  
5 May 2021  
8 Week Date:  
20 May 2020  
Extension of Time:  
31 March 2021**

**Applicant:  
Newlands Developments Limited**

**Case Officer:  
James Knightley**

**Recommendation:  
PERMIT subject to S106 Agreement**

#### Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office  
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329)

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

### **Proposal**

This is an outline application which, following amendment, seeks planning permission for the erection of units for storage or distribution use (within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), together with ancillary office use and other associated development. All matters are reserved save for the proposed means of vehicular access to the site from Tamworth Road and Netherfields Lane.

The application is accompanied by a parameters plan and an illustrative masterplan showing a total of 7 units of floorspace ranging between 7,990sqm and 13,552sqm located within the northern part of the site.

### **Consultations**

Members will see from the main report below that one third party objection (and two in support) have been received in respect of the proposals. Concerns in respect of the proposals given its location and the level of need or demand for the scheme have been raised by Lockington cum Hemington Parish Council.

### **Planning Policy**

A number of National and development plan policies are applicable to these proposals. Of particular relevance is the application site's location outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. However, Policies S3 and Ec2 allow for provision of employment development outside Limits to Development where certain criteria are met.

### **Conclusion**

The report below indicates that, whilst the site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, on the basis of independent expert advice provided to the Local Planning Authority, there is evidence to demonstrate that there is an immediate need or demand for the proposed development and, as such, the in-principle element of Policy Ec2 is considered to be met, and the principle of the development is therefore considered acceptable in land use terms. Whilst a number of issues have been raised by statutory consultees and third parties regarding the proposed development, the application is accompanied by an Environmental Statement which indicates that, subject to appropriate mitigation, these issues or other adverse environmental impacts arising from the proposed development would not indicate a conflict with the development plan as a whole, nor that planning permission ought to be refused.

### **RECOMMENDATION:-**

#### **PERMIT, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO CONDITIONS**

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

## MAIN REPORT

### Proposals and Background

This is an outline application, accompanied by an Environmental Statement (including addendum) which, following amendment, seeks planning permission on a site of 51.74ha for the erection of units for storage or distribution use (within Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended)), together with ancillary office use and other associated development. A total of 78,967sqm of floorspace is proposed, located within an area of built development of 17.34ha. The majority of the site is currently unused / scrub, and a section is occupied by a shooting club. The application site is bounded by a number of other uses including residential and employment uses (including the recently erected Aldi storage and distribution centre), together with transport routes (including the M1 motorway, the A50 dual carriageway and railway land).

The site has some planning history; this includes various planning permissions issued by Leicestershire County Council in respect of mineral extraction (including County Council permission ref. 97/0036/7, granted in April 1998 together with various subsequent variation of condition permissions). Prior to this, it is understood that the site included a sand and gravel pit worked from around 1969, and filled prior to 1982. In January 2015, planning permission was granted for a solar farm (14/00488/FULM) (and, again, with a subsequent variation of condition permission, 15/00745/VCUM); in October 2018, the Local Planning Authority received notification of an intention to commence that development, but to date the scheme has not been built out.

The application site also includes the existing route of Netherfields Lane, an existing road which runs for approximately 1.2km from its junction with Tamworth Road (B6540) to the embankment of the A50 dual carriageway. Netherfields Lane is primarily single track in terms of width (partly due to vegetation encroachment given its limited vehicular use). A vehicle control system (rising barrier) at the northern end of Netherfields Lane currently restricts vehicular use along the majority of its route.

All matters are reserved save for the proposed means of vehicular access to the site from Tamworth Road and Netherfields Lane; all other "access" matters (i.e. including any other non-vehicular access into the site, together with proposed vehicular and non-vehicular routes through the site itself) are reserved for subsequent approval. The proposed access details include a slight realignment of the existing Tamworth Road junction, and its signalisation; a new toucan crossing (i.e. a crossing accommodating both pedestrians and cyclists) and bus stops are also proposed to Tamworth Road.

All other matters (i.e. appearance, landscaping, layout and scale) would also be reserved. However, the application is accompanied by a parameters plan and an illustrative masterplan showing the proposed units located within the northern part of the site, either side of a 15m easement formed by the Derwent Valley Aqueduct (part of the water distribution network) which passes under the site. The illustrative masterplan shows a total of 7 units, ranging from between 7,990sqm and 13,552sqm in terms of floorspace. Whilst the maximum height of the proposed units is not defined on the submitted plans, the application documents (and the submitted) Environmental Statement are based on an assumed maximum height of 19 metres. Land to the southern part of the application site (and including that section of it to the south of the railway crossing the site) would not be the subject of any built development, instead being used for biodiversity / habitat purposes and providing for flood mitigation.

## 2. Publicity

12 Neighbours have been notified.

Site Notice displayed 6 March 2020.

Press Notice published Derby Evening Telegraph 4 March 2020.

## 3. Summary of Consultations and Representations Received

**Environment Agency** has no objections subject to conditions

**East Midlands Airport** has no objections subject to conditions

**Erewash Borough Council** - no comments received

**Highways England** has no objections subject to conditions

**Leicestershire County Council Archaeologist** has no objections subject to conditions

**Leicestershire County Council Ecologist** has no objections

**Leicestershire County Council Emergency Management** - no comments received

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

**Leicestershire County Council Local Highway Authority** has no objections subject to conditions and Section 106 obligations

**Leicestershire County Council Mineral Planning Authority** has no objections

**Leicestershire County Council Rights of Way Officer** - no comments received

**Leicestershire Fire and Rescue** - no comments received

**Leicestershire Police** makes a number of recommendations in respect of reducing the opportunities for crime

**LLR Prepared** (the Local Resilience Forum for Leicester, Leicestershire and Rutland) - no comments received

**Lockington cum Hemington Parish Council** makes the following comments:

- Site lies outside Limits to Development in the Local Plan (and is also within the Trent Valley Washlands National Character Area (landscape character))
- Policies S3 and Ec2 set out the circumstances within which employment development may be permitted outside Limits to Development
- Do not accept there is necessarily an immediate need or demand for the development but acknowledge the findings of the G L Hearn assessment undertaken on behalf of the District Council
- Proposals are unlikely to result in material visual impacts on Lockington and Hemington,

will be mitigated to some extent by the adjacent Aldi unit, and will help address existing fly tipping and antisocial behaviour

- Current ecological status of the site will deteriorate further if the land is not attended and existing anti-social behaviour continues and, as such, there would be community and residential benefits arising from the scheme
- Proposals unlikely to impact adversely upon historic nature and character of the area
- Highly unlikely that there is an immediate need or demand for both this development and the proposed St Modwen scheme adjacent to the A50
- If it should be the case that only one of the developments was required to meet any perceived immediate need by the District Council, this application would be supported in preference to the St Modwen scheme having regard to:
  - (a) Less impact on the appearance and character of the landscape, historic character and local distinctiveness
  - (b) Physical and perceived separation issues and ribbon development would be avoided
  - (c) It would not be detrimental to the amenities of any nearby residential properties or the wider environment
  - (d) Lower risk to the Parish from flooding, traffic, noise, light pollution and air quality

**National Grid** - no comments received

**Natural England** has no objections subject to conditions and / or Section 106 obligations

**Network Rail** has no observations

**North West Leicestershire District Council Environmental Protection** has no objections subject to conditions

**Severn Trent Water** - no comments received

### **Third Party representations**

One representation has been received, objecting on the following flood risk grounds:

- Site is located within Flood Zone 3 (high probability) and functional floodplain (Zone 3b)
- The applicant has sought to redefine flood zones at and in the vicinity of the site by amending the Environment Agency hydraulic model to include a number of new components, including recently built development and works under construction - such development should not be included in undefended flood zone modelling
- Sequential test has been based on the existing Environment Agency flood map zones
- Large areas of land surrounding the site are at lower risk of flooding and therefore the sequential test cannot be passed
- Even if sequentially preferable sites are not available elsewhere, application fails to demonstrate that flood risk will not increase elsewhere, contrary to the NPPF
- No assessment of flood risk to neighbouring dwelling or surrounding infrastructure
- Potential issues surrounding blockages of proposed culvert allowing floodwater access to floodplain storage areas
- Proposed development could impede flood flow across the site
- Increased flood risk to Hemington Brook
- Further details of proposed SuDS measures required
- May be difficult to provide SuDS features without reducing floodplain storage or affecting system performance (or underground tanks, given the permeable ground and high water table)

One representation has been received, supporting the application on the following grounds:

- Scheme would address existing fly-tipping and use of scramblers
- Limited number of residents affected
- No increased impacts on residents than from existing Aldi scheme
- Aldi needs supporting industries around it
- Increased employment opportunities

Representations have also been received from the site's owner, supporting the application on the following grounds:

- Netherfields Lane has a reputation for fly-tipping, and has continued despite measures recently implemented by Aldi
- Netherfields Lane also has issues with unauthorised access / trespass and antisocial behaviour (including scrambler motorcycles, graffiti, dumping of waste and theft from the shooting club)
- Existing tenants (shooting club) may be unable to continue with their current lease due to economic viability - if they vacate the site existing issues will be exacerbated
- Site previously had planning permission for use as part of a solar farm, but is no longer economically viable due to removal of Government subsidies for solar power
- Aldi chose to locate in the area due to excellent road, rail and air transport infrastructure, and other developers are attracted to this site for the same reasons
- No impacts on local villages or areas of beauty
- Scheme would provide a 17% improvement in biodiversity and local employment

A representation has been received on behalf of Aldi (the operator of the adjacent unit to the west) requesting that, in order to prevent fly-tipping, any planning permission granted for the development provide for the reinstallation of the automated vehicle barrier further down Netherfields Lane, and that the existing staggered barrier at the southern end of Netherfields Lane be retained.

All responses from statutory consultees and third parties are available to view in full on the Council's website.

## **4. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework 2019*

The following sections of the National Planning Policy Framework (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 86, 87 and 89 (Ensuring the vitality of town centres)  
Paragraphs 91, 92 and 98 (Promoting healthy and safe communities)  
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, 158, 163 and 165 (Meeting the challenge of climate change, flooding and coastal change)

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

Paragraphs 189, 190, 192, 193, 194, 195, 196, 197, 198 and 199 (Conserving and enhancing the historic environment)

Paragraph 206 (Facilitating the sustainable use of minerals)

Further advice is provided within the MHCLG's Planning Practice Guidance.

### **Adopted North West Leicestershire Local Plan (2021)**

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S1 - Future housing and economic development needs

Policy S3 - Countryside

Policy D1 - Design of new development

Policy D2 - Amenity

Policy Ec2 - New Employment sites

Policy Ec5 - East Midlands Airport: Safeguarding

Policy IF1 - Development and Infrastructure

Policy IF4 - Transport Infrastructure and new development

Policy IF7 - Parking provision and new development

Policy En1 - Nature Conservation

Policy En6 - Land and Air Quality

Policy He1 - Conservation and enhancement of North West Leicestershire's historic environment

Policy Cc2 - Flood Risk

Policy Cc3 - Sustainable Drainage Systems

### **Other Policies / 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)

Leicestershire Minerals and Waste Local Plan (Leicestershire County Council)

ODPM Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System)

## **5. Assessment**

### **Approach to Determination and Principle of Development**

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

Paragraph 11 of the NPPF provides 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) i include Sites of Special Scientific Interest (SSSIs).

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 (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 is up-to-date.

In terms of the site's status within the adopted North West Leicestershire Local Plan, it is noted that the site lies outside Limits to Development, and is not identified for this purpose (or any other specific use) within the adopted Plan.

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; insofar as employment development is concerned: the *principle* of such uses is allowed for (under Policy S3(s)) where it would comply with Policy Ec2.

Policy Ec2 (subsection (2)) provides 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."*

As such, in order to comply with the *principle* of development requirements of Policy S3, it would be necessary to demonstrate that there was an immediate need or demand for additional employment land within the District that could not otherwise be met by allocated sites (and, if that could be shown, that the criteria in (a), (b) and (c) above would also be met).



A detailed officer assessment of the position in respect of the need or demand for the proposals is set out in the separate Planning Policy consultation response (and subsequent update) attached as appendices to this main report (and forming part of it).

The illustrative proposals indicate a mix of both strategic scale (defined as units of 9,000sqm and above) and non-strategic scale (units of less than 9,000sqm) warehousing. The Planning Policy consultation assessment identifies that there is a small numerical shortfall in the overall supply of B class employment land (excluding strategic B8) when assessed against the findings of the Leicester and Leicestershire Housing and Economic Development Need Assessment (HEDNA); this application, if approved, would result in this overall need being met (and exceeded to a degree). As set out in the assessment, the supply of strategic warehousing has already surpassed the need to 2031 identified in the Leicester and Leicestershire Strategic Distribution Study and, as such, approving this application would see it exceeded further. Nevertheless, it is acknowledged that the requirements set out in the HEDNA and the Strategic Distribution Study are *minimum* figures.

A new study of the strategic distribution sector in Leicester and Leicestershire entitled "*Warehousing and Logistics in Leicester and Leicestershire: Managing growth and change (April 2021)*" was published in May 2021. This latest study affirms that there is a continuing need for additional strategic distribution land/floorspace in Leicester and Leicestershire to 2041 and to that extent lends support to the application. The latest study does not however decide how much of this need should be met in North West Leicestershire, nor at which sites. Whilst it is not unreasonable to expect that there will be some additional provision in North West Leicestershire, it would be a matter for joint-working with the Leicester and Leicestershire authorities to agree how the need should be distributed across the county and then for the Local Plan Review to determine how any requirement was met in North West Leicestershire as part of a plan-led system approach. At this stage, the need the latest study identifies is not specific to North West Leicestershire, nor indeed to the application site.

As set out in more detail in the attached report and in the policy wording above, Policy Ec2 is quite clear that there has to be an "immediate need or demand" for the proposed development; it is therefore necessary to only demonstrate one of need *or* demand, not both. On the basis of independent expert consult advice provided to the District Council's Planning Policy and Land Charges team, it is accepted that there is an identifiable, current demand for the medium sized strategic warehousing units which the application proposes to target and, as such, the immediate demand test in Policy Ec2(2) is considered to be met.

The proposals are therefore considered to meet this element of Policy Ec2(2); consideration of the scheme's performance against the subsequent criteria (a), (b) and (c) within Ec2(2) is in effect addressed under Detailed Issues below.

Should Policy Ec2 be satisfied (and, hence, the *principle* of development element of Policy S3 be satisfied), it will also then be necessary to consider the proposals' compliance with criteria (i) to (vi) within Policy S3. Of particular relevance to this application are considered to be criteria (i), (ii), (iv) and (vi), as follows:

"(i) *the appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern, rivers, watercourses, field patterns, industrial heritage and local distinctiveness is safeguarded and enhanced. Decisions in respect of impact on landscape character and appearance will be informed by the Leicester, Leicestershire and Rutland Historic Landscape Characterisation Study, National Character Areas and any subsequent pieces of evidence; and*

- (ii) *it does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open undeveloped character between nearby settlements either through contiguous extensions to existing settlements or through development on isolated sites on land divorced from settlement boundaries; and...*
- ...(iv) *built development is well integrated with existing development and existing buildings, including the re-use of existing buildings, where appropriate; and...*
- ...(vi) *The proposed development is accessible, or will be made accessible, by a range of sustainable transport."*

As per Policy Ec2 above, these issues are considered where applicable under Detailed Issues below.

#### *Other Matters Relating to the Principle of Development*

It is noted that the NPPF contains encouragement for the effective use of land, and in particular by maximising use of previously-developed sites (Paragraph 117). The application documents (including the Planning Statement and Sequential test Addendum) indicate that, given the site's previous mineral use, it constitutes "previously used" or previously-developed land. Given that the site appears to have been restored (and as set out in supporting minerals information) and the current appearance of the site, it is considered that the site would not represent previously-developed land. As such, development of this site would not sit particularly well with the approach set out in Paragraph 117. However, having regard to the particular nature and scale of the proposals (and the likely ability to provide an alternative site capable of delivering this form of development which was not previously-developed), it is accepted that the scheme would not be unacceptable in this regard.

#### *Conclusions in respect of the Principle of Development*

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

The site lies outside Limits to Development and, unless the scheme can be shown to comply with one of the development types specified under Policy S3, there would be an in-principle conflict with this development plan policy designed to protect the countryside from inappropriate development. On the basis of the conclusions above in respect of the compliance with Policy Ec2, however, the view is taken that the proposals would meet the test of there being an immediate need or demand for the development and, subject to the associated criteria under Ec2(2) (a), (b) and (c) also being met, the scheme would comply with Policy Ec2 (and, hence, with the in-principle element of Policy S3(s)).

#### **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) is set out in more detail below. The Environmental Statement considers the environmental effects of the proposed development, both in their own right, and also cumulatively with the adjacent Aldi development.

### Socio-Economic Issues

The Environmental Statement includes an assessment of the proposals' potential economic impacts in terms of both the construction and operational phases.

In terms of construction-related impacts, the Environmental Statement indicates that the proposed development would involve a construction cost of approximately £230 million, and that, over the anticipated construction period (two years), construction of the proposed development would provide 1,955 full time equivalent (FTE) construction jobs (i.e. 978 per annum); an estimated 49.2% of these would be skilled trades, 10.6% would be managers, directors and senior officials, and 9.0% would be professional occupations.

Insofar as the operational phase is concerned, 1,109 FTE posts are expected to be generated by the development, and as per the anticipated breakdown below:

Process, plant and machine operatives	273
Elementary occupations	175
Professional occupations	154
Administrative and secretarial occupations	128
Associate professional and technical occupations	118
Managers, directors and senior officials	118
Skilled trades occupations	58
Sales and customer service occupations	57
Caring, leisure and other service occupations	28

In terms of the effects of these jobs (assessed in respect of their significance), the Environmental Statement indicates that the employment and labour force effects would be "major positive" for Lockington-Hemington, "major positive" for North West Leicestershire, and "negligible positive" for the LEP area (i.e. Leicester and Leicestershire). The economic productivity effects are assessed as "major positive" for Lockington-Hemington, "major positive" for North West Leicestershire, and "minor positive" for the LEP area. Employment floorspace effects are assessed as "major positive" for all three levels of area.

The Environmental Statement also assesses business rate income effects, and identifies these as major positive for the Lockington-Hemington and North West Leicestershire areas, identifying a figure of £1.5m.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that, in dealing with an application for planning permission, a Local Planning Authority shall have regard to any local finance considerations, so far as material to the application. Section 70(4) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown. The MHCLG's Planning Practice Guidance indicates that whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms, and states that it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body. It also provides that, in deciding an application for planning permission or appeal where a local financial consideration is material, decision takers need to ensure that the reasons supporting the decision clearly state how the consideration has been taken into account and its connection to the development.

Business rates are collected by the District Council and, under current legislative requirements, 50% of these rates collected is passed to central government. Central government then uses

these payments, along with others, to provide grants / financial assistance to local authorities, but a Minister of the Crown does not return these payments to local authorities in the form of business rates. As such, the authority is not receiving financial assistance by a Minister of the Crown and, whilst attention is drawn by the applicant to the business rates generated (and notwithstanding the Planning Practice Guidance advice on the weight that could be attracted to such a consideration in the event it was material), it is considered that the business rates generated would not constitute a local finance consideration under Section 70(4). As such, the business rates generated would not be a material consideration to which regard would need to be had under Section 70(2) in the determination of this planning application.

Insofar as the Environmental Statement's assessment of the environmental effects in respect of socio-economic issues are concerned, the Environmental Statement identifies these as positive and, hence, no mitigation is required. However, the Environmental Statement also identifies additional enhancement measures intended to maximise the socio-economic benefits likely to be generated by the proposed development, and including:

- Developing mechanisms and undertakings to work with the local supply chain in both the construction and operational stages of the development;
- Measures to help in the training of unemployed residents in the local area and those seeking to enter the job market; and
- Measures to assist in addressing skills shortages in the logistics sector, ranging from early-start initiatives aimed at schools and the promotion of careers in this sector, to specific skill gap support

Whilst the Environmental Statement indicates that no mitigation is required in respect of socio-economic issues (and this finding is accepted), it is nevertheless considered that, in order to ensure that appropriate weight may be attributed to these measures in the overall planning balance, these additional enhancement measures should be secured by way of Section 106 obligations. Subject to this, it is considered that the proposals would be beneficial in terms of socio-economic matters.

### **Landscape and Visual Impact**

The issues in respect of the principle of development in this location outside Limits to Development are set out under the relevant section above. However, Policy S3 of the adopted Local Plan also sets out criteria for assessing development in the countryside, and including in terms of its impacts on the appearance and character of the landscape. Policy Ec3 also requires that any employment proposals on land not so allocated are not detrimental to the amenities of the wider environment.

The development has been assessed in terms of its landscape and visual effects both during and after construction. The Environmental Statement assesses the impacts on a range of viewpoints / receptors within a 2km radius of the site. The Environmental Statement suggests that the site is within an area of low landscape value and is of a low to medium landscape susceptibility to change (due its immediate context of the M1, the A50, the B6540 and the adjacent Aldi warehouse facility). The Environmental Statement also identifies other significant infrastructure affecting the site including overhead pylons and the Ratcliffe on Soar power station. The site lies within National Character Area (NCA) Profile: 69: Trent Valley Washlands, and within the Trent Valley Regional Landscape Character Area (LCA). Insofar as the Leicestershire and Rutland Historic Landscape Characterisation Project is concerned, the site would appear to include areas identified as "planned enclosure", "small irregular fields" and "other large rectilinear fields".

*Landscape Effects*

In terms of the landscape effects, the Environmental Statement assesses these in terms of both the construction and operational phases. The landscape effects identified include the following (with the majority based on the sensitivity of the landscape being "low"):

*Changes during the Construction Process:*

The magnitude of change within the study area as a whole (i.e. outside of the site itself) would be "slight", resulting in a "negligible" temporary and a non-significant landscape effect during the construction period.

*Changes to Landform:*

The magnitude of change would be "negligible" (both within the site and the study area), resulting in a "minor / negligible neutral" non-significant landscape effect.

*Changes to the Type and Extent of Vegetation Cover:*

The magnitude of change would be "moderate", resulting in a "minor adverse" non-significant landscape effect.

*Change in Land Use:*

The magnitude of change within the site itself would be "substantial", resulting in a "moderate adverse" significant landscape effect. When considering the land use within the wider context of the study area, the magnitude of change would be reduced to "slight", resulting in a "minor adverse" non-significant landscape effect.

*Effects on Watercourses / Bodies:*

None

*Changes to the Remoteness / Tranquillity of the Area:*

Given the nature of surrounding development, the magnitude of change would be "negligible", resulting in a "negligible" non-significant landscape effect.

*Changes to the Character, Pattern, Colour and Scale of the Landscape:*

Trent Valley Washlands (NCA 69): The development would result in a long-term loss of low-lying grassland characteristic to NCA 69, but would be over a small area of the NCA. The magnitude of change would be "negligible", resulting in a "negligible" non-significant landscape effect.

Trent Valley Regional LCA: In terms of this effect, the sensitivity of the landscape is identified as "medium". The magnitude of change arising from changes to the LCA would be negligible, resulting in a "minor adverse" non-significant landscape effect.

Overall in terms of landscape effects, the Environmental Statement suggests that, whilst the application site is flat, it is located within the context of a network of various manmade infrastructure / development (including major roads, electricity generation / supply infrastructure and the adjacent B8 unit), and contains a large amount of peripheral vegetation which would be retained, providing screening from the surrounding landscape, and limiting the landscape effects of the development. Whilst the Environmental Statement acknowledges that the construction works would result in a temporary increase in vehicle and construction work activity and disruption, it notes that this would be alongside neighbouring traffic along the adjacent major routes. Having regard to proposed mitigation (including retention of hedges and hedgerow trees as well as screening large scale buildings), the Environmental Statement concludes that the

overall landscape effects would be considered to be minor / negligible adverse, and not significant within a 2km radius of the site. On this basis, the Environmental Statement states that the application site has the capacity to contain the development due to its overall limited landscape effects, and its context within the surrounding infrastructure.

### *Visual Effects*

Insofar as visual effects are concerned, the impacts on a total of 6 viewpoints surrounding the site are assessed, having regard to, not only the changes in views from those points, but also the "sensitivity" of those visual receptors (and which depends on the "type" of user who would experience the view (e.g. a resident or recreational user of a public right of way will be likely to be more impacted upon by such changes to views than, say, motorists on strategic routes)).

In terms of the viewpoints assessed, the findings of the Environmental Statement can be summarised as follows:

#### *Viewpoint No:*

1 *(Netherfields Lane / Public Right of Way L83, adjacent to the south western corner of the site)*

Magnitude of change: "Substantial" initially due to the large change in view at close distance

Visual Effects: "Major Adverse" and significant, reducing to "Minor Adverse" when proposed planting mitigation is established

2 *(Tamworth Road, adjacent to Hemington House)*

Magnitude of change: "Negligible" due to existing hard and soft screening elements

Visual Effects: "Minor / Negligible" and not significant

3 *(Warren Lane (part of the Midshires Way long distance recreational route)*

Magnitude of change: "Negligible" due to existing soft screening elements

Visual Effects: "Negligible" and not significant

4 *(Public Right of Way L60 (part of the Midshires Way)*

Magnitude of change: "Negligible" due to existing screening vegetation

Visual Effects: "Negligible" and not significant

5 *(Daleacre Hill / Public Right of Way L77)*

Magnitude of change: "Moderate" due to a noticeable change in view of long term duration.

Visual Effects: "Moderate Adverse", reducing to "Minor Adverse" and not significant with proposed planting mitigation along the application site boundary

6 *(Station Road, Castle Donington / Public Right of Way L81)*

In respect of this viewpoint, the Environmental Statement simply provides that the proposed development would form a negligible change to this viewpoint due to distance and existing vegetation within the wider landscape, and as the development would be in the context of surrounding manmade infrastructure such as the Ratcliffe on Soar Power Station and overhead power lines.

Based on the above, the Environmental Statement provides that "greater visibility" of the development would be restricted to those areas within 500m of the site (with the exception of Daleacre Hill) due to the flat nature of the site and its surroundings and the ability, therefore, of surrounding vegetation to provide effective screening when viewed from the majority of the wider landscape setting, and identifying the visual effects overall to be "Minor / Negligible".

The landscape and visual impact element of the submitted Environmental Statement has been assessed by an independent landscape consultant on behalf of the Local Planning Authority. Whilst a number of issues regarding the content of the Environmental Statement are raised by the Council's consultant (including the limited number of viewpoints considered in the assessment, the level of sensitivity applied, and the consideration of landscape effects at a local scale), he considers that, overall, it is generally reasonable in terms of its scope, methodology and coverage, and has been carried out with due reference to the Guidelines for Landscape and Visual Impact Assessment.

In terms of landscape effects, the District Council's landscape consultant considers that the approach taken in the Environmental Statement (which limits consideration of effects to those on identified character areas) tends to dilute the effects because of the large size of the area concerned and, as a result, would have been likely to have identified more significant effects (probably, the Council's consultant's view, moderate adverse rather than minor adverse as suggested). Insofar as the visual effects are concerned, the Council's consultant considers it unlikely that the effects could reduce from major adverse to minor adverse at Viewpoint 1. He also notes that the Environmental Statement is not specific about what timescale is allowed for the establishment of proposed planting mitigation; the agent has now confirmed that this would be a period of 15 years following completion of the development (and based on the winter scenario). For Viewpoint 5, however, the Council's consultant considers that, on Daleacre Hill, the visual effects would be likely to be a little lower than as predicted in the Environmental Statement.

In terms of the Council's consultant's view on the proposals, he advises that some degree of adverse landscape and visual effects is inevitable for proposed employment buildings of this type and scale on a presently undeveloped site. He considers that the presence of the proposed largescale buildings in what is at present a generally open landscape (albeit one which contains some significant existing detracting elements) would lead to some harm, that the buildings would appear as new, large scale and discordant elements in some views and, due to their size, they would not be screened even in the medium to long term. Any adverse effects would however, he considers, be limited as a result of the presence of the adjacent distribution centre building. He also accepts that it would be possible for appropriate landscape proposals to provide a degree of screening and integration over time, and certainly to screen the lower parts of the buildings and associated ground level activity; use of an appropriate colour scheme for the cladding to the buildings would also, he considers, assist in mitigating the impacts (and suggests consideration of vertically graduated colours schemes as one possible option).

Whilst the District Council's consultant raises some concerns regarding the application of the methodology within the submitted Environmental Statement (resulting in some slight underestimation of landscape effects and overestimation of some of the visual effects), he advises that this should be considered against the fact that some degree of adverse landscape and visual effects is inevitable for proposed employment buildings of this type and scale on a presently undeveloped site, and that the adverse effects in this case would be limited by the context of the site (i.e. its location adjacent to the M1 and A50 and the adjacent distribution centre building).

The relationship between Policies S3 and Ec2 of the North West Leicestershire Local Plan is set out in more detail under Approach to Determination and Principle of Development above. 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 amenities of any nearby residential properties or 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) and (vi) as set out in the relevant section. 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), (ii) (not undermining the physical and perceived separation and open undeveloped character between nearby settlements) and (iv) (well integrated with existing development and buildings).

Insofar as (i) is concerned, the District Council's landscape consultant takes the view that, as there would (inevitably) be some long-term landscape harm associated with the development, the landscape would not be safeguarded and enhanced (as required under Policy S3 criterion (i)), and there would be detriment to the wider environment (contrary to Policy Ec2 (2) (c)). Having regard to the conflict with these policies, the Council's consultant considers that these conflicts would need to be taken into account in the overall planning balance, and weighed against the need for (and benefits of) the proposed development. Further assessment of the overall planning balance is set out in more detail later on in this report.

In terms of Policy S3 criterion (ii), given the location of the site, and the distances between nearby settlements, it is accepted that there would be no material loss of separation between settlements in the vicinity, and no conflict with this criterion would arise. Insofar as criterion (iv) is concerned, it is accepted that, given the relationship to the adjacent storage and distribution hub to the west, the scheme would be well integrated with existing development.

In terms of other comments, the Council's landscape consultant advises as follows:

- The broad band of planting alongside the motorway seems sensible, but (especially as the motorway is on a tall embankment at this point) it would be preferable for the planting to be a native woodland mix (i.e. including tree species), rather than limiting it to shrubs only
- The proposed 5m wide band of planting to the south west seems inadequate given the scale of the proposed buildings and a width of 15 or 20m would be more appropriate
- The proposals do not indicate any significant areas of planting along the western or northern sides of the site

In terms of the above issues, whilst there would appear to be limited scope to increase planting areas to the western (Netherfields Lane) boundary (given the quantum of development proposed and the constraint of the Derwent Valley Aqueduct), there would appear to be no reason why significant additional planting could not be provided to the northern or south western edges. In terms of the south western area, the agent confirms that a wider landscaped band of the width suggested would be able to be provided (albeit it would need to be located within the land otherwise retained for biodiversity use). Insofar as the Netherfields Lane boundary is concerned, it is accepted that there is a reasonably effective existing line of hedgerows to much of this boundary which, where retained, would (together with the existing unit to the west) provide an element of screening from some of the westerly aspect. It is also noted that the Aldi site to the west was the subject of a hybrid planning permission, also approving (in outline) a further unit to the south of the Aldi unit. Whilst the period for submission of reserved matters for the southern plot has now expired, it is noted that the whole of the site is identified under Local Plan Policy Ec1 as an employment site with planning permission (site EC1c) where, in the event that the planning permission lapses, it will be renewed (subject to other Local Plan policies and material considerations).



The final extent of the retained vegetation to the Netherfields Lane boundary would be determined at the reserved matters stage (save for that affected by the proposed access arrangements in the vicinity of the Tamworth Road / Netherfields Lane junction). The widening of Netherfields Lane as indicated on the submitted access plans would appear to result in the loss of existing vegetation (particularly to its eastern side), but none which, it is considered, is of particular merit. Insofar as the vegetation adjacent to Netherfields Lane further south is concerned, any loss would need to be addressed as part of the relevant reserved matters submission. Having said that, there would appear to be no reason in principle why the Netherfields Lane widening as indicated on the submitted illustrative masterplan would be unacceptable; the existing vegetation adjacent to the lane is, for the most part, considered to be somewhat "scrubby" in nature, with limited amenity value in itself. However, as set out above, it would play a role in assisting to screen the development and mitigate its wider landscape and visual impact and, should any be lost to the development, it is considered that this ought to be replaced with suitable planting.

### *External Lighting*

Local Plan Policy D2 provides that proposals for external lighting schemes should be designed to minimise potential pollution from glare or spillage of light, that the intensity of lighting should be necessary to achieve its purpose, and that the benefits of the lighting scheme must be shown to outweigh any adverse effects.

The submitted Environmental Statement includes an assessment of potential lighting proposals associated with the development (both during and post-construction), and assesses the proposed lighting design in accordance with guidance set out within the Institution of Lighting Professionals' Guidance Notes for the Reduction of Obtrusive Light (and, under which categorisation, the report identifies the site as being within environmental zone E2 (which includes village or relatively dark outer suburban locations)). It is considered that this categorisation would be appropriate in this location. The Environmental Statement indicates that the most sensitive receptors are those close to wildlife habitat rather than dwellings, with no impacts on residential properties anticipated; insofar as impacts on habitat are concerned, these are identified generally as "Minor to Moderate Adverse". However, the Environmental Statement suggests that any potential significant effects would be able to be mitigated.

An indicative lighting design submitted in support of the Environmental Statement indicates that the proposed development can be adequately managed and meet recommended guidance whilst achieving the required minimum lighting levels necessary for the operation of the site. The Environmental Statement indicates that the proposed lighting scheme shown for indicative purposes would be capable of containing all lighting overspill within the site boundary and, as such, minimising light trespass to adjoining land.

The Environmental Statement suggests that the most noticeable effect due to the proposed lighting would be expected to be a small increase to local area "sky glow" (and, again, resulting in a "Minor to Moderate Adverse" impact), but that this can be minimised as far as practicable by utilising luminaires with 0% upward light ratio and achieving the required levels with no additional tilt to the head position (flat glass installation). No objections are raised by the District Council's Environmental Protection team subject to appropriate conditions requiring full details of the lighting design to be agreed.

Subject to the detailed lighting scheme being agreed prior to installation, therefore, the lighting proposals would not be considered to have any unacceptable effects in terms of amenity issues, and on this basis, it is considered that this element of Local Plan Policy D2 would be satisfied.

### *Impacts on Existing Trees and Hedgerows*

Insofar as existing trees and hedgerows (other than those discussed above) are concerned, there are a number of small trees within the "scrub" element of the site, and the trees of more significant scale are generally located within the hedgerows to the periphery of the proposed built element of the scheme. The District Council's Tree Officer advises that any boundary trees would need to be protected, with a tree protection plan and full arboricultural survey provided in support of any reserved matters scheme. At this stage, therefore, it is accepted that it is unlikely that any trees of significant value would necessarily be adversely affected were the development to proceed in the manner envisaged in the indicative plans.

### *Landscape and Visual Impact Conclusions*

Overall in terms of visual impacts, therefore, whilst the development would be likely to be of a significant scale (and the tests set out in this respect under Policies S3 and Ec2 would not be met), and whilst there would be likely to be some long-term landscape harm associated with the development, the extent of the adverse impacts would, it is considered, be relatively limited, with any effects mitigated as a result of the presence of the adjacent Aldi distribution centre building (as well as any screening provided by any future unit on the plot to its south). When taking this into account, together with the existing context of the site and proposed mitigation, as well as the other benefits of the development set out in more detail below where the overall planning balance is assessed, it is considered that the landscape and visual effects of the proposed development would be acceptable.

### **Ecology and Biodiversity**

Policy En1 of the North West Leicestershire Local 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.

The submitted Environmental Statement 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, and including in respect of various protected species. The effects of the development are assessed within the Environmental Statement in terms of both the construction and post-construction (operational) impacts, and proposed mitigation measures set out.

### *Site Designations and Habitat*

The submitted Ecological Appraisal identifies the closest designated sites. In terms of statutory sites, one site of national importance (the Lockington Marshes Site of Special Scientific Interest (SSSI)) is located 2km to the east of the application site; no other statutorily designated sites fall within a 2km radius. In terms of non-statutory designated sites, the submitted Ecological Appraisal identifies a total of 11 within 1km of the site, with the closest being Hemington Gravel Pits potential Local Wildlife Site (pLWS) (adjacent to the south west of the site), Ulley Gully and surrounding area Local Wildlife Site (LWS) and Netherfields Lane pLWS (within the site itself). The Ecological Appraisal also refers to an additional 19 parish and county level sites within 1km of the site.

Insofar as the effects on these designations are concerned, the Environmental Statement suggests that no direct impacts would be anticipated on the Lockington Marshes SSSI due to the distance and remoteness of the SSSI from the application site. In response to the submissions, Natural England had initially raised issues in respect of potential drainage and air quality-related impacts on the SSSI but, following the receipt of additional information in respect of these matters (and as set out in more detail under the sections related to Flood Risk and Drainage and Air Quality below), is now content that, subject to appropriate mitigation being secured, the development would be acceptable in this regard.

In terms of habitat, specific concerns have been raised by Leicestershire County Council's Ecologist in respect of existing grassland on the site (and which has established on an area of tipped Pulverised Fuel Ash (PFA) (understood to have originated from the former Castle Donington Power Station)). Having undertaken its own walkover survey of part of the site (a section towards the southern end of the proposed built development part of the site), the County Council advises that the site comprises a "mosaic" of mesotrophic grassland and dense / scattered scrub, with herbs "frequent to abundant" within the grassland. The County Council advises that a total of 19 LWS grassland indicators (from the mesotrophic, wet and calcareous lists) were recorded, along with a plant listed in the Rare Plants Register. When taking into account a further 5 LWS species previously recorded nearby, a total of 24 LWS grassland species would be identified. On this basis, the County Ecologist takes the view that the affected part of the site has significant interest and would meet LWS criteria for grassland and scrub. The County Ecologist advises that post-industrial habitats are some of the most diverse habitats within the UK, and are usually noted for high invertebrate value. As well as meeting the County Council's LWS criteria, the County Ecologist advises that it is also a national UK Biodiversity Action Plan (BAP) priority habitat so, although not an ancient habitat (and has arisen through human intervention), it is a natural habitat of a kind recognised nationally to be of priority importance for conservation.

In view of this, the County Ecologist had suggested amending the scheme so as to retain the affected area; in response, the applicant advised that it would not be practical to reconfigure the scheme so as to enable use of other parts of the site for built development in lieu of the grassland area (i.e. due to other constraints on those parts of the site not proposed to accommodate built development as set out elsewhere within this report, including in respect of potential flood risk, archaeological and mineral sterilisation impacts). It is accepted that the use of alternative areas of the site to accommodate built development would indeed seem impractical given other (non-ecological) constraints, and the key question is therefore considered to be whether the grassland meeting LWS criteria indicates that planning permission should not be granted (or whether the loss of any grassland could be mitigated for).

Policy En1 (2) provides that *"Where a proposal for development would result in significant harm to one of the following and which cannot be avoided, or mitigated or compensated for, then planning permission will be refused:*

- ...(b) Sites of Special Scientific Interest (SSSI);...*
- ...(d) Local Wildlife Sites (LWSs)...and candidate Local Wildlife Sites (cLWSs) which meet the Leicester, Leicestershire and Rutland LWS criteria;...*
- ...(g) Irreplaceable habitats (defined as Ancient woodlands; Mature plantation or secondary woodland; Species-rich ancient hedgerows; Aged or veteran trees; Species-rich neutral grassland; Acid grassland and heath grassland; Dry and wet heathland; Bogs and Sphagnum pools and Rock outcrops)..."*

It is noted that the above list includes LWSs and candidate Local Wildlife Sites (cLWSs); a cLWS is defined as one which is known through survey data to meet the LWS criteria, whereas

a pLWS is one that is likely to meet the LWS criteria, but requires further survey work in order to confirm. "Irreplaceable habitat" is defined in the NPPF as *"Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen."*

In this case, the County Ecologist takes the view that the grassland would constitute a cLWS rather than a pLWS (and hence would be subject to Local Plan Policy En1 (2) criterion (d)). Regardless, however, (as species-rich neutral grassland) it would in any event also seem to fall under Policy En1 (2) criterion (g). Whilst (unlike Policy En1) it is accepted that the definition of irreplaceable habitat as set out in the NPPF does not specifically reference neutral grassland, this list is not an exhaustive one. Paragraph 175 of the NPPF provides, amongst others, that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists...". Insofar as the inclusion of species-rich neutral grassland within the Local Plan policy definition is concerned, further information is contained within the associated Local Plan background paper ("Background Paper 10 - Policy En1: Nature Conservation"). This explains the reasoning behind what types of habitats are identified as "irreplaceable" for the purposes of the policy. Insofar as species-rich neutral grassland is concerned, the background paper refers to "Old species-rich neutral grassland" (and indicates that this is often identified by ridge and furrow). Given the relatively recent nature of the grassland in question which has established on tipped PFA, it is acknowledged that this may indicate that the intention of the policy in including species-rich neutral grassland was more related to older, longer-established examples (albeit it may be that the background is simply listing this as an example, whilst also noting that it is likely that more (currently undesignated) habitats of this nature will be discovered). Nevertheless, species-rich neutral grassland is included within the list of irreplaceable habitats specified in the policy and it is therefore considered appropriate to have regard to the provisions of Policy En1 (2) (g). Furthermore, the County Ecologist had taken the view that there would be little chance of creating grassland of equal or greater quality (and, on this basis, the grassland would appear to fall within the NPPF definition, albeit, given the relatively short time it has taken to establish in the first instance, it would seem reasonable to assume that the length of time it would take to recreate (if possible) would be unlikely to be significant).

In response to the concerns raised by the County Ecologist, the applicant's ecological consultants consider that the mitigation proposed has the capability of providing for a biodiversity net gain. In particular, it is proposed that, as part of the development, a range of habitats on the areas of the site not subject to built development would be retained and / or created. These would include areas of scrub to the north and south of the development area, a pond to the south east of the development area, an area of marsh / marshy grassland to the south of the development area, and a number of areas of neutral grassland to both the to the south and south east of the development area, as well as along the eastern boundary (including translocation of grassland turves, and by exposing and utilising some of the site's PFA in combination with improved agricultural soils).

The applicant's ecological consultants disagree with the County Ecologist in terms of the value of the existing grassland in that, not only is the grassland assessed as being in "moderate" condition due to scrub encroachment, they also consider that it fails to meet a number of condition assessment criteria. They also argue that, in the absence of sympathetic management, the grassland could be lost in its entirety due to eventual scrub encroachment. Other arguments put forward by the applicant's agent draw attention to the existing lack of

management of the site and current issues in respect of fly tipping and unauthorised use by motorcycles; whilst the County Ecologist recognises that there is an issue in respect of antisocial behaviour, she does not consider that this in itself would be likely to cause significant damage to the ecological value of the site given that it is a post-industrial habitat, formed on PFA, and some disturbance of the habitat to create open ground could in fact be beneficial to its ecological interest. The applicant's ecological consultants also argue that, given that the grassland has developed relatively recently (and unlike habitats such as ancient meadows or woodlands), there is no reason to believe that the re-creation of grassland of at least equivalent value isn't feasible. The proposals would also, they argue, provide an opportunity to ensure that the presence of species-rich grassland, and other habitats of value, is secured in the long-term, unlike those that are currently present.

In further support of the application, the agent also draws attention to the planning permission for the solar farm referred to in the introduction above, and advises that that development was commenced within the relevant time period (and, as such, could be implemented in full, resulting in the provision of solar panels across the current application's proposed development area). The agent considers that this would also be detrimental to the existing grassland on the site (although, given the form of development associated with solar farms (including the design / mounting mechanism of the panels and spacing between), it is not clear whether the impacts on the grassland would be directly comparable with the current proposals). Whilst the Local Planning Authority has a record of correspondence from the solar farm developer indicating an intention to commence the development, it is unclear as to whether any works were actually undertaken, and officer site visits have revealed no obvious sign of works in order to demonstrate commencement under Section 56 of the Town and Country Planning Act 1990. Regardless, however, even if the applicant is able to demonstrate that the solar farm permission remains implementable in full, it is considered that the weight to be attributed to any such fall-back position should be affected by the likelihood of the fall-back scheme being undertaken. Given the period of time that has elapsed since the planning permission was granted without any meaningful works being carried out in accordance with the solar farm planning permission (and having regard to comments provided by the landowner in respect of the economic viability of the solar farm scheme), it is not considered very likely that, in the event that the current scheme were refused, the solar farm would be built out and, as such, the weight to be attributed to this issue as a material consideration should be tempered accordingly.

In terms of the proposed habitat, given that much of the replacement grassland would be provided on former arable land, the County Ecologist had queried whether "good" condition grassland could be created, having regard to the generally high nutrient load of arable land (and given the dependence of species-rich grassland on low-nutrient conditions). In particular, the County Ecologist had advised that translocation would be difficult, commenting that, given that it is based on the PFA, the substrate is very loose and friable, and that, as the grassland is recent in origin, it is quite "open" and may fall apart when lifted; the County Ecologist had advised that turf translocation is usually only possible with older grassland that holds together as turves when lifted. In this instance, the County Ecologist was of the view that, translocation of the PFA substrate together with grassland leaf litter, rhizomes and seed bank would be likely to be all that was possible, and that translocation of turf would be unlikely to succeed. The County Ecologist advises that translocation of substrate of sufficient depth to form a blanket over the arable land would be required, and would need to be deeper than the root penetration of grassland species. Having said this, the County Ecologist feels that it would nevertheless be worth pursuing if all other options (including reconfiguration of the site to allow some retention in situ) had been rejected, as it would create a "blank canvas" for natural regeneration of an open mosaic habitat to occur (noting that, as a post-industrial site, the land has already regenerated naturally on the infertile fuel-ash substrate.). The County Ecologist also considers that it would

not be acceptable for the PFA substrate to be mixed in with high-fertility and sterile agricultural soils, as this would not create grassland / open mosaic habitat of quality.

The applicant's ecological consultants acknowledge that the creation of species-rich grassland can be difficult in such conditions, but argue that there are techniques that can be successfully employed (and including those referred to above). Notwithstanding this position, the applicant's ecological consultants say that they have taken a precautionary approach to their assessment of the value of the proposed habitat and, in the light of these concerns, have revised the assumed condition of the created grassland to "moderate".

In terms of the measures themselves, supplementary information has been provided by the applicant setting out the translocation works in more detail. In brief, it is proposed to use the majority of the undeveloped agricultural land to the southern end of the site as receptors for translocated grassland and associated PFA (to a depth of around 100mm) originating from the built development part of the site.

The applicant considers that, when applying Natural England's biodiversity metric (and when assuming a condition of the recreated grassland of "moderate" in accordance with the precautionary approach set out above), the proposed development would represent a net biodiversity gain of 4.86%; were the grasslands to achieve a "good" condition, this figure would increase to 17.15%.

Whilst the County Ecologist had initially queried the extent of the biodiversity net gain calculation, this was prior to the revised figure adjusted to reflect a potentially lower value of replacement habitat. However, it is understood that the County Ecologist nevertheless maintains that the value initially attributed to the existing grassland underplays its value to some degree. It is also noted that the MHCLG's Planning Practice Guidance advises that biodiversity net gain complements and works with the biodiversity mitigation hierarchy and does not override the protection for designated sites, protected or priority species and irreplaceable or priority habitats set out in the NPPF.

In the absence of a detailed alternative survey of all of the existing habitats being undertaken to establish the veracity of the applicant's calculated biodiversity unit value, there are no figures to dispute the value of the existing habitat that would be lost to the proposed development (and notwithstanding the general concerns of the County Ecologist that the calculations may undervalue its importance). As such (and in the absence of any detailed evidence to the contrary), it is considered appropriate to accept that the applicant's ecological consultants' figures are reasonable. If this position is taken then the scheme would appear to result in a net biodiversity gain and, in this sense, the loss of the grassland would be mitigated for. Regardless, however, given the approach set out in the MHCLG's Planning Practice Guidance (and, indeed, the provisions of Local Plan Policy En1 and Paragraph 175 of the NPPF), the issue is whether the development would result in the loss of irreplaceable habitat. Local Plan Policy En1 allows for significant harm to an irreplaceable habitat if the harm can be mitigated for; NPPF Paragraph 175 however, presumes against the loss or deterioration of irreplaceable habitats unless there are "wholly exceptional" reasons and a suitable compensation strategy exists. In this case, whilst there are arguments in favour of the development (and including in respect of the economic and social objectives of sustainable development), the public benefits are not, in this case, considered so significant as to meet this test.

In this case, whilst the view is taken that Policy En1 (2) (g) is engaged (by virtue of the grassland in question being species-rich neutral grassland) (and notwithstanding the comments above relating to the origin of the inclusion of species-rich neutral grassland within the policy), it

is considered relevant to come to a view as to whether the grassland is truly "irreplaceable" in this case. Using the NPPF definition, it would need to be a habitat which would be "technically very difficult" (or take a very significant time) to recreate. In view of the above assessment, and following the receipt of supplementary information setting out in more detail how the translocation works could be delivered (and which have addressed the County Ecologist's reservations), it is considered that the recreation of the habitat would not necessarily be very difficult nor take a very significant time to achieve. On this basis, it is not considered that there would be a clear conflict with the overall aims of this element of Policy En1 (and Paragraph 175 of the NPPF). Nevertheless, the fact remains that the scheme would result in the loss of grassland of LWS status (and, as advised by the County Ecologist, forming a BAP priority habitat), and this would be a factor weighing against the scheme in the overall planning balance. Whilst not directly applicable to the tests set out under Policy En1 and Paragraph 175, it is also considered to have regard in the overall planning balance to the opportunity provided to secure new ecological habitat (and the identified biodiversity net gain) and (to some limited extent), the likelihood that, if the site were left in its current undeveloped state, it would continue to prosper as a habitat of this value. On balance, the view is taken that, having regard to the limited age of the grassland, and the fact that it would appear feasible to translocate / re-establish it in a successful manner, the grassland would not be truly "irreplaceable" and, a rigid application of the approach set out in Paragraph 175 of the NPPF would not be appropriate. However, it should nevertheless be borne in mind that the scheme would result in a negative impact on the *existing* grassland, even though it is acknowledged that the impact would be mitigated to a significant degree by the establishment of replacement habitat. However, as noted above, the County Ecologist does not now raise objection to the application.

#### *Impacts on Species*

In terms of the effects on protected and other notable species, those identified within the Environmental Statement include the following:

##### Birds:

During the construction phase, the Environmental Statement notes that the loss of habitat would remove potential breeding territories for a number of bird species noted as being of conservation concern. However, having regard to the small numbers recorded and the availability of other suitable arable habitats in the wider landscape, the Environmental Statement identifies the effect of habitat loss on breeding birds as of "Minor Adverse" significance, although it acknowledges that a reduction in species that generally use arable and arable edge habitats, such as skylark and yellowhammer, could be expected.

For the operational phase, the Environmental Statement suggests that, whilst birds are likely to be affected by an increase in use of the area by humans, any impacts would be of "Minor Adverse" significance.

Mitigation proposed during construction work includes small-scale vegetation clearance undertaken outside of the bird-breeding season (or checked prior to removal by an experienced ecologist).

##### Bats:

The Environmental Statement notes that no roosts were identified during surveys and, accordingly, no impact on roosting bats is anticipated. Whilst bat foraging habitat (including continuous and scattered scrub) would be lost to the proposed built development, the Environmental Statement states that suitable foraging and commuting habitat would be retained

at the site boundaries in this area, providing corridors of movement around the proposed development. The proposed landscaping / biodiversity enhancements in the southern part of the site are, the Environmental Statement suggests, likely to benefit bats. Whilst the development would be likely to result in the loss of bat foraging habitat (including scrub and sections of hedgerow at the western boundary), given low levels of bat activity, the impacts of this habitat loss is identified as being of no more than "Minor Adverse" significance. Operational phase external lighting is identified as being of at least "Minor Adverse" significance.

In terms of mitigation, the Environmental Statement identifies that any breaks to the hedgerow along the Netherfields Lane boundary of the site would be compensated for by planting or promoting standard tree growth either side of proposed access so as to provide a "bridge" or "hop-over" of canopy vegetation for use by foraging and commuting bats. Lighting impacts are proposed to be mitigated by way of any installed lighting being of low or high pressure sodium (white rather than yellow light) directed to avoid light spillage onto sensitive habitats, automatically turning off when not required, and avoiding use of high levels of ultraviolet or infrared light. Lighting levels would, the Environmental Statement indicates, be as low as possible (below 1 Lux where feasible) and only used where necessary.

#### Badgers:

A number of badger setts have been recorded in the vicinity of the site; whilst all would be retained, some temporary closures would be required during the construction phase so as to minimise disturbance during construction, and to allow for an artificial sett to be established. The Environmental Statement notes that the majority of high quality foraging with the site would be lost to development, but indicates that high quality foraging is present in the vicinity, with corridors of movement to these areas retained, including during the construction phase. Proposed losses are considered by the Environmental Statement to be of "Moderate Adverse" significance. As per bats above, operational phase external lighting is identified as being of at least "Minor Adverse" significance (and with lighting mitigation as also set out above).

In terms of the impacts on protected species, Leicestershire County Council's Ecologist advises that the submitted appraisal is very good, and contains a good level of detail. The County Ecologist confirms that there are no concerns raised in respect of protected species and the mitigation proposed (in particular in respect of badgers) is satisfactory.

Under Regulation 55 of the Conservation of Habitats and Species Regulations 2017, 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 would be for imperative reasons of overriding public interest or for public health and safety;
- there would be no satisfactory alternative; and
- the favourable conservation status of the species in question would 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 Approach to Determination and Principle of Development above, it is considered that (subject to being acceptable in planning terms) 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 in respect of protected species, and would also comply with this element of Local Plan Policy En1.

Subject to the imposition of suitably-worded conditions, therefore, the submitted scheme is considered acceptable in ecological terms, and would provide suitable mitigation for the habitat affected, as well as appropriate measures for biodiversity enhancement.

### **Ground Conditions (including Geology, Soils and Groundwater)**

Policy En6 of the adopted North West Leicestershire Local Plan provides that proposals on land that is (or is suspected of being) subject to land instability issues or contamination will be supported where the planning application is accompanied by a detailed investigation and assessment of the issues, and where appropriate mitigation measures are identified which avoid any unacceptably adverse impacts upon the site or adjacent areas (and including in respect of groundwater quality). The Environmental Statement includes an assessment of the proposed development's impacts on geology / soils and groundwater, and based on an accompanying Phase 1 Geo-Environmental Assessment.

Having regard to the former use of the site (and including mineral extraction and subsequent backfilling with PFA to depths of between 5.9m and 8.1m below ground level) and other nearby uses, the Environmental Statement identifies a number of potential effects both during and following construction. To mitigate for these impacts, the Environmental Statement indicates that the following measures would be applied:

#### *Construction Phase:*

- Measures to minimise the potential for the movement of sediments into surface watercourses
- Balancing of cut and fill volumes so that the need for off-site disposal of excavated materials is minimised. Where cut material is not immediately acceptable as fill because of its potentially high moisture content and / or clay content, the Environmental Statement indicates that this material may need to be treated / modified such that it can be re-used on-site (potentially beneath roads, car parking areas or within areas of soft landscaping)
- Positioning of lubricants and refuelling facilities away from the most sensitive receptors (including watercourses) with secondary containment and contingency / emergency procedures (e.g. spill kits) in place
- Use of appropriate personal protective equipment etc. to avoid exposure of construction workers to potential contamination within soil or dust
- Dampening down of exposed areas in order to reduce the amount of potentially contaminated dust generated

#### *Operational Phase:*

- Use of a clean capping topsoil layer to soft landscaping
- Use of hardstanding areas to reduce risk to the aquifers from contaminated soils
- Use of hardstanding areas to reduce rainfall infiltration and restrict groundwater flow towards surface water receptors (and, furthermore, the Environmental Statement indicates that no significant risk to controlled waters has been identified)

The Environmental Statement concludes that, subject to the implementation of applicable impact avoidance and mitigation measures, all potential geological and soils related effects associated with the construction and operation of the proposed development would not be significant.

The District Council's Environmental Protection team raises no objection to the application in respect of these issues. For its part (and in terms of the impacts on controlled waters), the Environment Agency notes that the recommendations within the submitted Phase 1 Geo-Environmental Assessment include an intrusive investigation to assess whether the historic landfill and Hemington Gravel Pit present a risk to controlled waters beneath the site. Subject to the imposition of conditions to secure such investigation work, the Environment Agency raises no objections. Further comments in respect of water quality (but with particular regard to surface water discharge) are set out under Flood Risk and Drainage below.

Policy En6 of the adopted North West Leicestershire Local Plan also 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, it is noted that the south western part of the site (and which is not proposed to be the subject of built development) falls within Grade 2 under the post 1988 agricultural land classification, together with some adjacent areas within Grades 3a and 3b (also not forming part of the proposed built development). As discussed above, the Council's landscape consultant considers that a more substantial planting band would be required to the south western boundary; were this to be accommodated, this would appear likely to result in use of some of the adjacent BMV land. However, this would not (nor would re-use for biodiversity enhancement) be considered to represent a permanent loss from agricultural use in the same way as built development would. In terms of the remainder of the site, this is identified within the provisional agricultural land classification as Grade 3; the agent advises however that, following the previous mineral extraction (and the site's backfilling with PFA), that part of the site can no longer be used for agricultural purposes (whether for crops or livestock). It would therefore appear that no BMV would be likely to be lost to the proposed built development. Natural England notes that the proposals would not appear to result in the loss of 20 or more hectares of BMV and, as such, has no comments in this regard.

The proposals are therefore considered to be acceptable in terms of these elements of Local Plan Policy En6.

### **Flood Risk and Drainage**

Policy Cc2 of the North West Leicestershire Local Plan sets out a number of criteria in terms of flood risk against which proposals will be considered. Policy Cc3 sets out the requirements for the implementation (and management / maintenance) of Sustainable Drainage Systems

(SuDS). The Environmental Statement includes assessment of the proposed development's impacts on water resources, drainage and flood risk, informed by a Flood Risk Assessment (FRA) and a Sustainable Drainage Statement, setting out how surface water is proposed to be accommodated, and assessing the existing flood risk to the site along with any resulting flood risk associated with the proposed development. The application is also accompanied by information in respect of the flood risk sequential test. The submitted documents in respect of flood risk and drainage have been assessed by an independent consultant on behalf of the Local Planning Authority.

### *Sequential Test*

Insofar as river flooding is concerned, based on the Environment Agency's flood risk map, the majority of the application site (and including all that upon which built development is proposed) lies within Flood Zone 3 (i.e. high probability - more than a 1 in 100 year annual probability of river flooding and / or functional floodplain). The land to the south of the railway line crossing the site lies within Flood Zone 1 (i.e. low probability - less than a 1 in 1,000 year annual probability of river flooding). The District Council's Strategic Flood Risk Assessment identifies that, of the land within Flood Zone 3, the majority is within Flood Zone 3b (functional floodplain) (and with the remainder within Zone 3a therefore).

The application is accompanied by a Sequential Test report and a subsequently submitted Sequential Test Addendum. These identify that the area of search for potential sites is broadly as per the "Leicestershire International Gateway" as identified in the Leicester & Leicestershire Strategic Growth Plan; this is considered to represent a reasonable area of search. The submitted documents also set out that connectivity of potential sites is important; again, this principle is accepted. The documents assess three broad areas which would meet this criteria, namely:

- Land east of the M1
- Land west of the M1, north of the M42 / A42 and south of the A50
- Land west of the M1 and north of the A50 (and including the location within which the application site lies)

For a range of reasons including alternative sites' similar level of flood risk, potential impacts of HS2, suitability of sites for the size of units to which the application relates, impact on nearby settlements and preference for use of previously-developed sites, the submitted documents conclude that no more sequentially preferable sites exist in flood risk terms.

The Council's consultant has considered these documents and takes the view that, whilst additional information has been provided in the Sequential Test Addendum (following officer concerns regarding the scope of the original submission), the addendum still provides limited detail. Nevertheless, the Council's consultant accepts that it is likely that there no other suitable and available sites would be available within lower areas of flood risk. Nevertheless, the Council's consultant accepts that the Sequential Test Addendum appears to make use of the best available information at the time of writing, and is reasonable for the level of assessment required. The Council's consultant takes the view that the other sites considered are less preferable or unavailable for the proposed development, and that, whilst the process may have benefitted from agreeing beforehand a potential list of alternative sites with the Council and other Local Planning Authorities in the area, this may have been disproportionate to the level of assessment required.

The Council's consultant also notes that, having regard to submitted updated modelling that shows that the area for development is outside the 1 in 20 annual probability flood extent (i.e. Flood Zone 3b) (in effect, within Zone 3a) and to the fact that the development within the redline

boundary has been directed to the areas at lowest risk from flooding (with the exception of the area to the south of the rail line to which a suitable access would be unfeasible), a sequential approach also appears to have been followed during the site layout planning.

The Council's consultant considers that the assessed sites have all been discounted based on acceptable reasoning and the information available at the time of writing. Whilst, for the reasons set out under Approach to Determination and Principle of Development above, it is not necessarily accepted that the application site can be considered preferable to other sites on the basis of those alternative sites constituting previously-developed land, the applicant only appears to have applied this criterion to the undeveloped balance of the adjacent site to the west, and it is not considered that that site would in any event be otherwise preferable (albeit, following its earlier, approval is now identified as a site with the benefit of planning permission for employment development under Local Plan Policy Ec1 and, as such, is subject to a presumption in favour of renewal of permission (subject to various criteria)).

Whilst, for its part, the Environment Agency advises that it has no formal comment to make with regard to the sequential test, it comments that there appears to be sufficient evidence presented for the Local Planning Authority to apply the regulatory criteria of the sequential test.

On the basis of the above, it is therefore accepted that the submission meets the requirements of the sequential test. Having regard to the development's flood risk vulnerability classification ("less vulnerable"), application of the exception test would not be required.

#### *Potential Sources of Flooding*

In addition to fluvial risk (classified as a high risk), the submitted FRA identifies potential sources of flooding within the following categories (in the absence of mitigation):

- Groundwater (high risk)
- Reservoirs and waterbodies (medium risk)
- Pluvial run-off (medium risk)
- Sewers (low risk)

The FRA also assesses the impacts of the development on the wider catchment, identifying a potentially high risk (if unmitigated) of loss of floodplain and of increased rate of run-off from new impermeable surfaces.

#### *Fluvial Risk*

Insofar as fluvial risk is concerned, the FRA sets out, in particular, the modelling work undertaken in order to establish a more detailed understanding of the vulnerability of the site (and its constituent parts) to flooding. The modelling undertaken shows that the areas of the site within which the proposed built development would be located fall outside of Flood Zone 3b (although the area of development would remain in Zone 3a).

To prevent fluvial flooding of the development, the ground levels within the development area are proposed to be set above the 1 in 100 annual probability flood with a 20% allowance for climate change and a 300mm freeboard. Based on the flood levels provided in the applications supporting documents, it is indicated that this would elevate the area approximately 100mm above the 1 in 100 annual probability level with a 30% allowance for climate change and with finished floor levels (FFLs) being set 150mm above surrounding ground level, such that FFLs would be above the 1 in 100 annual probability flood level with a 30% allowance for climate change and approximate freeboard of 250mm. The Council's consultant advises that this means that the development would be at an acceptable level of flood risk.

To offset the displaced water during periods of flooding (i.e. the displaced water resulting from

proposed raising of ground levels), floodplain compensation is proposed in the section of the application site to the south of the railway (i.e. the section within Environment Agency Flood Zone 1 (albeit the applicant's modelling indicates it is actually partially within both Flood Zones 1 and 2)). The Environment Agency and the District Council's consultants are satisfied that the compensation area would provide adequate storage on a level for level, volume for volume basis. Furthermore, the Council's consultant advises, significant surplus compensation would be provided at the lower nine level bands (900mm) and that, based on post-development modelling undertaken, there would be no increase in flood risk outside the application site as a result of the scheme. The Council's consultant had queried whether all of the flood risk compensation provision would be provided within the application site given the submitted modelling results; the applicant's consultant has clarified the position and confirmed that the calculations used to identify the available flood storage south of the railway were restricted to land within the application site. The District Council's consultant is content in this respect and, on this basis, considers that the development would be acceptable from a fluvial flood risk perspective.

The FRA notes that Netherfields Lane and Tamworth Road fall within the functional floodplain and may become impassable during significant flood events. It also states that the site is located within an Environment Agency Flood Warning and Alert Service Area, and that a Flood Warning and Evacuation Plan should be prepared prior to occupation to demonstrate what actions site users would need to take before, during and after a flood event in order to ensure their safety. For its part, given that the site would be accessed via a road passing through Flood Zone 3b, the Environment Agency advises that consideration be given to any emergency planning and rescue implications of the development.

The MHCLG's Planning Practice Guidance provides that flood warning and evacuation plans will need to take account of the likely impacts of climate change, e.g. increased water depths and the impact on how people can be evacuated and that, in consultation with emergency planning staff, the Local Planning Authority will need to ensure that evacuation plans are suitable through appropriate planning conditions or planning agreements. The Council's consultant advises that it would anticipate the Environment Agency to recommend conditions requiring this; whilst no conditions are recommended by the Agency, it is nevertheless considered appropriate that such a condition be imposed in the event that planning permission were granted. In this instance, whilst the route to the application site would be within Zone 3b, it is noted that other parts of the site would be at lower risk of flooding, and the principal issues of risk would, in that sense, be related to the means of evacuation rather than inundation of the site itself. No comments in respect of this issue have been received from Leicestershire County Council's Emergency Management team, LLR Prepared (the Local Resilience Forum for Leicester, Leicestershire and Rutland) or Leicestershire Fire and Rescue.

Further to the submission of the additional details of grassland mitigation / translocation set out in more detail under Ecology and Biodiversity above, both the Environment Agency and LLFA have confirmed that the proposed measures would not affect the advice previously provided in respect of the application.

### *Surface Water*

Having reviewed the submissions, the Council's consultant notes that existing surface water flood risk within the site is considered low and generally confined to the area of low elevation along the Derwent Valley Aqueduct and the Hemington Brook (located in the southern area of the site). As such, the Council's consultant advises, the main consideration for surface water flood risk is management of increased run-off resulting from the development.

The submitted Sustainable Drainage Statement sets out that it is proposed to restrict the discharge rate from the proposed (impermeable) development area to the receiving watercourse at the equivalent greenfield QBAR rate (the mean annual flow rate) up to the 1 in 100-year plus climate change event of 48l/s. The measures proposed to be used include underground tanks, swales and a detention basin. Ground investigations have been undertaken for the proposed development which has indicated an elevated groundwater level and contamination issues, hence limiting the application of infiltration SuDS. For its part, the Lead Local Flood Authority is content with the information supplied for the drainage design at this stage (given the outline nature of the application), and raises no objections subject to conditions.

In addition, Natural England had initially requested further information to demonstrate that the proposed SuDS would ensure a standard of water quality that would not impact on the Lockington Marshes SSSI. Following the receipt of additional details, Natural England confirms that it has no objections subject to the proposed SuDS measures incorporating systems to clean the discharged surface water (and secured by condition or obligations).

#### *Other Sources*

In terms of other potential sources of flood risk identified in the FRA, these include groundwater, which has been identified as a flood risk to the site given its potentially shallow depths. However, given that the proposed development would be elevated above existing ground levels, it would be at a low risk from this source of flooding. The Council's consultant also notes that high groundwater levels have been taken into account in the surface water management design. Other sources of flooding are considered to be low in terms of risk (and, as per groundwater, would be mitigated by virtue of the proposed raising of ground levels in any event). The findings also take into account other forms of mitigation (and other factors) which in effect reduce the risk from the unmitigated levels of potential risk identified above (for example, the undertaking of regular maintenance by Severn Trent Water on nearby reservoirs, and the limited extent of the site at risk of pluvial flooding).

#### *Foul Drainage*

The submitted documents confirm that there are no accessible public sewers near to the proposed development, with the closest public sewers being approximately 1km to the south (within the village of Lockington). As such, the applicant advises that connecting to this facility would require crossing a railway, dual carriageway and third party land, and would also be likely to require a pumped solution). Furthermore, the application documents indicate, Severn Trent Water advises that Lockington is a small catchment already running at full capacity and therefore would not have enough capacity to accommodate additional pumped flows. As such, the applicant advises, Severn Trent Water recommends entering into a private treatment package agreement with the Environment Agency, with an outfall to the Hemington Brook.

The MHCLG's Planning Practice Guidance provides that, when drawing up wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works but that, where a connection to a public sewage treatment plant is not feasible (in terms of cost and / or practicality) a package sewage treatment plant can be considered, and this is proposed in this instance. In terms of the rationale provided by the applicant for utilising a non-mains solution, it is accepted that connection to the nearest foul sewer would not be reasonable given the extent of the infrastructure required to achieve that; neither Severn Trent Water nor the Environment Agency have commented in respect of the proposed foul solution.

For its part, Natural England had initially requested further information to demonstrate that the application had fully considered the environmental pathways and changes in water quality that may impact on the Lockington Marshes SSSI. Following the receipt of additional details, Natural England confirms that it has no objections subject to the use of a water treatment package plant / phosphate stripping facility which is adequate to cope with the proposed use of the site and sufficient to protect the SSSI (and secured by condition or obligations). Subject to these measures (and those required in respect of surface water as set out above), the scheme would be considered acceptable in drainage terms in terms of Local Plan Policy En1.

In terms of flood risk and drainage issues overall, therefore, the view is taken that the proposals would result in no unacceptable impacts subject to the implementation of mitigation measures set out in the supporting documents, and the proposals would therefore be considered to comply with (or, in the case of matters reserved for later consideration, have the potential to comply with) the requirements of the relevant Local Plan Policies Cc2, Cc3 and En1 (insofar as they relate to these particular issues).

### **Noise and Vibration and Neighbours' Amenities**

In terms of amenity issues (and the scheme's performance in respect of Local Plan Policy D2), the impacts of the proposed development need to be considered both in terms of the effects on nearby residents arising from the undertaking of the construction of the proposed development (including, in particular, construction noise and vibration), as well on the future living conditions of those residents following construction, having regard to the noise and other amenity impacts of the proposed development. These are considered in turn below. The assessment has regard to the impacts on three existing sensitive receptors. These include two dwellings to the north of the site to the western side of Netherfields Lane (Hemington House, Tamworth Road and The Cottage, Netherfields Lane) and an adjacent traveller site to the eastern side of Netherfields Lane). It is noted that there is another existing dwelling to the west of the site (The Bungalow, accessed from the southern end of Netherfields Lane), but has not been included in the assessment. The applicant's noise consultant explains that the most sensitive receptors have been identified on the basis of both proximity to the development and existing noise climate. The applicant's consultant advises that, as this receptor is further from the development, the impacts experienced would be less significant (and, in effect, as the other receptors identified have found to be subject to acceptable impacts (considered in more detail below), no further assessment of other more distant receptors is necessary). This position appears reasonable, and it is also acknowledged that, given its siting immediately adjacent to the A50, The Bungalow is in any event likely to be affected to a much greater degree by the existing noise climate.

### ***Construction Impacts***

The submitted Environmental Statement identifies the key construction related activities likely to be associated with the development as excavation and substructure works (possibly including piling), drainage works, formation of superstructure and building envelopes, fitting out and formation of hard landscaping / highways infrastructure.

Whilst the Environmental Statement identifies the impact on existing sensitive receptors from construction noise and vibration as being "minor adverse", a range of mitigation measures intended to address any issues are set out. These could include measures such as use of modern / inherently quiet plant, site hoardings, hydraulic breaking techniques, rotary bored piling, off-site pre-fabrication, proper maintenance of plant and equipment, plant to be silenced where appropriate and switched off when not in use, loading and unloading of vehicles to be conducted away from existing sensitive receptors, and use of appropriate construction traffic

haul routes. Subject to this mitigation being implemented, the Environmental Statement identifies that the residual effects of construction noise and vibration to existing sensitive receptors would be reduced to "temporary, minor adverse significance at worst".

#### *Post Construction / Operational Impacts*

In terms of the operational phase of the development, the submitted Environmental Statement considers the noise impacts from fixed plant and equipment, HGV deliveries and car park use, together with the change in noise levels at existing sensitive receptors as a result of associated road traffic. The assessment also has regard to potential future noise sensitive areas (i.e. proposed offices) within the development (and including when having regard to the impacts of traffic noise from nearby strategic routes (i.e. the M1 and A50)).

Insofar as the various likely noise sources are concerned, the Environmental Statement identifies the following impacts:

Noise from existing sources on noise sensitive areas (i.e. proposed ancillary offices):

The Environmental Statement states that the results of the noise modelling indicate that offices to the nearest proposed façade to the M1 would, when allowing for a partially opened window, result in internal levels within the recommended noise for office spaces set out in BS8233; mitigation would therefore not be required.

Noise from fixed plant and equipment:

Whilst the Environmental Statement notes that precise details of plant etc. is not known at this stage (given the outline nature of the application), it nevertheless accepts that it is appropriate to specify suitable noise control limits to which any plant should conform, and that the rating level of fixed plant noise sources should not increase the prevailing background sound level when measured at the nearest existing sensitive receptors. Subject to any installations complying with the limits identified in the Environmental Statement, a worst-case effect would be expected to be limited to a permanent, minor adverse effect.

Noise associated with HGV deliveries:

Based on modelling for both the day and night time scenarios set out within the document, the Environmental Statement identifies the following:

Daytime (0700 to 2300): For two of the identified existing sensitive receptors (Hemington House and the traveller site adjacent to the application site), the noise associated with HGV movements and deliveries would, the Environmental Statement states, be "significantly" below (by 9dB(A) and 21dB(A) respectively) the measured background noise level during the daytime period. For the third (The Cottage) the noise associated with HGVs would "marginally" above (by 2dB(A)) the measured background noise level. The Environmental Statement identifies this as, at worst, a permanent, minor adverse effect, and indicates that no mitigation is required.

Night-time (2300 to 0700): During the night-time, for two of the identified existing sensitive receptors (Hemington House and the traveller site adjacent to the application site), the noise associated with HGV movements and deliveries would be below (by 4dB(A)) the measured background noise level and 7dB above for the third (The Cottage). This, the Environmental Statement states would, at worst, represent a permanent, moderate adverse effect; whilst the Environmental Statement notes that it is unlikely that all units would operate for the whole 24-



hour period (and, therefore, it is likely that the impacts would be less than those stated above), mitigation would nevertheless be required.

The mitigation proposed in respect of the night-time noise associated with HGV deliveries would comprise an acoustic barrier (such as a close boarded timber fence), located adjacent to the access road (and which, the Environmental Statement indicates, would (if located on the line of sight between the source and receiver) attenuate the noise source by approximately 10dB). The Environmental Statement confirms that the barrier would need to remove line of sight at first floor windows.

Given the outline nature of the application, the precise nature of the acoustic barrier is not clear at this stage. Regard would need to be had to its appearance and impact on its surroundings (and including any impacts on the setting of the listed Hemington House) at the appropriate time. In principle, however, it is considered that provision of such a barrier in an acceptable form could be achievable without unacceptable impacts on residential and visual amenity (and on the setting of the nearby listed building as set out in more detail under Historic Environment / Cultural Heritage below). Issues in respect of the potential impacts on heritage assets are considered separately under the appropriate section below.

Noise associated with car park areas:

Whilst the illustrative masterplan indicates that the majority of car park areas would be located on the screened side of the proposed buildings, in order to provide a robust assessment, the Environmental Statement assumes the car park areas associated with proposed buildings closest to existing sensitive receptors to be located facing those receptors. Types of noise considered include car pass-bys and manoeuvring, slamming of doors, engines starting and cars pulling away, and the assessment is based on a "worst-case hour" period (i.e. when the majority of car movements associated with the proposed development are likely to occur at the beginning and end of each day).

Based on the data set out in the Environmental Statement, the relevant internal noise level criterion from BS8233 within the existing sensitive receptors is predicted to be achieved during both the day and night-time; the Environmental Statement also notes that the existing ambient noise levels measured in the vicinity of the existing sensitive receptors are significantly higher than those predicted from the car park and, therefore, it is unlikely that noise from the car park areas would increase the existing ambient noise levels, or be distinguishable from the existing noise climate at these receptors. Therefore, the Environmental Statement identifies that there would be a permanent, negligible adverse effect.

Noise from development generated road traffic:

The Environmental Statement assumes the same traffic levels as set out in the submitted Transport Assessment and assesses predicted road traffic noise in a number of locations in the vicinity of the site in the 2023 scenario with and without the additional traffic predicted to be generated by the development.

The differences between the two sets of figures (i.e. with or without the development) indicate a range of increases between 0 and +0.8dB(A) (daytime, 18 hour) (with the largest increase identified in two locations on Tamworth Road where both readings would increase from 75.5dB to 76.3dB(A)). Based on the extent of these predicted increases, the Environmental Statement assesses the effects to be negligible with no mitigation required. To assess longer-term effects, equivalent figures are provided for the 2038 scenario; this again indicates a range of increases

(again, with some showing no change), with the greatest being an increase of +0.7dB(A) (daytime, 18 hour) (with the largest increase again identified on Tamworth Road (south of the Aldi access) where the reading would increase from 76.0dB to 76.7dB(A) in the with development scenario). Again, the Environmental Statement assesses these effects to be negligible with no mitigation required. It is noted that the locations assessed in this regard do not specifically include Netherfields Lane (and, hence, the direct likely impacts on the properties located here). By way of explanation, however, the agent advises that, whilst noise monitoring has been carried out on the site having regard to the existing sensitive receptors, it was based on the noise levels across the site generally, rather than focussing specifically on the road itself (and with this monitoring demonstrating that the existing noise levels at the site are dominated by traffic on the surrounding road network). Following this monitoring, the agent advises, a detailed noise model was prepared using standard prediction methodologies and identified the anticipated noise levels and potential impacts which would be generated by the development. This assessment considered HGV movements on Netherfields Lane (as already discussed above) and made recommendations for potential "high level" noise mitigation. On this basis, it is accepted that an appropriate form of assessment of the likely noise impacts of the development from development traffic on the closest residential properties has been undertaken.

On the basis of the above assessments, it is accepted that the development would not result in unacceptable impacts in respect of noise or vibration and would comply with the relevant elements of Local Plan Policy D2. No objections on noise or vibration grounds have been raised in respect of the proposed development by the District Council's Environmental Protection team, nor by any nearby residents or other third party.

#### *Other Residential Amenity Impacts*

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, whilst an illustrative masterplan has been submitted, all matters except part access are reserved for subsequent approval; the application documents indicate that the proposed buildings would be of maximum height 19 metres.

Whilst it is accepted that buildings of this height would be of some scale, it is nevertheless acknowledged that the nearest residential properties would be likely to be located at some distance from the development (in excess of 150m, based on the submitted illustrative masterplan). Notwithstanding the anticipated maximum heights of the proposed units, therefore, it is accepted that, in principle, a form of development could be provided within the site which would not lead to any undue loss of amenity by virtue of loss of light, overdominance or other residential amenity impacts. Clearly, careful consideration would need to be given to any detailed proposals for these and other areas of the site submitted at the reserved matters stage(s) so as to ensure that an appropriate relationship between proposed units and existing dwellings were provided (and, for example, a scheme along the lines of that shown on the illustrative masterplan would be considered likely to achieve this). It is therefore considered that there is no reason to suggest that the eventual form of development proposed at the reserved matters stage(s) would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, considered acceptable in this regard, with the potential to comply with the relevant sections of Local Plan Policy D2.

#### **Air Quality**

Policy D2 of the adopted North West Leicestershire Local Plan also seeks to ensure that adverse effects of development on residents' amenities is minimised (and including in respect of pollution); Policy En6 provides that development close to an Air Quality Management Area

(AQMA) will be supported where an application is accompanied by a detailed assessment of the issues, and appropriate mitigation is identified. The nearest AQMAs to the site are in excess of 2km away; whilst the Environmental Statement identifies the Castle Donington AQMA as the closest, the Kegworth AQMA would appear to be slightly closer to the site boundary (albeit not necessarily closer to the proposed areas of built development).

The Environmental Statement assesses the impacts on nitrogen dioxide and dust / particles associated with the development, including impacts arising from the construction works and the additional traffic associated with the development once it is in use.

The Environmental Statement considers likely air quality effects in two principal categories: impacts during the construction phase (including dust), and impacts from road traffic during the operational phase (nitrogen dioxide and particulates). The Environmental Statement considers the impacts on a total of 16 existing sensitive receptors.

In terms of the construction phase, the Environmental Statement sets out a range of mitigation measures throughout the different phases of the development. In the absence of mitigation, the Environmental Statement identifies the dust soiling risk from the proposed earthworks and construction operations to be "medium", and the dust soiling risk from the proposed trackout (i.e. construction vehicles leaving the site) operations to be "low". Insofar as predicted human health impacts are concerned, the risk from the earthworks, construction and trackout operations are all identified as "low". Subject to the mitigation measures being implemented, the Environmental Statement indicates that the dust effects during the construction phase would be "not significant".

Insofar as the operational phase is concerned, the Environmental Statement considers in particular the effects of nitrogen dioxide and particles associated with the development, including impacts arising from the construction works and the additional traffic associated with the development once it is in use.

In terms of nitrogen dioxide, the Environmental Statement states that the traffic generated by the operation of the development would be predicted to increase annual mean nitrogen dioxide concentrations by between 0 and  $0.5\mu\text{g}/\text{m}^3$  in 2023 (when compared to the predicted "without development" scenario), and with all predicted levels for all but one of the receptors remaining below 75% of the  $40\mu\text{g}/\text{m}^3$  Air Quality Assessment Level (AQAL) set out in the Government's Air Quality Strategy for England, Scotland, Wales and Northern Ireland. Similarly, annual mean concentrations of  $\text{PM}_{10}$  and  $\text{PM}_{2.5}$  (i.e. particulate matter with an aerodynamic diameter of less than  $10\mu\text{m}$  and  $2.5\mu\text{m}$  respectively) would be predicted to be increased by no more than  $0.2\mu\text{g}/\text{m}^3$ , equating to less than 1% of the  $40\mu\text{g}/\text{m}^3$  Air Quality Assessment Level (AQAL). On this basis, the Environmental Statement identifies that the post-development impact of the development in terms of nitrogen dioxide and particulates would be negligible (and including in respect of those receptor locations sited within existing AQMAs).

Whilst no mitigation is identified as required (given the findings of the Environmental Statement), the application nevertheless notes that a Travel Plan is proposed to be prepared in order to reduce trip generation and encourage sustainable transport management (and which may therefore assist to reduce any emissions associated with the operation of the proposed development further).

On this basis, it is considered that the proposed development would be acceptable in terms of its air quality implications, and would meet the relevant requirements of Local Plan Policies D2 and En6. No objections are raised in respect of air quality issues by the District Council's

Environmental Protection team.

In addition to the air quality issues set out above, Natural England had initially requested further information to demonstrate the impact of the proposed development on the Lockington Marshes SSSI (and, in particular, in respect of the potential to exacerbate nitrogen levels). Following the receipt of these details, Natural England confirms that it is satisfied with the submitted justification as to why the SSSI would not be impacted in respect of air quality. The scheme would therefore be considered acceptable in air quality terms in respect of Local Plan Policy En1.

### **Historic Environment / Cultural Heritage**

Policy He1 of the North West Leicestershire 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. The submitted Environmental Statement includes assessment of the impacts in terms of built heritage and archaeology.

#### *Designated Heritage Assets:*

In terms of designated heritage assets, the built heritage assessment within the Environmental Statement (informed by a Built Heritage Statement) considers the impacts on two listed buildings within a 1km radius of the middle of the application site. 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. There are no other designated assets (including Conservation Areas and scheduled monuments) within 1km of the centre of the site. No other designated heritage assets beyond the 1km radius are assessed, but the approach taken is considered reasonable, and it is accepted that there would be unlikely to be any material impact on any designated assets other than those considered.

The two listed buildings considered are Hemington House on Tamworth Road, Shardlow (an early 19th century farmhouse and associated buildings (and one of the dwellings located to the north west of the application site)), and a milepost located to the southern side of the A50; both are Grade II.

Insofar as Hemington House is concerned, the Built Heritage Statement acknowledges that the development would impact upon its setting. In assessing the extent of the potential impacts, the Built Heritage Statement notes that the historic setting of the house has been "radically altered" through quarrying activity during the 20th century, the removal of historic field divisions and evidence of former agricultural activity, the construction of the M1 motorway, and by the development of the distribution centre to the south (i.e. Aldi). The Built Heritage Statement also argues that the application site does not form a substantive element within the visual setting of the listed building, making a "broadly neutral" contribution to significance (albeit providing wider openness to its setting). The proposed development would not, the Built Heritage Statement argues, impact upon the immediate setting of the listed building or significant elements falling within it, particularly in terms of landscape enclosure and the relationship with the associated building group to the south. Nor, it suggests, would it impact upon the historic approach to the house from the north or upon retained fields to the south and east.

The Built Heritage Statement acknowledges that the proposed development would be a "distinct new visual element" within the setting of the listed building, although argues that its impact upon

significance would be minimal. As set out under Noise and Vibration and Neighbours' Amenities above, the development's proposed noise mitigation includes the installation of an acoustic barrier; the Built Heritage Statement indicates that this feature would alter the visual character of the existing boundaries to Hemington House, but that these impacts can be mitigated. In response to the application, the District Council's Conservation Officer has sought supplementary information (including in respect of visual impact assessment material) so as to assist in identifying the effects on the setting of the listed building. Following the receipt of further information, and following his own on-site assessment, the Conservation Officer concludes that there would have no adverse effect on viewpoints to the north west or west of the farmstead due to intervening trees, hedgerows and buildings, nor would there be an adverse effect on viewpoints from the farm courtyard (i.e. on the experience of the rear elevation of the principal building) due to an intervening open-sided building. However, he takes the view that there would be an adverse effect on a viewpoint to the north east of the farmstead that would affect the experience of the front elevation of the principal listed building (and resulting in harm to the significance of the listed building to a less than substantial degree).

In terms of Hemington House overall, the Built Heritage Statement states that, whilst the new development would introduce a new visual element within the visual setting of the listed building, key aspects of significance would be retained. As such, it suggests that a "minimal" impact upon significance (through loss of openness, impact of the proposed highways work and the construction of acoustic fencing) is anticipated, and that this impact would be less than substantial. Whilst, the Built Heritage Statement acknowledges, the overall impact upon the openness to the setting of the listed building is not capable of mitigation, it indicates that measures can nevertheless be implemented in order to minimise the extent of harm. The following mitigation measures are suggested:

- Highway realignment along Tamworth Road should seek to retain existing tree and hedgerow boundaries to the south of the road and along Netherfields Lane (and, where not possible, replacement planting should be considered to reinforce boundary treatment);
- Acoustic fencing constructed at the minimum height necessary and set within existing landscape boundaries in order to minimise visual impact;
- Landscape reinforcement to the Netherfields Lane boundary; and
- Location of proposed larger units to the southern sections of the site.

In terms of these mitigation measures, it is noted that:

- As set out under Landscape and Visual Impact above, the final extent of the retained vegetation to the Netherfields Lane boundary would be determined at the reserved matters stage although the widening of Netherfields Lane as indicated on the submitted illustrative material would suggest that some loss of existing vegetation would be likely. However, there would appear to be no reason why replacement planting could not (once matured) continue to provide a buffer of at least equivalent screening value as existing vegetation.
- Details of the proposed acoustic barrier and landscaping would need to be addressed once the detailed site layout was established.
- The intention in respect of building heights is for these to be a maximum of 19m high (and throughout the site, rather than different height buildings being proposed in different sections). In terms of floorspace, the illustrative masterplan does not appear to suggest that the larger units would be grouped in a particular area of the site (albeit it is acknowledged that this plan is illustrative at this outline stage).

Whilst the assessment search area also includes the milepost referred to above, it is accepted

that, given the distance from the development and intervening highways infrastructure, no material impact from the proposals on the setting of that listed building would be likely.

In view of the above conclusions, it is considered that some harm to the significance of Hemington House would arise, but that this harm would be less than substantial (a position accepted by the District Council's Conservation Officer). Paragraph 196 of the NPPF provides that, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal...". In this instance, therefore, any harm considered to arise in respect of the heritage asset needs to be weighed against the public benefits as outlined in this report.

In accordance with the requirements of NPPF Paragraph 193, "great weight" should be given to the asset's conservation and, notwithstanding the approach set out in Paragraph 196, regard nevertheless still needs to be had to the statutory duties under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Whilst appearing to refer specifically to works to an asset itself (as opposed to works affecting the asset), the Planning Practice Guidance suggests that harm to an asset may be justified in the interests of realising a public benefit provided the harm is minimised, and also indicates that developers can use appraisals to identify alternative development options that would both conserve the asset and deliver public benefits in a more sustainable and appropriate way. On this basis, the District Council's Conservation Officer recommends that the harm be balanced against the public benefits of the proposal, taking into account (i) the "great weight" that the NPPF attaches to the conservation of designated heritage assets and (ii) the potential for "alternative development options...that would both conserve the heritage assets and deliver public benefits". For its part, the applicant considers the benefits to include those in respect of job creation, meeting an identified need for employment units, use of previously-developed land and addressing of anti-social behaviour (including fly-tipping and other anti-social activities).

Whilst there would clearly be some adverse impacts on the asset, the public benefits of the scheme (and including the proposed development's contributions to the economic and social strands of sustainable development as set out elsewhere within this report) would be considered to more than outweigh the less than substantial harm identified. It is also accepted in this instance that, given the particular nature of the development proposed (i.e. large scale B8 units) and the constraints limiting options in terms of site layout (including flood risk), an alternative, less harmful, form of development would be unlikely to be feasible. In this case, and when applying the duty under Section 66 of the Act together with the tests set out in the Planning Practice Guidance, the view is taken that, whilst there would be a degree of harm to the setting of a listed building as identified in the Environmental Statement and accompanying Built Heritage Statement, the overall impact would be acceptable.

#### *Non-Designated Heritage Assets:*

Insofar as non-designated heritage assets are concerned, the submitted Environmental Statement is also informed by an Archaeological Desk-Based Assessment which identifies a number of assets within the site and surrounding area. These include finds within the prehistoric, Roman, medieval and post-medieval periods, and identifies the most significant asset affecting the site as the Bronze Age Lockington Barrow cemetery (the extent of which includes the southern part of the application site (i.e. areas of the site not proposed for built development)). Other prehistoric remains both within the site and in the surrounding area include evidence of potential barrows, a roundhouse, enclosures and an Iron Age farmstead, some of which are thought to have been destroyed by the M1 construction and quarrying. The

Desk-Based Assessment indicates that, during the medieval period, the site lay within the open fields of Lockington; it was enclosed prior to 1815 and then remained in agricultural use until the 1960s. Following on from geophysical surveys, the Desk-Based Assessment confirms that trial trenching has been undertaken, and building on earlier archaeological research.

In response to the application, the County Archaeologist had initially sought the submission of further information / investigation works within the central area of the site, and proposing that no works be undertaken within the southern section (including formation of landscaping bunds) so as to ensure the preservation of archaeological resource in situ (which, the County Archaeologist advises, could include an Anglo-Saxon cemetery). Concern was also raised in respect of proposed formation of new river channels either side of the railway.

Following clarification from the applicant that the proposed landscaping bund would be created with imported material, the County Archaeologist's concerns in respect of this issue have been addressed (albeit, if heavy machinery is intended to be used to achieve this, the County Archaeologist suggests that this take place during drier periods of weather so as to avoid any adverse impacts on the archaeology arising from machinery sinking into the ground etc.). In terms of the river channel concerns, due to the high potential of as yet unknown archaeology within the area, further investigation / recording works are required by the County Archaeologist, and appropriate conditions to secure this are recommended.

Further to the submission of the additional details of grassland mitigation / translocation set out in more detail under Ecology and Biodiversity above, the County Archaeologist comments that the southernmost area of the site has been cultivated and therefore has the potential for ploughing to have disturbed any archaeological material remains which could now be located within the 100mm of topsoil involved with the translocation works. In view of this, the County Archaeologist recommends a field walking and metal detecting survey of the area prior to any removal of topsoil to ensure that any archaeological finds within the topsoil is recorded and reclaimed before removal. Depending on the results of this survey, the County Archaeologist advises that further mitigation may be required, as archaeological attendance of the topsoil strip, and recommends an updated form of wording to the previously-recommended condition in respect of the submission of a written scheme of investigation (WSI).

Paragraph 197 of the NPPF provides that "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset". Having regard to the above findings in respect of non-designated assets and the advice of the County Archaeologist, it is considered that only limited harm is likely to arise.

The proposals are therefore considered to be acceptable in terms of the impacts on heritage assets, and, overall, would perform well in respect of the principles set out in Local Plan Policy He1.

### **Means of Access, Highways and Transportation Issues**

As set out in the introduction above, the application is in outline with all matters reserved save for the proposed vehicular access into the site from Tamworth Road / Netherfields Lane. The Environmental Statement is supported by a Transport Assessment and Framework Travel Plan.

As set out under the preceding sections relating to principle of development and the

assessment of the scheme's performance in respect of Local Plan Policy Ec2, two key criteria under that policy are the site's accessibility (or potential to be made accessible as a consequence of any planning permission granted for the development) by a choice of means of transport, and the need to have good access to the strategic highway network. Leicestershire County Council and Highways England have been consulted in respect of the proposals, and their advice is set out in more detail below.

In addition to the scheme's performance in respect of Local Plan Policy Ec2, regard also needs to be had to Policies IF1 and IF4. Of particular relevance are the requirements within Policy IF4 for development to take account of the scheme's impact on the highways network and the environment (including climate change), and to provide safe and accessible connections to the transport network, maximising accessibility by sustainable modes of transport, and enabling travel choice.

### *Site Accessibility*

In terms of pedestrian, cycle and public transport connectivity, the submitted Framework Travel Plan sets out the existing opportunities to use these modes as follows:

#### **Pedestrian:**

There are limited residential areas within the identified 1,000m "acceptable" or 2,000m "maximum" walking distances of the site (with larger residential areas being limited to the southern end of Sawley), but the existing pedestrian infrastructure in the vicinity of the site would provide opportunities for walking as part of a multi-modal journey.

#### **Cycle:**

The settlements of Sawley, Long Eaton, Castle Donington, Hemington and Lockington lie within a 5km journey from the site. Existing cycling facilities include a shared footway / cycleway along sections of Tamworth Road and alongside the A50, allowing connections to Castle Donington, Lockington and Hemington.

#### **Public Transport:**

The closest existing bus stops serving the site are located close to Sawley Marina, approximately 600m from the junction of Netherfields Lane with Tamworth Road, served by regular buses connecting the site to Nottingham, East Midlands Airport, Kegworth, Loughborough and Coalville (including 24 hour services, 7 days per week). The nearest railway station is at Long Eaton.

Insofar as potential enhancements to these modes of travel are concerned, the Framework Travel Plan provides that a 3.0m wide shared footway / cycleway would be provided along Netherfields Lane, connecting the site with Tamworth Road, and that a toucan crossing would be provided on Tamworth Road at the Netherfields Lane junction so as to allow pedestrians and cyclists to cross Tamworth Road safely. In addition, the Framework Travel Plan provides that 2.0m wide footways would be provided throughout the site and along the internal roads within the development and that secure, covered cycle parking would be provided in "convenient locations" close to the building entrances. In terms of the intended widening of Netherfields Lane, the County Highway Authority advises that the principle of this is welcomed, but would be subject to detailed design (and would also be likely to require the installation of street lighting on Netherfields Lane, with the speed limit reduced to 30mph).

In terms of public transport, the applicant proposes to provide new bus stops (including raised



kerbs, shelters and timetable information) on Tamworth Road adjacent to the Netherfields Lane junction. In addition to the potential impacts on existing trees noted under Landscape and Visual Impact above, it is noted that the proposed bus stop serving buses travelling in the south westerly direction on Tamworth Road would be located in close proximity to an existing tree. The applicant confirms that this tree falls within highway land (and notes that the County Council has not raised objection on this issue). The applicant comments that, whilst a formal survey on the tree has not been undertaken, it is an over-mature ash which has, during its life, shed branches and limbs, has been subject to cutting back on its Tamworth Road side, and with significant ivy growth restricting clear inspection. Whilst the applicant does not consider the tree to present a constraint to the development, it suggests that a survey could, if necessary, be conditioned, ahead of the precise siting of the bus stop being addressed under the Section 278 process with Leicestershire County Council. It is considered that this would be a reasonable approach to take in this instance. For its part, the County Highway Authority confirms that the highway tree would represent a County Council asset, and would require that the tree be surveyed as suggested (and agrees that, as the bus stop / access works would be subject to detailed design, there would be scope to amend the design if necessary).

In terms of other potential proposals contributing towards more sustainable means of travel, the Framework Travel Plan provides that provision of electric vehicle charging points would be considered.

The County Highway Authority takes the view that, in order to meet the applicant's stated aim of reducing the rate of single occupancy vehicle journeys to the site, this would typically be achieved by promoting the uptake of cycling, walking, public transport and car sharing, with initiatives and programmes and specific targets established and enacted by a named Travel Plan Coordinator. The County Highway Authority considers that the Framework Travel Plan provides a comprehensive assessment of walking and cycling opportunities and includes specific targets for modal shift (but also recommends implementation of local "lift share" arrangements, led walks, a bike user group and provision of free bus passes for staff).

On this basis, it is accepted that, in terms of meeting the requirements of Policy Ec2(2)(a), the scheme would, overall, provide for an acceptable degree of accessibility by sustainable transport modes.

#### *Site Access:*

As set out above, it is proposed that the site would be accessed via a signal controlled priority junction on Tamworth Road at its junction with Netherfields Lane. In terms of the design of this junction, the County Highway Authority advises that a traffic island should be provided between the second ahead lane and the right turn lane to split these two movements, thus enabling the traffic signal heads to be separated out onto separate poles. Subject to this, and subject to the potential provision of a duplicate high mounted traffic signal head or mast arm to the Tamworth Road eastbound approach (and which the County Council considers can be addressed as part of the technical approval process), the County Highway Authority is content with the site access arrangements.

#### *Highway Safety:*

The County Highway Authority advises that there have been 11 recorded personal injury collisions (PICs) in the vicinity of the site within the last five years (comprising 10 "slight" and 1 "serious"); four of the PICs occurred at the A50 roundabout junction, with the remaining seven on Tamworth Road, five of which involved right-turning manoeuvres into private drives. The

County Highway Authority advises that it is satisfied that, due to the proposed improvements at the Tamworth Road and Netherfields Lane junction, the development proposal would not exacerbate the likelihood of further such incidents occurring. The development is therefore considered acceptable in highway safety terms.

In terms of other highway safety issues not considered below, Highways England advises that, due to the site's location adjacent to the M1 motorway and A50 trunk road, any changes to the boundary (including earthworks and surface water drainage) would need to be agreed with Highways England (but is satisfied that these matters could be addressed by way of planning conditions).

#### *Impact on the Wider Highway Network*

In terms of trip generation and distribution, the County Highway Authority notes that, whilst a total of 78,967sqm of floorspace is proposed, the Transport Assessment had originally been prepared on the basis of a potentially greater developable area (85,469sqm) but that this figure has been retained (and thus would make the assessment more robust). Based on this assumption, and deriving figures using the Three Counties Traffic Model, the Transport Assessment identifies 154 two-way trips in the AM peak period (comprising 114 light vehicles and 40 HGVs) and 188 two-way trips in the PM peak period (comprising 154 light vehicles and 34 HGVs).

Insofar as trip distribution for light vehicles is concerned, this has been calculated using 2011 census journey to work data for the North West Leicestershire 001 MSOA Middle Super Output Area (MSOA). The County Highway Authority is content with this methodology, and notes that the Transport Assessment identifies that approximately 86% of employees would access the site via Tamworth Road from the south west (i.e. via the Sawley Crossroads junction), and the remaining 14% from the north east (i.e. from the Sawley / Long Eaton direction). All trip distribution for HGVs is assumed to be via Sawley Crossroads (i.e. given its access onto the strategic road network).

The figures assessed have taken into account other committed development, and expected traffic growth to the years 2031 (i.e. the end of the Local Plan plan period) and 2033 (to meet the Leicestershire Highway Design Guide requirement for assessment 10 years after anticipated opening). The growth factors applied to the 2023 base flows to provide future year base flows are acceptable to the County Highway Authority.

Junction capacity assessments have been undertaken at the following junctions:

- Proposed Tamworth Road / Netherfields Lane signalised junction
- Aldi site access / Tamworth Road roundabout
- A50 Junction 1 roundabout (Sawley Crossroads)

Insofar as the various junctions are concerned, the County Council advises as follows:

Tamworth Road / Netherfields Lane signalised junction:

The junction has been assessed using LINSIG. The model has been verified and suitably demonstrates adequate Practical Reserve Capacity (PRC) with the junction operating at less than 90% saturation in both the 2023 and 2033 with development scenarios.

Aldi site access / Tamworth Road roundabout:

The junction has been assessed using ARCADY and demonstrates a maximum Ratio of Flow to Capacity (RFC) of 0.59 in the 2033 with development scenario in the AM peak and 0.79 in the

PM peak of this scenario (and which compares favourably to practical capacity, typically accepted as 0.85). The County Highway Authority is therefore satisfied that the junction would continue to operate within capacity in the future assessment year.

A50 Junction 1 roundabout (Sawley Crossroads):

The junction has been assessed using LINSIG and takes into consideration mitigation at the junction previously secured in association with the mixed use development at Park Lane, Castle Donington. Whilst only 2023 and 2031 have been assessed, the County Highway Authority notes that the junction is under Highways England's jurisdiction (and that Highways England does not require modelling beyond this date). Notwithstanding this, the County Highway Authority is satisfied that the junction would continue to operate within capacity.

For its part (and following the submission of supplementary information during the course of the application's consideration), Highways England advises that the revised A50 Junction 1 capacity assessments indicate that the junction would perform within capacity both with and without the mitigation scheme conditioned in respect of the Park Lane development in the 2023 opening year. Although Highways England notes that the modelling work also suggests that the junction would operate close to capacity in 2031, it accepts that the impact of the development appears to be limited. Furthermore, Highways England advises, it is anticipated that the LINSIG models would be likely to underestimate the future capacity of the junction, which is assumed to be operating in MOVA signals (and even when combined with any impacts from the proposed employment development scheme to the southern side of the A50 (19/01496/OUTM)). Therefore, Highways England confirms that it has no objections to the application from the traffic capacity perspective.

In addition, in response to a query raised by the Local Planning Authority regarding potential impacts on the Tamworth Road / Warren Lane priority junction (i.e. the impacts of additional traffic on Tamworth Road making it more difficult for users of Sawley Marina to turn onto Tamworth Road), the County Highway Authority has also provided comments on this junction. On the basis of the agreed assignment of vehicles accessing / egressing the site via the north easterly direction (see above), the County Council identifies that the total number of additional movements in this direction would be 16 in the AM peak (14 arrivals and 2 departures) and 22 in the PM peak (5 arrivals and 17 departures). This compares with existing traffic survey data recording 660 northbound and 943 southbound vehicles in the AM peak and 997 northbound and 672 southbound vehicles in the PM peak along Tamworth Road. On this basis (and as the threshold for assessing junction capacity is normally 30 two-way movements), the County Highway Authority advises that a capacity assessment of the Tamworth Road / Warren Lane junction would not be required.

In terms of off-site requirements (and in addition to the proposed bus stops and 3.0m wide shared use footway / cycleway referred to above), the County Highway Authority advises that positive HGV signage and height restriction signage in connection with low bridges to the north east of the site would be required. The County Highway Authority also draws attention to an existing road blocker (hydraulic raising barrier) on Netherfields Lane, and which was installed in order to address fly-tipping issues in this location. In order to enable unfettered access to the development site, the blocker would need to be relocated to the south of the proposed accesses to the site from Netherfields Lane. As set out under the summary of representations above, representations have been received on behalf of the operator of the adjacent unit (Aldi) requesting that any planning permission granted for the development provide for the reinstallation of the barrier further down Netherfields Lane (and the retention of the existing staggered barrier at the southern end of Netherfields Lane). The applicant has confirmed that it would be agreeable to relocating the automated road blocker as suggested (and that the

staggered barrier at the southern end of Netherfields Lane is not proposed to be altered).

#### *Public Rights of Way*

The site is crossed by a right of way (footpath L74), and is also immediately adjacent to two further routes (footpath L83 and bridleway L109), but their alignment would not be affected. In terms of the footpath crossing the site (L74), this does not pass through the part of the site wherein built development would be proposed, and the impacts on the experience of users of the right of way would therefore be considered to be limited (albeit users would, following the development, see employment units whereas the site is currently undeveloped countryside). In terms of the impacts of the development on users of other rights of way which would also experience changes to their setting / environment, these are considered in more detail under Landscape and Visual Impact above. Whilst the assessment of public rights of way receptors undertaken within the Environmental Statement is not exhaustive of all rights of way where the development would be visible from, it is accepted that none would be unacceptably impacted upon in terms of the recreational value of using the various rights of way. For its part, the County Highway Authority advises that the presence of the right of way crossing the site should be taken into consideration, but makes no further observations, save for requesting the imposition of conditions, including conditions relating to the treatment of the footpath during construction works, and securing the provision of additional footpath signage / waymarking to assist additional users of the route arising as a result of the development.

#### *Transportation Contributions / Obligations*

As referred to above, the County Highway Authority requests the provision of a number of measures intended to secure the sustainability of the proposed development. The full list of contributions sought by the County Highway Authority include:

- Provision of Travel Packs for new employees in accordance with details first agreed in writing by the County Highway Authority (or, alternatively, payment of a commuted sum to Leicestershire County Council (£52.85 per pack) in order to supply the packs)
- Provision of six month bus passes to new employees (or, alternatively, payment of a commuted sum to Leicestershire County Council (£490 per pass) in order to supply the passes)
- Payment of a STARSfor (Sustainable Travel Accreditation and Recognition Scheme) Travel Plan monitoring fee to Leicestershire County Council (£11,337.50)
- Compliance with a construction traffic routeing agreement in accordance with details first submitted to and agreed in writing by Leicestershire County Council

Further assessment of the above items' compliance with relevant policy and legislation in respect of planning obligations is contained within the section relating to Developer Contributions below. As set out in that section, it is considered that the contributions sought by Leicestershire County Council in this regard would meet the relevant policy and legislative tests above. The applicant has confirmed that the above obligations would be acceptable from its point of view.

On the basis of the above contributions / obligations, and subject to a number of conditions, the County Highway Authority raises no objections to the scheme.

Insofar as the environmental effects identified under the EIA are concerned, the Environmental Statement provides that, with the various mitigation measures (in effect, provision of appropriate

off-street parking, implementation of a construction management plan (including vehicle routing strategy) plus the proposed Transport Assessment / Travel Plan measures as set out above designed to encourage more sustainable modes of travel), the development would have the following effects:

- "Permanent minor adverse" impact on pedestrians, cyclists, equestrians and the community in the operational phase;
- "Permanent negligible" impact on pedestrians, cyclists, equestrians and the community with regards to journey length and local travel patterns and severance; and
- "Permanent negligible" impact on vehicle travellers in terms of view from the road and driver stress

On this basis, the proposals are considered acceptable in terms of means of access, highways and transportation issues, satisfying the relevant elements of Local Plan Policies Ec2, IF1 and IF4.

### **Climate Change**

In addition to the climate change policies (including Local Plan Policies Cc2 and Cc3) set out under Flood Risk and Drainage above, Paragraph 150 of the NPPF provides that new development should be planned for in ways that avoids increased vulnerability to the range of impacts arising from climate change, and can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Local Plan Policy D1 also requires non-residential development to positively address the District Council's Place Making principles (which include a "greener footprint"), and for new development to have regard to sustainable design and construction methods. Further assessment of Policy D1 is also set out under Design below.

The application is supported by a Sustainability Statement assessing the proposed scheme's implications in respect of climate change and identifying measures to be incorporated within the development; further details are also set out in the Design and Access Statement. The Sustainability Statement indicates that an "exemplar" approach is proposed based on low energy design principles, seeking to minimise energy demand through effective building form and orientation, good building envelope design and "proficient" use of services (with the concept being that the buildings themselves would be used as the primary "environmental modifier", reducing the inherent energy demand of the development in the first instance before considering deployment of appropriate renewable technologies to decarbonise the development's energy supply).

In terms of the energy efficiency of the proposed buildings, the Sustainability Statement provides that the following measures would be employed:

- Adoption of general construction design standards to exceed Building Regulations requirements in respect of CO<sub>2</sub> emissions
- Building envelopes designed to ensure that the fabric and form of the office and warehouse spaces encompass low energy sustainability principles and high levels of thermal performance
- Air tightness qualities representing an improvement of 75% over the requirements of the Building Regulations
- High levels of natural daylight
- Use of low energy lighting (including LED) internally and externally
- Low NOx / high efficiency condensing gas boilers
- Low temperature flow and return hot water heating
- High efficiency hybrid heat recovery ventilation with automatic control strategy to the

- office spaces
- Zoning of mechanical ventilation systems
- Modular open architecture controls systems and associated network
- High efficiency low energy motors to be used to drive mechanical ventilation systems
- Variable speed pumps and fans to help match energy usage with the operating profile and occupancy of the building
- Use of electricity sub-metering
- Energy Performance Certificate (EPC) A-rating
- BREEAM rating of "Very Good"
- Use of A and A+ rated construction materials wherever possible with associated low Embodied Carbon impact

Insofar as water conservation is concerned, the Sustainability Statement provides that toilets would be low water capacity, taps would be of the push button type, and water consumption would be tightly monitored. Rainwater harvesting to the office accommodation would also be employed.

In terms of energy sources, the Sustainability Statement and Design and Access Statement provide that low and zero carbon technologies would be incorporated, including:

- Air source heat pumps for space heating / cooling in the office areas
- Solar thermal evacuated tube installation (in respect of hot water requirements of the office areas)
- Solar photovoltaic panel installation to provide a "large proportion" of the electrical demand of the buildings, and to support electric vehicle charging (and as indicated as a potential measure in the submitted Framework Travel Plan as discussed under Means of Access, Highways and Transportation Issues above)

It is accepted that these measures would (where applicable) assist the development in terms of its performance under those sections of Local Plan Policy D1 relating to subsection (2) (positively addressing the Council's Place Making principles (and, in particular in terms of the greener footprint criterion)) and subsection (5) (new development having regard to sustainable design and construction methods).

In addition to addressing the development's own environmental impacts, the Sustainability Statement sets out a range of measures intended to ensure that the proposed development would be resilient to the effects of climate change / extreme weather conditions. These include:

- Use of glazing specification to ensure excellent performance criteria for light transmission to promote daylighting, but combined with a low solar transmission to protect against solar gain and overheating
- External solar shading devices
- Use of mechanical ventilation systems for the office elements of the development, allowing the buildings to benefit from "free cooling" in summer when the outside air temperature is below that of the occupied spaces, and with heat recovery techniques being employed to lower operating costs during the heating season
- Use of materials of construction selected to offer structural and fabric resilience to extreme weather conditions
- Use of landscaping and external planting so as to offer natural protection for the buildings and external areas occupied by users (e.g. shading)

Having regard to the above measures (together with those set out within the section in respect of Means of Access, Highways and Transportation Issues, assessed in the context of Local Plan Policy IF4), it is considered that the proposed development would perform well in terms of the

Local Plan's stated intention of seeking to help tackle climate change and the relevant elements of Local Plan Policy D1, as well as Paragraph 150 of the NPPF, and would be appropriate in this regard. A condition is recommended below in respect of ensuring that the identified sustainable construction measures would be incorporated within the proposed development.

## Design

The need for good design is set out within Policy D1 of the North West Leicestershire Local Plan, together with the Good Design for North West Leicestershire SPD and relevant sections of the NPPF and Planning Practice Guidance. The proposed scheme is outline only, with all matters other than part access reserved for later consideration; the application is supported by a Design and Access Statement and illustrative masterplan.

Local Plan Policy D1 sets out that the Council will support well designed development. Non-residential development should, amongst other Place Making principles, have a National Forest or locally inspired identity and be of architectural quality. This is reinforced by the District Council's Good Design for North West Leicestershire SPD, which requires (in Section 4.1) development to contribute towards creating or reinforcing local distinctiveness and identity (and reflects advice in the NPPF which seeks to encourage creation of distinctive places (e.g. Paragraph 127)); Section 4.7 of the SPD provides that, in locations where there is a lack of an identifiable or otherwise distinctive identity, the Council will expect developments to draw inspiration from more imaginative sources and / or the National Forest. As such, the Council's policies would, in this location, which is outside the National Forest, require the scheme's design inspiration to be drawn from an "imaginative" source.

The general layout shown on the illustrative material is dictated to some degree by the constraints applying to the site (including the manner of vehicular access via Tamworth Road / Netherfields Lane, the limited developable area (e.g. as a result of flood risk), and the Derwent Valley Aqueduct). Nevertheless, it is considered that further options ought to be explored prior to submission of any future reserved matters application so as to ensure that opportunities for the units' highest quality façades to face onto areas of public / semi-public realm are maximised. As a general rule, the highest quality elevations of employment units of this type / scale tend to be those elements of the buildings where, say, the ancillary offices are located (potentially incorporating glazing and higher spec materials). On this basis, it can be helpful in terms of mitigating the visual impacts of such proposals to seek to orientate units so as to present their highest quality elevations to the direction from which they are most prominent. The submitted illustrative masterplan indicates that this approach does not seem to have been taken in this instance; similarly, service yards are shown to building frontages which, again, may not represent the most suitable principle to be employed given their likely appearance from public realm. A further consideration in this case is the presence of the M1 motorway to the eastern side of the site; this may also represent an opportunity in design / layout terms, given the likely visibility of the development from the motorway.

In terms of the approach to elevations generally, the Design and Access Statement states that the appearance of the individual units will follow a "collective development theme for the site". Whilst reiterating that the detailed design of the units would be established at the reserved matters stage, sample images are provided to demonstrate the type of design proposed to be used. These include:

- High quality cladding to the office elements with ribbon glazing;
- Curtain walled office entrances and, if required, two storey atrium spaces;
- A "family" of cladding materials in complimentary colours;
- Elevational vertical banding to break down the massing; and

- A consistent approach to signage.

In terms of the external areas, the Design and Access Statement confirms that the scheme would incorporate differentiation of parking spaces with alternative paving materials and a consistent approach to landscape design and estate infrastructure.

On the basis of the information set out within the Design and Access Statement, it is accepted that, in principle, there is no reason why a development of this scale could not be accommodated satisfactorily on the site. It is nevertheless considered that further work will be required in respect of finalising the overall design approach (in terms of matters such as the setting out of the site / unit orientation as detailed above, and the need to incorporate design drawn from an "imaginative" source / inspiration). Prior to the submission of any reserved matters applications for the units, it would be considered necessary to agree an acceptable masterplan for the site and, in order to ensure the development meets the design requirements of the Local Planning Authority's policies, a Design Code. Given the scale of the development and the potential for different plots to be designed and built out by different developers / occupiers, it is considered that such measures would be of particular importance, in that the development of the site in a range of different styles / approaches could otherwise result in an ad hoc approach to design, to the detriment of the overall quality of the scheme. The implementation of a comprehensive masterplan and Design Code would also therefore serve to ensure that a consistent approach is taken.

Overall, therefore, subject to the imposition of a condition requiring approval of a masterplan and Design Code, it is considered that the development has the potential to provide for an appropriate form of design at the reserved matters stage, meeting the relevant National and local policies.

## **Other Matters**

### *Aviation Safeguarding*

The application site lies within the safeguarding consultation zone of East Midlands Airport; Local Plan Policy Ec5 sets out the approach to assessing proposals' impacts on aviation safety, and presumes against proposals that would adversely affect the operation, safety or planned growth of the airport.

The application has been assessed by the airport's Aerodrome Safeguarding Officer and no objections are raised subject to conditions in relating to the future monitoring (and, if required, implementation of mitigation measures) in respect of minimising the likelihood of birdstrike (and, in particular, in respect of gulls). Subject to the implementation of appropriate measures, it is considered that the proposals are acceptable in respect of this issue, and would comply with Policy Ec5 of the North West Leicestershire Local Plan.

### *Mineral Safeguarding*

It is noted that the site falls within a mineral safeguarding area (for sand and gravel); the policies of the Leicestershire Minerals and Waste Local Plan (and, in particular, Policy M11) and the NPPF presume against development that would sterilise mineral resources.

The application is accompanied by a Minerals Report assessing the various sections of the site, and the impacts of the proposals on the future ability to work the site for minerals. This identifies that the majority of the application site (and including the areas where the proposed buildings



would be sited) has previously been worked to recover the sand and gravel along with potentially underlying gypsum deposits and, as a result, there are no minerals of any value on or under those parts of the site.

Insofar as the remaining areas of the site are concerned, the submitted Minerals Report identifies three principal areas, and assesses future mineral extraction potential as follows:

South of Hemington Brook and North of the Railway:

There is no possibility of practicably recovering the sand and gravel in this area as appropriate standoffs from perimeter features (including the M1, the Hemington Brook and the railway) means that the deposit is in effect sterilised by its geology.

North of Hemington Brook:

This area is larger, and there is therefore a possibility of practicably recovering the mineral whilst providing appropriate standoffs from perimeter features and, at a conceptual level, there are no constraints or reasons why a scheme couldn't come forward.

South of the Railway:

The report considers that it possible that the sand and gravel deposits in the area north of Hemington Brook extend south into this area but, unlike the area to the north, there is no apparent means of accessing the area to export the mineral or import restoration materials (i.e. given that the area is encircled by the adjacent A50, M1 and railway, and the unsuitable nature of this part of Netherfields Lane for support an intensive operation such as mineral extraction).

Whilst the existing potential for mineral extraction from much of the site is limited, the submissions indicate that the exploitation of those areas that would be practicable would not in any event be prejudiced by the proposed employment development. The Minerals Report also considers whether the presence of the proposed development on the previously worked part of the site could prejudice mineral working (i.e. due to noise and dust impacts on the new development from future mineral workings); in this regard, the Minerals Report indicates that commercial warehouse units would not create a new receptor in terms of such impacts (and, even if they did, would be of low sensitivity, particularly if the layout and design of the proposed units were tailored such that the more sensitive elements such as office space faced away from and at distance from the southern site boundary, thus benefitting from the bulk of the warehouse units providing a screening effect).

No additional comments have been received from the Mineral Planning Authority further to the submission of the additional details of grassland mitigation / translocation set out in more detail under Ecology and Biodiversity above.

On the basis of the above, it is accepted that the development would not be likely to prejudice future working of any remaining mineral deposits, and the requirements of Minerals and Waste Local Plan Policy M11 and Paragraph 206 of the NPPF. The Minerals Report has been reviewed by Leicestershire County Council in its capacity as the Mineral Planning Authority, and no objections are raised.

#### *Developer Contributions*

Paragraphs 54 and 56 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development; and

- fairly and reasonably related in scale and kind to the proposed development.

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

The relevant developer contributions set out under Means of Access, Highways and Transportation Issues above (and including those in respect of Travel Plans and other sustainable travel initiatives for future staff, as well as construction traffic routing) are considered to meet the relevant policy and legislative tests. In addition to those requirements, it is also considered that planning obligations would be appropriate in respect of securing the applicant's commitments to working with the local supply chain, and in terms of the provision of local employment, training and careers opportunities (as set out under Socio-Economic Issues above). In order that weight may be reasonably attached to these commitments, it is proposed to secure them by way of Section 106 obligations and, as per the proposed transportation measures, it is again considered that these measures would meet the relevant policy and legislative tests for obligations as set out in the NPPF and the CIL Regulations.

### **Overall Planning Balance, Contribution to Sustainable Development and Conclusions**

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. The site is located outside Limits to Development as defined in the adopted Local Plan and is not allocated for new employment development; Policies S3 and Ec2 set out the approach to considering applications for employment development in these circumstances.

As set out above, it is considered that the proposals can be shown to be in accordance with the requirement for such development to have an immediate need or demand and, as such, the in-principle elements of these policies can be shown to be satisfied. Whilst there are a number of other criteria against which such proposals need to be assessed in the event that an immediate need or demand can be demonstrated, the view is taken that, overall (and when taking into account the conclusions above in respect of various technical matters), the proposals can be considered to comply with the development plan as a whole.

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:

#### **Economic Objective:**

The application documents suggest that this proposal would create around 978 FTE direct jobs per annum during the construction phase, and 1,109 FTE posts once operational; it would also be expected that further employment would also be generated in terms of the multiplier effects on associated businesses locally and beyond. These posts would be in respect of a range of job types / quality, and in a location with access to regular bus routes serving a number of major settlements in the region, thus representing jobs that would be potentially available (from an accessibility aspect) to a large number of people.

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. Subject to any future reserved matters submission addressing the design issues set out in the relevant section above, the scheme is considered to have the potential to be acceptable in terms of its design. Insofar as the need to provide for a safe form of development is concerned, the scheme is again considered to have the potential to be acceptable in this regard, subject to implementation of appropriate measures in respect of emergency evacuation etc. in the event of a major fluvial flood event.

Environmental Objective:

The site is identified as countryside in the adopted Local Plan. However, as referred to above, the applicant has demonstrated that there would be an immediate need or demand for the development, and the scheme's siting outside of Limits to Development would not therefore necessarily conflict with Policies S3 and Ec2, or the policies of the Local Plan as a whole.

The application is accompanied by an Environmental Statement which assesses the impacts of the development, including in respect of landscape and visual impact. This has been assessed on the Local Planning Authority's behalf by a specialist consultant who concludes that some harm would arise from the proposed development, albeit any adverse effects would be limited by the adjacent Aldi distribution centre building (and any additional future unit on the southern part of that site). Whilst the development would represent development of an unallocated site within the countryside (and would have adverse landscape and visual impacts from some directions), when having regard to the existing context of the site and proposed mitigation, and when considered alongside other objectives of sustainable development (and including other elements of the Environmental Objective), the view is taken that, overall, the environmental impacts in this respect would be acceptable, and also when considered in the overall planning balance.

The scheme would also, it is considered, perform relatively well in terms of other aspects of the environmental objective, and including in respect of mitigating and adapting to climate change; in terms of the need to make effective use of land, it is considered that the scheme would represent an effective use in terms of it helping meet a need for sites for this type of use, but it is also noted that the site is considered to be greenfield in terms of its status, whereas use of previously-developed land is the preferred approach as set out in NPPF Paragraph 117. Insofar as impacts on the historic environment are concerned, it is noted that there would be some impacts on the setting of a nearby grade II listed building, but the above report concludes that, when applying the relevant tests (including as set out within Paragraph 196 of the NPPF), those impacts would be acceptable. It is also noted that the proposed development would not result in an irreversible loss of a significant area of BMV land (if, indeed, any). As set out in the report above, however, the development of the site would result in the loss of an area of species-rich neutral grassland which, it is considered, is of candidate Local Wildlife Site status and, on the basis of the definitions set out within Local Plan Policy En1, would constitute irreplaceable habitat. Whilst the scheme would also include a number of benefits in terms of habitat (and would, overall, be considered to deliver represent a net gain in biodiversity terms, with the proposed habitat including relocated / recreated areas of grassland), the loss of the existing grassland would be considered to represent a material consideration weighing against the proposals in terms of the environmental objective, albeit would be off-set to some considerable degree by way of the proposed mitigation measures.

As set out above, the site is reasonably accessible to a range of public transport and, therefore, whilst the site is not located in close proximity to any significantly sized settlement, the scheme

would provide the opportunity for employees (and other users of the site) to access it by the private car. These credentials would also be enhanced by the implementation of various measures designed to encourage access by more sustainable means of travel, assisting the development to perform reasonably well in terms of need to travel and the movement towards a low carbon economy. Whilst it is considered that the siting of the facility (i.e. away from a large settlement) would still be likely to result in a significant proportion of users relying on the car (and this issue needs to be taken into account of in the overall planning balance), this issue also needs to be considered in the context of the need to deliver economic growth and when considering the limited number of alternative sites likely to be available for this scale and form of development which would perform better in terms of proximity to large populations (and also bearing in mind the public transport linkages available in this case).

Having regard to the three objectives 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, coupled with the role played in helping to meet a demonstrable need or demand for development such as this, would ensure that the scheme would sit fairly well in terms of the economic and social objectives. Insofar as the environmental objective is concerned, it is considered that, whilst the proposed development would, in particular, have some adverse ecological impacts, the impacts in respect of this element of the environmental objective, the scheme would nevertheless still represent sustainable development overall.

It is therefore concluded that, notwithstanding some element of conflict with Local Plan Policy En1, 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. Approval is therefore recommended.

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

- 1 Time limits
- 2 Details of reserved matters
- 3 Approved plans
- 4 Clarification of approved use
- 5 Environmental Statement mitigation (where not covered elsewhere)
- 6 Masterplan (including details of development layout, phasing, scale and maximum building heights)
- 7 Design Code
- 8 Reserved matters landscaping details to include buffer to south west
- 9 Reserved matters application(s) to include detailed arboricultural survey and impact assessment

- 10 External lighting (including impacts on the nearby strategic highway network)
- 11 Details of treatment of boundaries to the strategic highway network
- 12 Compliance with submitted Flood Risk Assessment (FRA) and associated mitigation
- 13 Foul drainage
- 14 Surface water (including treatment during construction, implementation of SuDS and details of headwalls and safety barriers / fencing)
- 15 Contaminated land / remediation
- 16 Noise mitigation (including details of acoustic barriers)
- 17 Aerodrome safeguarding / birdstrike mitigation
- 18 Archaeology
- 19 Incorporation of sustainable construction measures within the proposed development
- 20 Compliance with Construction Environmental Management Plan and Construction Traffic Management Plan
- 21 Off-site highways works (including public transport infrastructure)
- 22 Travel Plans
- 23 Removal of existing gates to vehicular access
- 24 Public Rights of Way
- 25 Relocation of automated vehicle barrier
- 26 Outside storage
- 27 Ecology and biodiversity
- 28 Tree / hedgerow protection measures (in respect of proposed access arrangements)
- 29 Assessment of tree affected by proposed bus stop (and including amendments to siting if required)
- 30 Limitation on use of office elements as ancillary to the principal B8 use of the relevant unit
- 31 Mix of unit scale / floorspace

## Consultation Response from Planning Policy Team

20/00316OUT | Land At Netherfields Lane Sawley

Demolition of existing structures and the erection of new building to accommodate up to 78,967sqm of storage and distribution (Use Class B8) and ancillary office (Use Class B1) floorspace, with associated infrastructure including access, parking, servicing and landscaping (outline - all matters other than part access reserved)

### Comments

The proposal is for the development of up to 78,967sqm of storage/distribution floorspace and associated offices. The total site area is 51.74Ha and the developable area is 17.34Ha. The application is outline and does not specify unit sizes or layout as part of the application. The supporting documents indicate that the proposal is targeted at mid-range occupiers looking for units of around 100,000 sq ft (9,300sqm). An illustrative masterplan submitted with the application shows a 7-unit scheme with the units ranging in size from 7,246sqm to 12,400sqm (7,990sqm to 13,552sqm when the ancillary office element is included).

The NPPF (2019) emphasises the role that planning should play in building a strong, competitive economy. It requires that;

*“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development” (paragraph 80).*

It goes on to direct that decisions on planning applications should take account of different business sector needs and in this context it highlights the logistics sector specifically;

*Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for.....storage and distribution operations at a variety of scales and in suitably accessible locations.”(paragraph 82).*

The application site is outside the limits to development as defined in the adopted Local Plan (2017) and it thereby falls within the countryside in accordance with Policy S3. This policy lists the circumstances when development in the countryside will be supported including at criterion (s) the provision of employment land in accordance with Policy Ec2 – New Employment Sites. The second section of Policy Ec2 describes the circumstances when development will be acceptable as follows;

*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:*

The policy then goes on to list three site-specific characteristics (a, b and c) which should also be met. If the requirements of Ec2(2) are met, the development is also required to accord with the further site-specific criteria (i) to (vi) of Policy S3.

Policy Ec2(2) states that immediate need or demand for additional B class employment land must be demonstrated. ‘Immediate’ in this context can be interpreted as meaning ‘arising now’. ‘Need’ correlates to a policy requirement identified through the plan-making process to ensure that the future needs of an area are adequately addressed. ‘Demand’ could be in the form of a request from potential future users, or could be to address a gap in the supply of premises in the district. In other

words it relates to 'market demand'. The policy requires need or demand to be demonstrated; it is not necessary to demonstrate both.

### **Employment Land Supply**

The proposals could potentially provide for both strategic-scale warehousing (defined as units of 9,000sqm and above) and non-strategic warehousing (<9,000sqm).

The illustrative masterplan shows an indicative scheme with 3 strategic-scale warehouses (10,405sqm, 10,870sqm and 12,400sqm) on 8.21Ha and 4 non-strategic units (7,246sqm, 7,804sqm, 8,454sqm and 8,547sqm) on 9.13Ha

### **Need for B class land (excluding Strategic B8)**

The district's need for new B class land including small scale ('non-strategic') B8 for the period 2011-31 is quantified in the Housing & Economic Development Needs Assessment 2017 (HEDNA)<sup>1</sup>. These requirements are expressed as minimum requirements. Based on this assessment and the monitoring of completed and committed developments since 2011, the need/supply position at April 2020 is as follows;

	<b>B1a/b (Ha)</b>	<b>B1c/B2 (Ha)</b>	<b>Small B8(Ha)</b>	<b>TOTAL (Ha)</b>
HEDNA requirements 2011-2031 (excluding strategic B8)	44.7	3.3	16.8	64.8
Completions 2011-2020	8.1	2.7	8.9	19.7
Under construction at 31st March 2020	1.5	0.5	0.1	2.1
Allocated	5.3	5.3	5.3	15.9
With permission at 31st March 2020	10.2	12.2	14.6	37.0
Residual requirement up to 2031	19.6	-17.4	-12.0	-9.8
Allowance for potential loss of employment land				10.0
<b>Residual requirement up to 2031</b>	<b>19.6</b>	<b>-17.4</b>	<b>-12.0</b>	<b>0.2</b>

Based on the above, there is an over-provision of land for both B1c/B2 and small scale B8 and an under-provision of land for B1a/b. Taken collectively, and when an allowance for the potential loss of existing employment sites to other uses is factored in, this leaves a small outstanding requirement of 0.2ha.

The current application does not include stand-alone offices (B1a/b) so it will not address the shortfall in the supply of those type of premises.

Using the submitted masterplan as a guide, the site could contribute 32,051sqm of small scale B8 floorspace on 9.13Ha which, if permitted, would result in a overall surplus of 8.93Ha (equating to 12%) over the minimum total requirement set out in the HEDNA .

### **Strategic B8 needs**

Strategic B8 is categorised as warehousing/distribution units of 9,000sqm and above. The Leicester and Leicestershire Strategic Distribution Study (2016 update) assesses the need for additional

---

<sup>1</sup> The requirement figures are those found in tables 80 and 82 of the HEDNA. Table 83 of the HEDNA rounds these to whole figures

strategic B8 land and it presents the findings on a county-wide basis. The table below shows these requirements (road and rail combined) and the supply which has been achieved in this district since 2011 (completions, under construction and consents).

<b>A</b>	<b>Strategic B8 requirement 2011 – 2031 (HMA wide)</b>	<b>361.0 Ha</b>
B	Strategic B8 requirement 2011 – 2036 (HMA wide)	472.0 Ha
C	NWL strategic B8 Completions April 2011 - April 2020	115.5 Ha
D	NWL strategic B8 Under construction at 31st March 2020	146.5 Ha
E	NWL strategic B8 With permission at 31st March 2020	159.9 Ha
<b>F</b>	<b>NWL strategic B8 Total provision (C+D+E)</b>	<b>422 Ha</b>
<b>G</b>	<b>Residual requirement (HMA wide) 2011-2031 (A-F)</b>	<b>-61.0 Ha</b>
H	Residual requirement (HMA wide) 2011 – 2036 (B-F)	50.0 Ha

This shows that the level of provision in NWL alone exceeds the requirements to 2031 before account is taken of the supply in the other districts/boroughs. Growth of the sector has surpassed what was forecast at the point the Study was undertaken and could be taken as an indicator of the strength of the market. Importantly, the Study signals that the need figures should be viewed as minimum requirements and should not be treated as a cap on provision.

As explained, the need/supply positions described above for both strategic and non-strategic B8 uses are expressed as minimum requirements. They are not, on their own, sufficient to rule out the proposed development. Further, the test in Ec2(2) is to demonstrate need or demand, not both.

The Strategic Distribution Study (2016) identified a number of Key Areas of Opportunity (KAO) across Leicester & Leicestershire. These were defined by having regard to a series of criteria to define “*areas across Leicestershire [and the East Midlands region] where new commercially attractive logistics sites should be located*”. Within North West Leicestershire 3 KAOs were identified:

- KAO C - East Midlands Airport to south Derby corridor (rail and road served)
- KAO E - M1 North corridor (road served)
- KAO F - M42/A42 corridor (road served)

The application site is located within KAO C. It is within a key transport corridor identified as attractive to the market as well as being well related to the M1 and M42/A42 corridors denoted as KAO E and F respectively. Further, the Study went on to distinguish between the ‘Best KAO’ and ‘Good KAO’. KAO C was included in the ‘Best’ category.

This area has already been the focus of significant development activity, including the East Midlands Gateway where Segro is in the process of delivering 557,400sqm of strategic B8 floorspace and East Midlands Distribution Centre where there is consent for some 53,000sqm of strategic B8 (which are included in the supply figures above). The application site falls within an established area for strategic distribution where the market is keen to locate and where there is a pipeline supply of land with planning permission. The next section explores the extent to which this pipeline supply matches the segment of market demand which this application purports to target.

## **Demand**

G L Hearn (/Iceni) was commissioned by the council to provide an evaluation of the employment land evidence submitted with the application. The consultants were asked to conclude whether the



proposal meets the demand test in the first part of Policy Ec2(2) (as quoted above). The assessment looked at;

- The strategic distribution market (units >9,000sqm)
- The district-level market for small sale distribution units of 50-100,000sqft (4,650-9,000sqm)
- A focused analysis of units 80-135,000sqft (7,400 – 12,500sqm) which correlates with the applicant's target market of units circa 100,000sqft

With respect to the strategic distribution market GLH found the following;

- North West Leicestershire sits within the 'golden triangle' in the country where there is a concentration of large scale warehousing premises serving the national distribution network. Historically, demand from the logistics sector has been high in Leicester and Leicestershire and more recently there has been considerable activity in North West Leicestershire specifically including at East Midlands Gateway, East Midlands Distribution Centre and in the Bardon area as well as the forthcoming Jaguar Land Rover development at J11 M42.
- Covid 19 is likely to trigger a short-term interruption in the demand (and supply) for large scale distribution floorspace but demand is expected to return more strongly as growth in on-line shopping accelerates
- Comparing the supply of strategic B8 floorspace and recent take up rates reveals that;
  - The supply of units which are immediately available for occupation (so called 'direct supply') is quantified as 0.7 years' worth of supply and this is described as 'very tight'. The position for Leicester & Leicestershire as a whole is similar (0.9 years).
  - The supply of land with planning permission ('indirect supply') is measured at 2.8 years for NWL , concentrated at the larger units at EMG and EMDC, and 5.7 years for Leicester & Leicestershire.
  - At 5%, the vacancy rate is indicative of a low level of market choice for those wanting to occupy B8 premises in the district. GLH report that markets generally require a rate of between 5-10% for optimal choice and churn.
  - There is no current direct supply in the district of units of the size range 10-20,000sqm. The immediate supply of mid-sized units of around 9,300sqm and above (100,000+ sqft) is described as 'tight'.

With respect to the provision of small scale units of between 4,650 and 9,000sqm, GLH find that there is 0.4 years supply of immediately available floorspace centred on one site in Coalville. This position is described as 'very tight' and 'insufficient'. There is a better pipeline supply of sites with planning permission ('indirect supply') of some 3.6 years.

GLH's analysis of the supply of units in the 80,000-135,000sqft range (7,400 – 12,500sqm) – which is the stated target market for this application - found no direct supply and 2.2 years of indirect supply focused in Coalville. GLH spoke to local commercial agents who confirmed latent demand for, and limited provision of, units of 80-100,000sqft in the Castle Donington area where the market is dominated by national occupiers and strategic scale units. The applicants suggest that medium sized operators favour freehold units. GLH generally agree with this analysis and find that there is a current lack of freehold units coming onto the market.

## **Policy Ec2**

Turning to the different aspects of Policy Ec2(2) in turn;

*Where evidence indicates an immediate need or demand for additional employment land (B1,B2,B8) in North West Leicestershire...*

As outlined above, the level need for strategic B8 floorspace identified through the Leicester & Leicestershire Study (2017) to 2031 has been achieved. These need figures are expressed as a minimum however and should not be viewed as a limit which cannot be exceeded.

The need for small scale B8 assessed through the HEDNA has also been substantially met but again this is presented as a minimum requirement. At April 2020 there is a small shortfall in total requirements for employment land but this is in the main as a result of a shortfall in B1a/b floorspace which this proposal would not address. Using the submitted masterplan as a guide, the proposal could contribute up to 9.13Ha of small scale B8 resulting in a surplus of 8.93Ha against the total requirement.

Analysis of the commercial logistics market by the council's consultants concludes that there is current demand for distribution units of the size this application could provide. Whilst there are extant planning consents in the East Midlands Airport-south Derby corridor at EMDC and EMG, these are for larger scale units and not the mid-size units which is the application's purported target market.

The need/demand test in Policy EC2(2) applies to the North West Leicestershire area. It is apparent from the analysis by GLH that there is a gap in the portfolio of distribution premises in the district which the application proposal could help to address. This gap is evident now and fulfils the requirement for 'an immediate demand' under the terms of the policy.

*...that cannot be met from land allocated in this plan...*

The Money Hill allocation in the adopted Local Plan provides for up to 16ha of employment development. The site was planned to meet the needs arising from the HEDNA, (i.e. not strategic B8) however it is not currently sufficiently advanced through the planning process to meet an 'immediate' demand.

Whilst not allocated as such, two sites listed in Ec1 – Employment provision: permissions are identified in the Local Plan as suitable for B8 uses. Taking these in turn, the Lounge site at Ashby de la Zouch (Ec1a) is currently blighted by the route of HS2 and the extant consent cannot realistically be implemented in full. Whilst there is a current planning application under consideration for a revised proposal, this shows an indicative layout for either a single unit of 63,922sqm B8 or two units of 36,000sqm and 19,290sqm not the medium sized units the application proposal aims to provide. The site is also in a different part of the district and its principal connection would be to M42/A42 corridor (KAO F).

Part of the site at Sawley Crossroads (Ec1c) is being used as a distribution centre for Aldi. The outline consent on the remaining part of the site is for some 14.8ha of B8 but this is reserved for a further extension for Aldi so is not available to another occupier as an alternative to the application proposal.

*...the council will consider favourably proposals that meet the identified need in appropriate locations...*

The site is located within an area which has been identified in the Strategic Distribution Study as one of the locations in the county where strategic scale distribution should be directed. In these terms it is in a prime location for strategic distribution. It is well connected to three transport corridors

(M42/A42; A50; M1). It is also in close proximity to the distribution hubs at East Midlands Airport and GLH report that this can generate agglomeration benefits for the businesses locating there. Taking these factors together the location is judged to be an appropriate one for the uses proposed.

Site-specific matters impacting on the appropriateness of the site should be assessed as part of the detailed consideration of the application.

*(a) Being accessible or will be made accessible by a choice of means of transport, including sustainable transport modes...*

The Travel Plan submitted with the application indicates that the site has the potential to be served by bus services linking Nottingham, Leicester, Loughborough, Burton-upon-Trent, Coalville and Derby with the installation of new bus stops at the site access. The Travel Plan also refers to a network of cycle routes within the catchment of the site. The sufficiency of these proposals, plus any others, will need to be confirmed and the views of the highway authority will be an important consideration in this respect.

*(b) Having good access to the strategic road network...*

The site is considered to have good access to the SRN (A50 and M1).

*(c) Not being detrimental to the amenities of any nearby residential properties or the wider environment*

No comments are made from a policy perspective in respect of this factor. This is a matter for the detailed consideration of the proposal's impacts.

The consideration then moves onto the further requirements of Policy S3 (i)-(vi).

*(i) the appearance and character of the landscape...*

This is a matter for the detailed consideration of the proposal's impacts.

*(ii) it does not undermine.....separation and open undeveloped character between nearby settlements... (including) through development on isolated sites...*

The development would be divorced from settlement boundaries and to that extent could be considered to be isolated. Balancing against this, the nature of the use is such that access to the SRN is critical and a location which is removed from other development helps to limit potential disturbance.

The issue of separation is a site-specific matter and, from a policy perspective, no comments are made other than to note that the issue was discussed in the recent appeal decision at Carnival Way.

*(iii) it does not create or exacerbate ribbon development*

This criterion is complied with.

*(iv) built development is well integrated with existing development and existing buildings...*

As discussed above, the development would be removed from other development and not integrated with the established settlement pattern.

*(v) ...vitality and viability of existing town and local centres...*

The proposal does not include town centre uses as defined in the NPPF and this criterion is considered to be met.

*(vi) ...accessible, or will be made accessible, by a range of sustainable transport*

This aspect is considered above (Ec2(2)(a)).

### **Cumulative considerations**

Another application has been submitted at a site at J1 A50 (19/01496) described as “Development of up to 92,500 sqm GIA of storage and distribution units (B8), industrial units (B2) and light industrial units (B1c); service yards and parking areas; new vehicular accesses off Trent Lane / Station Road and Ryecroft Road with associated earthworks, drainage and attenuation features and other associated works (outline, all matters reserved except for the principal means of vehicular access to the site)”. The application documents signal that the development will focus on a similar segment of the strategic B8 market being units of 9-15,000sqm. However, in addition up to 20% of the floorspace could be for B1c/B2 uses (18,500sqm).

If both were permitted, this would add approximately 13.3Ha to the supply of HEDNA uses (equating to an estimated surplus of 17.5%) and 24.2ha to the strategic distribution supply. However, as discussed above, these requirements in the HEDNA and the Strategic Distribution Study are expressed as minimum figures and are not a limit which cannot be exceeded.

Granting both applications would add considerably to the supply of mid-size units with the effect that the two sites would be in competition with each other for occupiers. As a result, they may take longer to become fully occupied, although this is an observation rather than a planning consideration.

Further, a strict reading of the policy would mean that the granting of consent for one proposal would not necessarily remove the need/demand justification for the second. Policy Ec2(2) reads;

‘Where evidence indicates an immediate need or demand...that cannot be met from land allocated in the plan’. (my emphasis)

Granting consent on one of these candidate sites would not change the alternative sites test for the other; the alternative sites to consider would still be those listed in Ec2 and, for completeness, Ec1.

### **Other relevant policies**

The site falls within the East Midlands Airport Safeguarded Area and is subject to the consultation requirements set out in Policy Ec5.

### **Overall conclusion**

The need/demand justification for the proposed development has been assessed against current employment land requirements and market considerations.

With respect to need, there is a small numerical shortfall in the overall supply of B class employment land (excluding strategic B8) based on the findings of the HEDNA. This application, if approved, would result in this overall need being met, and exceeded to a degree. The supply of strategic warehousing has already surpassed the need to 2031 identified in the Strategic Distribution Study and approving this application would see it exceeded further.

However, outputs from both the HEDNA figures and the Strategic Distribution Study are expressed as minimum figures. Exceeding these figures is not, of itself, a reason to resist this proposal.

Furthermore, only one of need or demand have to be satisfied, not both.

Expert consultants with a sound understanding of the local, regional and national distribution market advise that there is an identifiable, current demand for the medium sized strategic warehousing units which the application purports to target. The immediate demand test in Policy Ec2(2) is met.

Further requirements in Policy Ec2 are found to be met, or could be capable of being met, subject to detailed site-specific assessment. Concerns about the location of the site in the countryside would need to be balanced against the locational requirements of strategic scale distribution.

Paragraph 82 of the NPPF also provides support for the application as it indicates that provision should be made for “storage and distribution operations at a variety of scales and in suitably accessible locations”.

On the basis of the above, there are no policy objections to the application subject to the detailed matters in Policy Ec2 and S3 being found to have been satisfied.

Sarah Lee

Principal Planning Policy Officer

16 November 2020

## **Planning Policy Update 21 May 2021**

The Planning Policy Team's comments on this application include assessment of the proposals against Policy Ec2 of the adopted Local Plan. The second section of Policy Ec2 describes the circumstances where additional employment development can be supported as follows;

“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...”

The policy requires need or demand to be demonstrated; it is not necessary to demonstrate both. This note is concerned with matters relating to 'need' only. The conclusion that an immediate demand for the development has been demonstrated, and that that aspect of Policy Ec2(2) has been complied with, is unaltered by the content of this note.

This note covers the following matters:

1. Newly published study of the need for strategic distribution land/floorspace in Leicester and Leicestershire (2020-41)
2. Updated employment land supply position to April 2021
3. Newly published study of the need for additional employment land (excluding strategic distribution) in NWL (2017-39)
4. Planning permissions update

### **1 - Warehousing and Logistics in Leicester and Leicestershire: Managing growth and change (April 2021)**

The Planning Policy Team's comments on this application (dated November 2020), drew on the 'Leicester and Leicestershire Strategic Distribution Study (2016 update)' which was commissioned by the Leicester and Leicestershire authorities and provides an assessment of the amount of additional land for strategic distribution for the period 2011 to 2031/2036.

A new study of the strategic distribution sector in Leicester and Leicestershire entitled 'Warehousing and Logistics in Leicester and Leicestershire: Managing growth and change (April 2021)' was published in May 2021. This study was also commissioned by the Leicester & Leicestershire authorities to provide an up-to-date assessment of the future need for additional land/floorspace for strategic-scale distribution in the county for the period April 2020 to April 2041.

The latest study finds that there is an overall need for some 2,571,000 sqm of additional floorspace in the county between 2020 and 2041. This figure is expressed as a 'recommended figure for the Leicester and Leicestershire authorities to plan for'. Once supply from land with planning permission and allocated land is factored in (at 1st April 2020), there is a residual need for 392,000 sqm (112 ha) at non-rail served sites (like the application site) and 768,000 sqm (307 ha) at rail served sites

In a similar approach to the previous study, the latest study identifies 6 Areas of Opportunity in the county where future strategic warehousing could be located. Four of these areas are in or partially within NWL. The application site falls within Area 3 which covers the broad area between Ratcliffe-on-Soar and Castle Donington/border with Derbyshire, broadly following the A50, M1 and the Midland Main Line. Area 3 is one of three areas identified as having potential for both road and rail connected sites. Unlike for the previous study there is no hierarchy between the Areas of Opportunity; all are of equal merit.

The latest study is recently completed and is a more up to date assessment of future requirements than the 2016 study. It also covers a different time period, looking further into the future than the 2016 study. Matters are at an early stage and the report has yet to be subject to 3rd party scrutiny, and has not been tested at Examination.

The Planning Policy Team comments (November 2020) reported that the residual land requirement to 2031 identified in the 2016 study has already been met from land in NWL alone:

“This shows that the level of provision in NWL alone exceeds the requirements to 2031 before account is taken of the supply in the other districts/boroughs. Growth of the sector has surpassed what was forecast at the point the Study was undertaken and could be taken as an indicator of the strength of the market. Importantly, the Study signals that the need figures should be viewed as minimum requirements and should not be treated as a cap on provision.”

The latest study affirms that there is a continuing need for additional strategic distribution land/floorspace in Leicester and Leicestershire to 2041. The latest study does not decide how much of this need should be met in NWL or at which sites. Whilst it is not unreasonable to expect that there will be some additional provision in NWL, it will be a matter for joint-working with the Leicester and Leicestershire authorities to agree how the need should be distributed across the county and then for the Local Plan Review to determine how any requirement is met in NWL as part of a plan-led system approach.

The latest study confirms that there is a continuing need for additional strategic distribution floorspace in the county and in this respect it lends support to the application. Indeed, if this application is granted consent it will count towards the residual need figure for Leicester and Leicestershire identified in this latest study. At this stage, however, the need the study identifies is not specific to NWL or, indeed, to the application site. The study, of itself, does not indicate that permission should be granted on this specific site in order for needs to be met.

## **2 – Employment land supply position at April 2021**

The Planning Policy Team’s comments (November 2020) refer to the Housing & Economic Development Needs Assessment 2017 (HEDNA). This study is part of the evidence base for the adopted Local Plan and it quantifies the need for additional land for offices, industry and non-strategic distribution for the period 2011-31. This study continues to be the foundation for the adopted Local Plan and is the principal evidence used to monitor employment land supply.

The previous comments referred to the employment land position at April 2020. The table below updates the employment land supply position to April 2021.

	offices	industry	Small B8	TOTAL
Requirements 2011-2031 (not including strategic B8)	44.7	3.3	16.8	64.8
Completions 2011-2021	9.7	5.5	9.9	25.0
Under construction at 31st March 2021	0.4	13.5	0.0	13.9
Allocated	5.3	5.3	5.3	15.9
				0.0
With permission at 31st March 2021	8.9	13.4	15.4	37.8

Residual requirement up to 2031	20.4	-34.4	-13.8	-27.8
Allowance for potential loss of employment land				10.0
<b>Residual requirement up to 2031</b>	<b>20.4</b>	<b>-34.4</b>	<b>-13.8</b>	<b>-17.8</b>

Based on the above, there is an over-provision of land for both industry and small scale B8 and an under-provision of land for offices. Taken collectively, and when an allowance for the potential loss of existing employment sites to other uses is factored in, the total minimum requirement is exceeded by some 17.8Ha.

Using the submitted masterplan as a guide, the application site could contribute 32,051sqm of small scale B8 floorspace on 9.13Ha which, if permitted, would result in an overall surplus of 26.93Ha (equating to 36%) over the minimum total requirement set out in the HEDNA .

### **3 - North West Leicestershire: The Need for Employment Land (November 2020)**

Since the Planning Policy Team's comments were prepared, the 'North West Leicestershire: The Need for Employment Land (November 2020)' study which was prepared by the firm Stantec has been published ('the Stantec study'). The Stantec study provides an assessment of the future need for office, industrial and non-strategic distribution land/floorspace in NWL for the period to 2017 to 2039. The study has been prepared as evidence for the Local Plan Review.

[https://www.nwleics.gov.uk/pages/local\\_plan\\_review\\_evidence\\_base](https://www.nwleics.gov.uk/pages/local_plan_review_evidence_base)

The Stantec study finds that there is a need for at least 187,000sqm (47ha) of land for industrial/non-strategic distribution for the period 2017-39. Once supply from planning permissions and land allocations is factored in, the residual requirement at 1 April 2021 is at least a further 66,500sqm of floorspace. [The floorspace requirement is the principal requirement. Additional floorspace will be needed even though the remaining land (Ha) requirement is shown to be negative].

#### **Employment land supply position at 31 March 2021 compared with 2017-39 needs**

		Offices		Industrial/non-strategic warehousing	
		Sqm	Ha	Sqm	Ha
A	Requirement (2017 – 39)	<b>57,000</b>	<b>9.00</b>	<b>187,000</b>	<b>47.00</b>
B	Completions 2017 - 2021	13,371	6.45	29,099	6.80
C	Losses 2017-2021	587	0.12	26,109	7.29
D	Net completions (B-C)	<b>12,784</b>	<b>6.33</b>	<b>2,990</b>	<b>-0.49</b>
E	Permissions at 31 <sup>st</sup> March 2021	27,081	9.32	115,617	42.36
F	Permitted losses at 31 <sup>st</sup> March 2021	1,935	0.19	2,379	0.66
G	Net permissions (E-F)	<b>25,146</b>	<b>9.13</b>	<b>113,238</b>	<b>41.70</b>
H	Allocation (Money Hill)	<b>31,980</b>	<b>5.33</b>	<b>42,640</b>	<b>10.66</b>
	<b>Residual requirement/surplus [A-(D+G+H)]</b>	<b>-12,910</b>	<b>-11.79</b>	<b>66,512</b>	<b>-4.87</b>

This study has been prepared for the Local Plan Review. Matters are at an early stage and the report has not been subject to 3<sup>rd</sup> party scrutiny through consultation and subsequent Examination. It does confirm that there is a continuing need for additional non-strategic warehousing floorspace in the district of the type that this application could provide. It does not, of itself, indicate that permission



should be granted on this specific site in order for needs to be met. That is a matter for the Local Plan Review.

If the current application is permitted, and using the submitted masterplan as a guide, the site could deliver 32,051sqm of small-scale distribution floorspace. In terms of the Stantec study findings, this would reduce the residual requirement to some 34,460sqm.

#### **4 - Planning Permissions Update**

##### **Stephenson Way, Coalville (20/00330/FULM)**

In December 2020, Planning Committee resolved to grant permission for offices, industry and non-strategic distribution on land at Stephenson Way, Coalville (20/00330/FULM) subject to the completion of a s106 agreement. Assuming the agreement is signed, this would add 3.31ha supply to the HEDNA figures and there would be an overall surplus of 21.11Ha.

The combined effect of the application site and the Stephenson Way application gaining consent is an overall surplus above the HEDNA minimum requirement of 30.24Ha (40.4%).

In respect of the Stantec study findings, the combined effect of the two sites gaining permission would result in a residual requirement for some 27,900sqm of industrial/small scale distribution. (The Stephenson Way application could provide up to 6,522sqm of industrial/small scale distribution).

##### **Former Lounge Disposal Point (19/00652/FULM)**

This site was granted planning permission on 13 May 2021. For clarity, the land supply from this site is already included in the figures used in the Planning Policy Team comments by virtue of an extant planning permission dating from 2012.