

Hybrid planning application for development of the site comprising: full application for the change of use of land for use as a caravan site as defined by S336 of the Town and Country Planning Act, together with associated works. Outline application for the erection of associated restaurant/bar/shop and office (access only)

Land At Spring Lane Swannington Leicestershire LE67 8QR

Report Item No  
A1

Application Reference  
19/01961/FULM

Grid Reference (E) 441656

Grid Reference (N) 315701

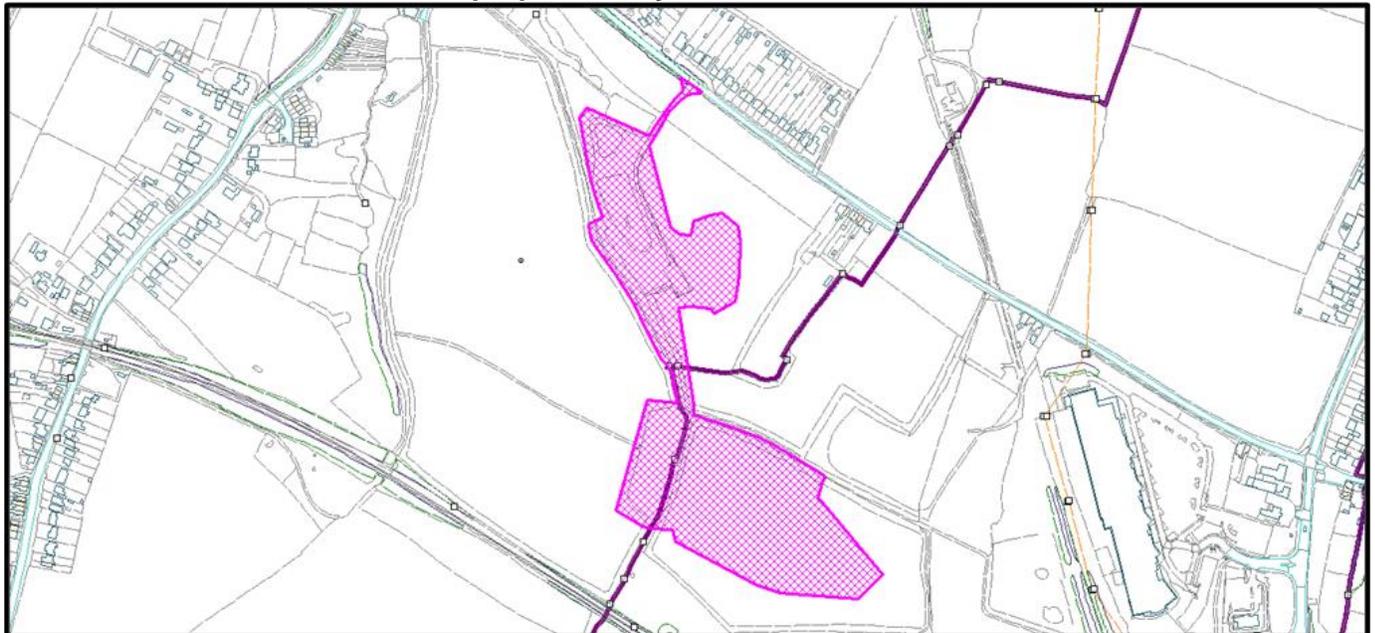
Applicant:  
Finney's Park Homes

Case Officer:  
Karina Duncan

Date Registered:  
14 January 2020  
Consultation Expiry:  
14 July 2021  
8 Week Date:  
14 April 2020  
Extension of Time:  
None Agreed

Recommendation:  
PERMIT subject to S106 Agreement

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



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

### **Call In**

The application is brought to the Planning Committee as the ward member, Councillor Boam, has requested it be called in on grounds of public concern.

### **Proposal**

This is a "hybrid" application (i.e. part full and part outline), seeking planning permission for the development of Land at Spring Lane Swannington.

Full planning permission is sought for the change of use of land for use as a caravan site as defined by S336 of the Town and Country Planning Act, together with associated works, and outline planning permission for the erection of ancillary restaurant/bar/shop and office buildings. The site is proposed to be used for tourism accommodation.

In respect of those elements for which permission is sought in outline, the proposal includes details of access from Spring Lane with all internal access through the site being reserved. All other details relating to appearance, layout, scale and landscaping are reserved.

### **Consultations**

Members will see from the main report below that 231 letters of objection have been received from third parties, in addition to objections from both Swannington and Whitwick Parish Councils.

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

### **Planning Policy**

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. The site is also located within the National Forest and two National Character Areas (NCAs). For clarity, the site is not located within an Area of Separation, nor is it located within a Green Wedge. The application has also been assessed against the relevant paragraphs within the NPPF, the adopted Local Plan and other relevant guidance.

### **Conclusion**

The principle of the development is considered to be acceptable and accords with Local Plan Policies S3 and Ec13. The proposed scale, design and layout of the proposal, together with the visual impacts, would be acceptable subject to the imposition of planning conditions to secure full details of the proposed design and layout of the units and therefore the scheme also accords with Local Plan Policies D1 and En3. The tree and ecology impacts are considered to be acceptable subject to the imposition of planning conditions to secure full details in relation to layout, tree protection, a woodland management plan, lighting scheme and biodiversity enhancement details and as such the proposal is considered to accord with Local Plan Policy En1. Subject to the imposition of conditions, the proposal is not considered to result in any unacceptable highway safety, residential amenity, flooding, drainage, coal or archaeological impacts and on this basis the application also accords with Local Plan Policies IF4, D2, Cc2, En6 and He1.

It is therefore concluded that the proposed development would comply with the provisions of the development plan as a whole, and the advice set out within the NPPF, subject to the imposition of conditions as recommended within the below report.

The key planning issues arising from the application details are:

- Principle of Development and Tourism Need
- Landscape and Visual Impacts
- Design and Layout
- Biodiversity Net Gain
- Impact upon Existing Trees and Loss of Woodland
- Means of Access, Highway Safety and Impact upon Public Rights of Way
- Drainage and Flood Risk
- Impact upon Coalfield Development High Risk Area
- Impact upon the Historic Environment and Archaeology
- Impact upon Residential Amenity
- Planning Obligations

**RECOMMENDATION: PERMIT, SUBJECT TO CONDITIONS AND THE SIGNING OF A SECTION 106 AGREEMENT FOR REPLACEMENT TREE PLANTING**

**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

Planning permission is sought for the development of Land at Spring Lane Swannington comprising of a hybrid planning application for full planning permission for the change of use of land for use as a caravan site as defined by S336 of the Town and Country Planning Act, together with associated works, and outline planning permission for the erection of ancillary restaurant/bar/shop and office buildings. The existing site is used for forestry and the site also accommodates two bodies of water which have been used as fishing lakes.

In respect of those elements for which permission is sought in outline, the proposal includes details of access, with all internal access through the site being reserved. All other details relating to appearance, layout, scale and landscaping are reserved. Plans and elevations have been provided of the proposed shop/restaurant/bar and office which show that these buildings would be single storey in scale and constructed of timber cladding and slate tiles with glazing and oak detailing. Given that this element of the application is in outline form, these details have been treated as illustrative only. Indicative design details have also been submitted in respect to the proposed static units.

The site comprises of a woodland, located to the south of Spring Lane and to the south east of the village of Swannington. Residential dwellings are located to the northern side of Spring Lane, with a cluster of dwellings also located to the north east of the site. Access is proposed from Spring Lane via an existing junction. Two bodies of water to the north of the site have been used as fishing lakes and whilst these bodies of water are proposed to be retained, the existing use for fishing would cease.

The site is located outside of the defined limits to development, as defined by Policy S2 of the Local Plan, therefore the proposal is located within the Countryside. The site is located within the National Forest and, for clarity, the site is not located within an Area of Separation.

The submitted planning statement identifies that the applicant's vision is to *'generate more staying visitors in the National Forest by developing woodland holiday accommodation in a location that would allow cycle and pedestrian access to nearby settlements and the wider National Forest'*.

Following amendments to the application, the proposed development would occupy two main parcels of land, a northern and southern parcel, connected centrally by the proposed access road. The site boundary has been amended during the course of the application, resulting in a reduced red line boundary following the reduction in proposed units from the originally proposed 208 to 52.

The proposal has been amended during the course of the application to address concerns raised by consultees and other third-party representations relating to impact upon trees, ecology, design and layout, highway safety and flooding and drainage. The application proposes the erection of 20 larger units providing 2 double bedrooms, ensuite, bathroom, kitchen and dining and living area, together with decking and hot tubs, and 32 smaller static units providing 1 double and 1 single bedroom, bathroom, kitchen and living area, with decking. The originally proposed fishing lake proposed to the west of the site has also been removed from the proposal.

The scheme also proposes the installation of a permeable gravel surface road, retention of the existing ponds on site, tree removal and replacement tree planting.

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraphs 12 (c) and 12 (e) of Schedule 2 to the Regulations, it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations. Whilst the proposal is listed within Schedule 2 and exceeds the relevant thresholds/criteria in Schedule 2, it is not located or partly located in a sensitive area, it does not exceed the selection criteria in Schedule 3 and it is not considered to result in any likely significant environmental effects.

### **Relevant Planning History**

None available.

## **2. Publicity**

143 neighbours notified.

Site Notice displayed 24 January 2020.

Press Notice published Leicester Mercury 22 January 2020.

## **3. Summary of Consultations and Representations Received**

The following summary of representations is provided.

### **Objections received from:-**

*Swannington Parish Council on the following summarised grounds:*

- The impact on the separation between Swannington and Coalville and the urbanising effect the proposal would have.
- Concerns relating to the impact on loss of heritage and archaeological sites within the development.
- Concerns relating to the impact upon the increase in population and the lack of amenities to serve the increase.
- Concern that the proposed amenities within the site would not be accessible by the community and therefore would not be a benefit to the community.
- Highway safety impacts as a result of an increase in traffic and when having regard to the characteristics and current speed limit of Spring Lane, visibility at the site access and the narrowness of the pavement.
- Concerns relating to the number of amendments made to the application.
- Concerns relating to the principle of a tourism development in this location and that the development would be in an unsustainable location.
- Concerns relating to the accuracy of the benefits to the community and job creation.
- Impacts in relation to light and noise pollution.
- Impact upon the Coal mining risk area.
- Concerns relating to foul and surface water drainage.
- Impact upon ecology and trees.
- Concerns relating to the potential for the site to be used in the future for alternative uses.
- Concerns that a S106 has not been negotiated to secure commuted sums relating to

traffic calming measures, playing fields and play equipment, education, The National Forest, and dog waste and litter bins.

*Whitwick Parish Council on the following summarised grounds:*

- Objects to the principle of a caravan site in this location and states that the scheme is disproportionate and excessive for the local community, unsustainable and inappropriate.
- Concerns relating to the risk that the site could become a permanent residential site and how this would be controlled, further concerns raised relating to stay duration and licensing of the site.
- The development would erode the area of separation between Coalville, Whitwick and Swannington and concerns relating to the impact upon the rural linear character of Swannington village.
- The site is located outside of the Limits to Development.
- Ecological impacts of the proposal.
- The proposal would breach the requirements of the Natural Environment and Rural Communities Act 2006.
- The impact upon the woodland as a result of tree felling and the precedent which this would set.
- Mature trees on the site should be protected through the use of a Tree Preservation Order.
- The applicant should be required to replant replacement trees or require a substantial commuted sum for tree planting in other areas.
- Highway safety impacts to road users, pedestrians and cyclists, both within and outside of the site boundary.
- The applicant should be required to fund an order to remove highway rights from the Byway open to all traffic, or significantly improve the access onto the highway from Clink Lane.
- The applicant should take steps to prevent access from the byway onto the A511.
- Concerns that the restaurant/bar/shop and office buildings are in outline form only.
- Concerns relating to the proposed paintballing activity.
- Concerns that the agent for the application has failed to respond to numerous parish invitations to attend parish council meetings to discuss the scheme.

**No objection, subject to conditions from:-**

LCC Lead Local Flood Authority  
LCC Ecology  
LCC Highway Authority  
LCC Archaeology  
Severn Trent Water  
The Coal Authority  
NWLDC Urban Designer  
NWLDC Tree Officer  
NWLDC Waste Services Team  
NWLDC Environmental Protection Team  
Police Architectural Liaison Officer

**No comments from:-**

Natural England

## **Other Consultation Responses**

### *National Forest Company*

No objection, but raises concerns and provides advice relating to the proposed layout of units and parking, density and materials. The National Forest Company (NFC) has not requested a commuted sum for tree planting, but recommends conditions to secure a Woodland Management Plan.

### *LCC Planning Obligations Officer*

No contributions requested given that the site is a leisure use and would not trigger any financial contributions under the LCC Planning Obligations Policy (2019).

## **Third Party Letters of Representation**

A total of 231 third party letters of representation have been received objecting to the application.

A summary of the reasons for objection is provided below:

### *Principle of the Development and Tourism Need*

- The proposal does not accord with Local Plan Policy S3 due to its location outside of the defined limits to development, and the proposal does not accord with other Local Plan Policies.
- Concerns relating to the viability of the proposed use.
- Concerns in relation to the change of use to a commercial site and the removal of public space for the community.
- Lack of need for tourism accommodation in this location and concerns that the application does not justify the need.
- Concerns that the majority of tourists are day trippers, thus requiring no overnight accommodation.
- Concerns relating to the lack of tourist attractions nearby.
- Concerns that the development would be open all year round.
- The development should be phased, to assess the viability.
- Concerns relating to the restriction and enforcement of the proposed holiday duration.
- Concerns that current tourism occupancy rates stand at 72%.
- Concerns that the proposal is being used to circumvent the planning system.
- Concerns that the application sets a precedent for major housing development within the locality.
- Concerns relating to the lack of onsite facilities typically expected and associated with a holiday site.
- Concerns relating to the fact that the site is advertised on the applicants' website as a residential site.

### *Highway Safety*

- Concerns in relation to the increase in traffic, ability for the road network to accommodate increased traffic, construction vehicle weights and vehicle speeds, suitability of the existing lane, access and footpaths to accommodate the proposal.
- Requests for increased speed restrictions, a roundabout and traffic lights.
- Concerns relating to the parking provision on site.
- Requests that the road be resurfaced.
- Inadequacy of the internal road width.
- Concerns relating to the impact of road closures during the construction period and increased deliveries.

- Lack of public transport nearby.
- Concerns relating to the adequacy of the submitted Transport Impact Assessment, the survey times carried out within school holidays, concerns relating to the submitted TRICS data.
- Concerns relating to pedestrian safety.
- Concerns that the highway rights of the Byway should be extinguished at the applicants' expense to minimise danger caused by access and egress of vehicles onto the A511 and at Clink Lane.

*Design, Landscape and Visual Impacts*

- Concerns relating to the merging of Swannington with Whitwick and Coalville and the scale of the proposal.
- The negative impact upon Swannington as a village and its rural nature.
- Concerns over potential future expansion of the development.
- Visibility of the proposal through gaps in tree cover.
- Concern relating to the proposed design of the holiday lodges and the density and layout of the site and the lack of National Forest inspired identity.
- Impact on the landscape and visual amenity.
- Impact upon the green wedge and green belt and the encroachment into the countryside.
- Concerns that the shop and restaurant would not fit within the site.
- Concerns relating to the lack of design information submitted relating to the appearance of the units.

*Ecology*

- Impact upon wildlife, habitats and protected species.
- Environmental impact of the deforestation and ecological impact of the proposal.
- Lack of compliance with legislation to include The Conservation of Habitats and Species Regulations 2017 and the Natural Environment and Rural Communities Act 2006.
- Impact upon an existing stream.

*Impacts upon Trees and the Impact upon the Environment*

- The amount of tree felling and its impact upon carbon footprint and global warming.
- Concerns that the tree felling has not been carried out in accordance with the applicants' felling license.
- Impact upon the National Forest Tree Planting Scheme.
- Increase in air pollution and the impacts upon health.
- Loss of protected trees and the impact upon public amenity.
- The potential for pollution from fuel or toxic spills.

*Residential Amenities and Community Impacts*

- Concerns in relation to the opening hours for the proposed restaurant and bar.
- Increase in anti-social behaviour.
- Impact upon light pollution.
- Loss of community facility and the impact of the proposal on the community.
- Impact upon residential amenity, odour, noise, comings and goings and overbearing and overlooking impacts.
- Negative impact upon the nature and character of the village and lack of benefits to local residents.
- Concerns relating to the lack of facilities within the development (play facilities etc).
- Impact upon the health and wellbeing of residents within Swannington.
- Impact upon residents as a result on dirt and debris during the construction period and

- other nuisance caused during the construction period.
- Impacts of neighbours quiet enjoyment.

*Flooding and Drainage*

- Concerns relating to foul and surface water disposal/capacity.
- Increased risk of flooding.
- Impact of the proposed additional lake.

*Impact upon Public Rights of Way (PRoWs)*

- Concerns relating to the current condition of the footpaths.
- Impact upon the rights of the byway and bridleway.
- Impact upon safety of byway and PRoW users.
- Impact on the tranquillity of the site.

*Historic Environment*

- Impact upon Archaeological areas of interest and the historic environment.

*Others*

- Increased pressure on services, infrastructure and facilities and the impact upon the increase in demand on existing residents of Swannington.
- Concerns relating to a future change of use of land to residential or future housing development, or gypsy and traveller accommodation.
- Provision for schooling.
- Land ownership impacts.
- Provision for waste collection.
- Negative impact upon existing public houses within the village.
- Security on site.
- Improvements are required to the centre of Coalville before the application can be approved.
- Concerns relating to the proximity of the site to the college.
- The impact of the railway reopening on the proposed development.
- Impact of the proposal on adjacent heritage sites in terms of visitor numbers.
- Concerns that the area already has a large amount of static dwellings.
- Concerns that touring caravans would also be allowed to use the site.
- Concerns relating to the consultation process and the impact on this as a result of Covid-19 and cancelled parish council meetings.
- Concerns that Swannington village does not require additional development.
- Concerns relating to the proposed paintballing activity set out within the originally submitted planning statement.
- Concerns relating to the lack of compliance with Building Regulations.
- Concerns that the site would not be restored to its current condition if the scheme was to fail.
- Concerns that the site will not be monitored.
- Concerns relating to rights of way of adjoining landowners and how these would be facilitated.
- Lack of financial benefit to the area following a reduction in unit numbers.
- Concerns that the site will be private and no members of the public will have access through the site.
- Impact upon the Coalfield.

*The following non-material objections have also been raised which are not considered in the*

*below report;*

- Actions of the landowner since purchasing the site.
- Licencing for the proposed bar/café.
- Impact on property value.
- Loss of views.
- Impact upon council tax.
- Ownership of each caravan.
- The applicants' lack of experience of running a holiday park.
- Risk of damage to property boundaries.
- Additional costs to taxpayer as a result of road damage.
- The financial status of the applicant.
- Actions of the applicant and the condition and appearance of the site (i.e. waste being stored on site and fires taking place on site).
- Concerns relating to the lack of enforcement action taken towards tree felling and the use and activities taking place across the site.
- Concerns relating to an RSPCA notice on the site relating to the welfare of ponies.
- The cost and time associated with dealing with amendments to the planning application.
- Issues relating to the way in which plans are viewed.
- Concerns in relation to the ownership of the site access.
- Concerns that the applicant will not follow any conditions attached to any planning consent.

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

#### **4. Relevant Planning Policy**

##### **National Policies**

##### **National Planning Policy Framework (2021)**

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.

Paragraphs 8 and 10 (Achieving sustainable development);  
Paragraphs 11 and 12 (Presumption in favour of sustainable development);  
Paragraph 34 (Development contributions);  
Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);  
Paragraphs 55, 56 and 57 (Planning conditions and obligations);  
Paragraphs 81, 83 and 84 (Building a strong, competitive economy);  
Paragraphs 92, 93 and 100 (Promoting healthy and safe communities);  
Paragraphs 105, 107, 108, 109, 110, 111, 112 and 113 (Promoting sustainable transport);  
Paragraphs 119, 120 and 124 (Making effective use of land);  
Paragraphs 126, 128, 130, 132 and 134 (Achieving well-designed places);  
Paragraphs 152, 154, 157, 159, 161, 162, 163, 164, 165, 167 and 169 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraphs 174, 180, 183, 184, 185, 186 and 187 (Conserving and enhancing the natural environment); and  
Paragraphs 189, 194, 195, 197, 199, 201, 202, 203, 205, 206 and 207 (Conserving and enhancing the historic environment).

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

The North West Leicestershire Local Plan forms part of the development plan and the following

policies of the Local Plan are relevant to the determination of the application:

S2 - Settlement Hierarchy

S3 - Countryside

D1 - Design of new development

D2 - Amenity

Ec13 - Tourism development

IF4 - Transport Infrastructure and new development

IF7 - Parking provision and new development

En1 - Nature Conservation

En3 - The National Forest

En6 - Land and Air Quality

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

Cc2 - Flood Risk

Cc3 - Water - Sustainable Drainage Systems

### **Other Policies and Guidance**

National Planning Practice Guidance.

Leicestershire Highways Design Guide (Leicestershire County Council)

Good Design for North West Leicestershire SPD - April 2017.

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System.

Natural Environment and Rural Communities Act 2006.

North West Leicestershire Economic Growth Plan 2019 - 2021.

Tourism Strategy for Leicester and Leicestershire 2011-2016.

Draft North West Leicestershire Tourism Strategy.

National Forest Guide for Developers & Planners.

The National Forest Tourism Growth Plan 2017-2027.

LCC Planning Obligations Policy (2019).

## **5. Assessment**

### **Principle of Development**

Letters of objection have been received from third parties and from Swannington and Whitwick Parish Councils relating to the principle of the proposed use in this location and the impact that the development would have upon the woodland and landscape as well as the sustainability impacts, viability of the proposal, lack of need for tourism accommodation of this scale, and the concern that the site, if approved, could change to a permanent residential site.

The site is located outside of the limits to development, as defined by the adopted Local Plan. The site is therefore located within the Countryside and is subject to assessment under Local Plan Policy S3.

Policy S3 sets out a range of uses (listed a-s) which will be supported subject to considerations set out within criteria i-vi of this same policy.

The application proposes the erection of holiday accommodation, and therefore it is considered that the scheme would accord with criterion n of Policy S3. On this basis, the principle of tourism accommodation on this site is considered to be acceptable, subject to the scheme according with the below criteria.

- (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; 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
- (iii) it does not create or exacerbate ribbon development; and
- (iv) built development is well integrated with existing development and existing buildings, including the re-use of existing buildings, where appropriate; and
- (v) the development will not seriously undermine the vitality and viability of existing town and local centres; and
- (vi) The proposed development is accessible, or will be made accessible, by a range of sustainable transport.

The above criteria considered relevant to this application include, (i), (ii), (iv) and (vi) as the scheme is not considered to create or exacerbate ribbon development, nor is it considered to seriously undermine the vitality and viability of existing town and local centres.

#### *Criteria i and ii*

The above criteria state that developments will be supported where 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 and where developments do 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.

The site is located within the National Forest and within two National Character Areas (NCAs). The north eastern part of the site (to the north east of the lakes) is within the Charnwood National Character Area, while the remainder of the site is within the Leicestershire and South Derbyshire Coalfield NCA. For clarity, the site is not located within an Area of Separation or within a Green Wedge or within the Green Belt. A number of public rights of way dissect the site and other surrounding land owned by the applicant. The rights of way include Bridleway N98 which falls partly within land owned by the applicant and within the application site. The Bridleway cuts through the southern part of the site and connects to a Byway to the north which leads from the north west of the site from Clink Lane and cuts through the northern part of the application site and runs south east to link to Footpath N96 which leads to Stephenson Way. Much of this Byway is located within land owned by the applicant, with a small proportion located within the application site, to the west of the proposed access track connecting the northern and southern parcels of development. Footpath N96 is located outside of the application site, but is partly located within land owned by the applicant. Bridleway N40 is located to the west of the site, outside of the application site and does not sit within land owned by the applicant.

The Local Planning Authority have commissioned a landscape consultant to assess the landscape impacts of the application.

In terms of Policy S3 i, the Council's landscape consultant concluded that there would be some harm to the appearance and character of the local landscape, but that the level of landscape harm would be relatively low as a result of the limited visibility of the proposals. The site is well

screened from the surrounding area, particularly in the summer, and there are no views from Spring Lane or Stephenson Way. It has been identified that there would be a level of localised landscape and visual harm in terms of visibility from the rights of way through the site, which are considered to be relatively pleasant and rural, but from which there would be clear views of the caravans, especially in the winter (and especially considering the proposed tree removal alongside the public right of way (PRoWs) to the south of the larger lake). The general activity of the proposed site would also affect the present experience of walking along the routes. As a result, amendments to the scheme were sought to relocate the units to the south of the large lake further away from the PRoWs, to reduce the unit numbers and to incorporate planting belts alongside the PRoWs. These amendments are considered to mitigate the adverse landscape and visual effects initially identified and it is therefore considered that subject to conditions securing a woodland management plan and planting belts, the amended application would mitigate the originally identified conflict with criterion (i) of Policy S3.

In respect of Policy S3 ii, the development would sit squarely in the area of undeveloped land between Swannington and Coalville, but would not take up the whole of the gap, and significant areas of woodland would remain. The development would not be visible in views from either settlement, however, there would be an awareness of the presence of development within the gap for people passing along the PRoWs, and there would be an awareness of the gap having been eroded. There would therefore be a reduction in the physical extent of the gap between the two settlements, and that reduction would be perceived by people passing along the rights of way past the site. The physical and perceived separation of the settlements would therefore be reduced, and the open undeveloped character of the land would also be affected. It is noted that the submitted Planning Supporting Statement which accompanies the application states at section 7.6 that: *'There will be an impact on the physical and perceived separation and open undeveloped character between nearby settlements'*.

Consideration has been given to the wording of this criterion set out within the policy and whether the proposal would undermine the physical and perceived separation and open undeveloped character between nearby settlements. Whilst it is noted that there would be an impact upon the physical and perceived separation and open undeveloped character between the settlements of Swannington and Coalville, given the level of amendments secured to reduce the scale of the scheme down to 52 units, as well as the level of planting secured to the site to the side of PRoWs and in between the proposed units, it is not considered that the application would warrant a refusal of planning permission on the basis of its impact upon the physical and perceived separation and open undeveloped character between nearby settlements. On this basis, it is considered that the application would not conflict with the requirements of criterion ii of Policy S3.

#### *Criterion iv*

Criterion iv of Policy S3 requires built development to be well integrated with existing development and existing buildings, including the re-use of existing buildings, where appropriate.

The scheme does not propose the re-use of existing buildings. The proposal would result in the erection of 52 twin and single static caravans, and the erection of two ancillary buildings. The main consideration in relation to this policy would be whether the scheme is well integrated with the existing woodland. Consideration has been given to the level of tree felling required to facilitate the proposed development. The Council's Tree Officer, whilst originally raising concerns relating to the level of tree felling required and the density of the proposed units, is satisfied that the amended layout would allow for appropriate landscape planting to the site and between each unit and retention of the most important trees on site. It should be noted that the

submitted layout plan is indicative and detailed layout, landscape, tree removal and tree protection plans would all be required to be submitted as pre-commencement matters in accordance with paragraph: 003 Reference ID: 21a-003-20190723 of the Planning Practice Guidance. It is however noted that the Tree Officer considers it necessary to mitigate the net tree loss with additional tree planting elsewhere within the National Forest, or within other land owned by the applicant adjacent to the site as appropriate.

The NFC have commented that the units should be separated from each other by retained trees and new woodland planting to reinforce the impression of being within a woodland, with hard surfacing kept to a minimum. Comments relating to the proposed materials for the units have also been received and the NFC have confirmed that the development within the site, to include units, communal buildings, signage and other infrastructure, should be constructed of natural timber (not composite materials). Whilst the NFC have expressed a preference for 'remote parking,' i.e. not on plot parking, this amendment has not been made to the proposed layout.

The existing ponds on site would be retained with development proposed to be centred around these lakes to the north of the site. Amendments have been secured to introduce additional footpath links from the proposed development to the existing PRow network. Further amendments have also been secured to remove the originally proposed tarmac road running through the site which would be replaced with a permeable gravel surface, which is considered to be more appropriate in a woodland setting.

The Council's Urban Designer has also commented on the scheme and has made comments in respect of the proposed layout; having considered that the originally proposed layout was regimented and cramped, the District Council's Urban Designer takes the view that the amended scheme results in greater separation between each unit, and would be a more appropriate layout which would allow for tree planting between units so as to reduce the urbanisation of the site.

On this basis, subject to the imposition of conditions securing full details relating to the layout, materials, planting, tree removal and tree protection plans, woodland management and surfacing across the site, it is considered that the proposal would be well integrated with the existing woodland and would satisfy the requirements of criterion iv of Policy S3.

#### *Criterion vi*

Criterion vi requires proposed developments to be accessible, or be made accessible, by a range of sustainable transport.

The site is located outside of the limits to development, with the nearest settlement of Swannington being categorised as a sustainable village benefitting from a limited range of services and facilities within Local Plan Policy S2. The nearest bus stop to the site is located on Main Street, Swannington, and is located approximately 360 metres from the site entrance which is considered to be within walking distance. A continuous pedestrian footpath is provided to the southern side of Spring Lane which provided access to the village of Swannington or to Thornborough Road.

Consideration has been given to paragraph 105 of the NPPF which states that '*...opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.*

Arriva bus number 29 operates between Leicester and Swadlincote and provides a Monday - Sunday service, an hourly service is also provided on a Saturday and Sunday. The services

provided between Monday and Friday vary depending on the time of day, but are generally between half-hourly (at peak periods) and hourly. It is considered that the nature of the development as a tourism site would mainly attract visitors to the site who would travel to the site via their own private transport. Naturally, this would lower the reliance on sustainable transport for visitors who wish to access the site. Consideration is also given to the fact that the nature of the proposed use will result in a reduced reliance for visitors to access day to day services and facilities as frequently or readily when compared with the requirements of permanent residential development.

A network of public footpaths, public bridleways and byways are situated within and surrounding the site which provide access to the north west, south west, north east and south east to surrounding land, Swannington village and the north of Coalville. Whilst the town of Coalville provides a range of services and facilities, with some facilities (2 supermarkets, and 3 fast food takeaway establishments) located outside of the town and within close proximity to the end of the public byway, these facilities are located in excess of 1km of the site which is considered to be in excess of what could be classed as reasonable walking distance. It is noted that these footpaths are well used, however they would not provide the most attractive route for visitors to the site during winter months, poor weather or in the dark. However, future visitors to the site would not be wholly reliant on the public footpath network and instead could access the village on foot via Spring Lane which benefits from street lighting, although the facilities and services within Swannington itself would not provide future visitors with shops and other facilities required to accommodate for day-to-day needs, even those required whilst on holiday.

The application includes the erection of a reception, office and shop, and it is considered that given the distance from the site to the nearest shops and the amount of vehicular trips associated with the proposed use, that the scheme would be acceptable subject to the provision of a shop being secured on site to provide visitors with the ability to purchase essential items. It is also considered necessary to tie the two proposed ancillary buildings to the proposed use.

The location of the site would allow visitors to travel beyond the site to enjoy the wider countryside, The National Forest as well as surrounding towns and villages, whilst this may be by means of the private car, this would be little different to the travel patterns of those staying at a facility within a settlement, particularly when visiting attractions located elsewhere in the National Forest that are not accessible by public transport.

When having regard to the footpaths available from the site and the ability for future visitors to access some facilities by foot or bicycle, as well as the provision of an on-site shop, together with the bus service which is located within walking distance from the site, and when considered the nature of the proposed use, it is considered that the application would not conflict with criterion vi. Subject to the imposition of a condition to secure the provision of an on-site shop, the application is considered to accord with criterion vi of Policy S3.

#### **Local Plan Policy Ec13 (Tourism Development)**

As the proposal is for the erection of holiday accommodation, Local Plan Policy Ec13 is also relevant to the determination of the application.

Criterion d of Policy Ec13 states that the Council will maximise the potential of tourism in the district and increase tourist opportunities for visitors by supporting the development of attractions and accommodation that are well connected to other tourist destinations and amenities, particularly by public transport, walking and cycling.

The policy further states that new tourist accommodation will be directed to the Limits to

Development where it can make use of existing infrastructure. It is recognised however that there may be instances where an initiative requires a countryside location or setting or is directly related to a specific tourist destination. It further states that outside of the Limits to Development preference would be for tourism and tourism related development to re-use land and / or buildings.

The Policy also sets out that tourism in rural areas, which benefits business, communities and visitors, and respects the character of the countryside, will be supported. Its scale should be appropriate to the local landscape and its surrounding environment and not adversely affect local transport infrastructure.

The Policy goes on to state that when assessing new provision for rural tourism or the expansion of facilities, consideration will be given to whether needs can be met by existing facilities.

The site is located within the National Forest, and the site provides access to a connection of public footpaths, byways and bridleways. Access from the site is provided to the Hough Windmill, the Urban Forest Park and Snibston Colliery Park and these sites can be accessed by walking and cycling. Impacts upon the character of the countryside and local landscape have been assessed and are considered to be acceptable, as identified within the report above, and the scheme is not considered to adversely affect local transport infrastructure, as expanded upon in more detail within the below report.

It is considered that the proposal is directly related to a specific tourist destination, indeed the site is located within the National Forest itself. Whilst the scheme would not re-use land or buildings, Policy Ec13 does not state that permission should be refused for developments which are located on greenfield sites.

It is noted that a large number of objections have been received raising concerns in relation to the viability of the proposal and whether a tourism site of this scale could be successful in this location. There are no Local Plan policies which require tourism developments to demonstrate that the site would be financially viable, however, in terms of whether the proposed tourism need can be met by existing facilities, consideration has been given to the Council's Tourism Strategy.

The Council's Tourism Strategy for Leicester and Leicestershire (2011-2016) is now out of date, however it represents the most up to date strategy with the Council's latest strategy being in draft form and is to be presented to members later this year for adoption. It is also noted that the draft strategy states that a report should be commissioned to analyse the current supply across all accommodation sectors, map and forecast future demand growth and identify and provide an evidence base for what additional stock will be needed. On this basis, the data within the 2011-2016 strategy has been used as a guide.

*The strategy states that 'occupancy levels suggest that there is enough capacity in the current supply. But to improve the earning potential of the county continued growth in accommodation provision is necessary.' The strategy expands and states that 'future growth, however, needs to be focused on attracting established and high-profile brand names that will draw in new audiences and allow existing meeting and event venues to improve their performance through expanded accommodation.*

Conversely, the Council's draft tourism strategy states that the Council's priorities will focus on *'working with partners to develop opportunities to grow the National Forest as a tourism*

*destination.*' Further, the NFC is currently looking at progressing a programme of action to accelerate and guide visitor accommodation development in The National Forest, however at the time of writing this report, up-to-date tourism accommodation and occupancy data is not available. The NFC have referred to their Tourism Growth Plan which is a 10-year strategic plan (covering 2017-2027).

The plan sets out that a thriving tourism sector in the Forest needs to *'deliver more accommodation to allow The National Forest to grow overnight tourism, while recognising that day visitors remain an important core market.'* It is therefore clear that the new tourism strategy will be focussed on expanding tourism opportunities within the National Forest and that the NFC have a strategic plan to grow overnight tourism, which is consistent with Local Plan Policy Ec13.

The submitted Planning statement refers to the Council's Economic Growth Plan (2019-2021) which states that one of the Council's objectives is to *'support proposals for increased investment within the National Forest to develop the tourism offer and support the rural economy.'*

Overall, whilst the scheme is proposed outside limits, the application would not result in a significantly adverse impact upon the character of the countryside and the impacts upon the local landscape have been considered to be acceptable subject to conditions. The scale, following a reduction in unit numbers, is considered to be acceptable subject to conditions. Further, the scheme would not adversely affect local transport infrastructure and would be located within the National Forest where tourist destinations and amenities can be accessed by public transport, walking and cycling. The principle of overnight tourism accommodation is supported by Local Plan Policy Ec13 and is further supported by the Council's Tourism Strategy for Leicester and Leicestershire (2011-2016), the Council's draft tourism strategy, the NFC's Tourism Growth Plan (2-017-2027) and the Council's Economic Growth Plan (2019-2021). On this basis, it is not considered that the application would conflict with the requirements of Local Plan Policy Ec13.

With regard to the comments received in relation to the potential future use of the site for residential purposes, such a change of use would require formal planning consent and in the event that a planning application of this nature was to be submitted, the Local Planning Authority would assess the merits of the application in line with the Local Plan and National Planning Policy at that time.

With regard to the representations received in relation to occupancy, it should be noted that discussions have taken place with the agent for the application to ascertain whether the applicant would be agreeable to entering in to a S106 legal agreement to restrict the occupancy of the site to tourism only, however the agent has stated that the occupancy of the site should be controlled through the use of planning conditions which the Local Planning Authority would seek to impose. It should also be noted that imposing planning conditions to restrict occupancy is standard practice.

On this basis, the principle of the application is considered to be acceptable subject to the imposition of planning conditions and subject to all other planning matters being adequately addressed.

### **Design, Scale and Layout**

Letters of objection from Swannington and Whitwick Parish Councils and third-parties have been received relating to the design, density, scale and layout of the proposal.

Local Plan Policy En3 states that within the National Forest new development should ensure that:

- (a) The siting and scale of the proposed development is appropriately related to its setting within the Forest; and
- (b) The proposed development respects and does not adversely affect the character and appearance of the National Forest or the wider countryside; and
- (c) The character of the National Forest is enhanced through incorporating a National Forest or locally inspired identity.

Local Plan Policy D1 also states that new non-residential developments must positively address the Council's Place Making principles:

- a) A National Forest or locally inspired identity;
- b) Streets and Spaces shaped by buildings;
- c) A greener footprint;
- d) Vibrant and Mixed communities;
- e) Responsive to their context;
- f) Connected places;
- g) Easy to get around;
- h) Well designed and well managed public spaces;
- i) Architectural quality.

The Council's Urban Designer and the NFC have been consulted on the proposal and comments have been received from both consultees who have concerns in relation to the amount of development proposed and its lack of National Forest inspired identity. The NFC commented to state that the density of the scheme should be reduced to allow for more trees to be retained and for the units to be nestled within the woodland setting.

Since the original consultation responses have been received, it is noted that the application has been amended significantly to reduce the amount of units proposed and remove the originally proposed fishing lake to the west of the site. Amendments to the layout have been made to result in greater separation distances between units, the siting of the units has also improved and is less regimented when compared to the original scheme which proposed a grid-like layout. The originally proposed tarmac access track and parking spaces have also been removed from the scheme, replaced with a permeable surface which is considered to be more appropriate within the woodland setting. Amendments to the layout of the proposed amenity buildings surrounding the lakes have also been made, resulting in an improved relationship between the amenity buildings and these existing features. Pedestrian links have also been incorporated within the scheme to provide improved connectivity to the network of PRoWs on site.

It is noted that the NFC have been working on a Tourism Accommodation Design Guide which has not yet been launched, however the NFC have advised that consideration should be given to the proposed parking layout, which should be centralised, as opposed to 'on-plot' to reduce the amount of hardstanding throughout the site and to reduce the vehicle traffic through the site adding to the wooden character. These comments have also been supported by the Council's Urban Designer, however this amendment has not been made to the proposed layout. Whilst the proposed parking provision could be improved, it is not considered that the proposed parking arrangement would constitute a reason to refuse the planning application.

Comments have also been received in relation to the design of the amenity blocks to state that these should incorporate the visible use of timber, green roofs or walls and sustainable design features, to be a reflection of the character of the National Forest. It should however be noted

that the amenity buildings are in outline form only, and conditions would be attached to secure full details in relation to their design.

With regard to the units themselves, it is noted that the application seeks full planning permission for the change of use of land for use as a caravan site as defined by S336 of the Town and Country Planning Act. The proposed units fall within the definition of static caravans, as set out in the Caravan Sites and Control of Development Act 1960 (as amended), and each of them may measure up to 20 metres long, 6.8 metres wide and 3.05 metres high. The NFC advised that the units should be finished in natural timber and that the foundations for the proposed units should be secured to ensure that damage to tree roots is avoided and to minimise areas of concrete and hardstanding throughout the site. It is appropriate, despite the application being for a change of use of land, for the Local Planning Authority to exercise planning control in relation to the design and appearance of structures. Indicative details have been submitted by the agent during the course of the application to demonstrate that the structures, whilst considered to have the appearance of typical mobile homes in terms of their proposed form and features, could be finished in natural timber cladding which would be acceptable. Planning conditions can be imposed to secure full design details of the proposed units, their foundations and the materials.

The NFC has stated that the scheme should also incorporate timber signage throughout the site, as well as cycle parking, both of which could be secured via condition.

Overall, subject to the imposition of conditions to secure full details of the proposed units, surfacing, foundations, materials and site signage, the application is considered to be acceptable when having regard to Local Plan Policies D1 and En3.

### **Residential Amenities**

Third party letters of objection have been received relating to the impact of the proposal on residential amenity, by way of noise, disturbance, additional comings and goings, light pollution and overbearing impacts.

The closest neighbouring relationships between the units and existing residential dwellings would be 118 metres to dwellings located to the northern side of Spring Lane and 260 metres to existing dwellings to the north east of the site which are located to the southern side of Spring Lane. The proposed bar and restaurant building to the north of the site would be located approximately 130 metres to the closest neighbouring dwellings on Spring Lane.

Whilst it is noted that the proposed development would result in additional amenity impacts over and above that of the existing use on site, given the separation distances from existing dwellings and the scale of the proposal, it is not considered that the scheme would result in any unacceptable noise, overbearing, overshadowing, overlooking or disturbance impacts to warrant a refusal of planning permission. It is considered that the opening hours of the bar and restaurant could be conditioned in the interests of residential amenity.

The Council's Environmental Protection team have been consulted on the application and have raised no objection to the proposal subject to a condition securing an external lighting scheme to be agreed.

Whilst concerns have been raised in relation to the amenity impacts during the course of the construction phase, this is considered to be an inevitable temporary manifestation of any development project, which is not the concern of the planning system unless there would be exceptional amenity harm. In this particular case it is considered reasonable to attach a

planning condition to restrict construction hours on site.

Overall, it is considered that, subject to the imposition of conditions, the application would accord with Local Plan Policy D2 and the advice contained within the NPPF.

### **Highway Safety and Parking**

Letters of objection have been received to the application on the basis of highway safety, increase in vehicular movements, impact upon the highway network in terms of safety and congestion, parking, pedestrian safety, impacts during the construction phase, along with requests that speed restrictions, traffic calming and traffic lights be installed. Concerns have also been raised in relation to the adequacy of the internal road width, the adequacy of the Transport Impact Assessment and concerns that the highway rights of the Byway should be extinguished at the applicants' expense to minimise danger caused by access and egress of vehicles onto the A511 and at Clink Lane.

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The County Highway Authority (CHA) have been consulted on the application and have considered the details contained within the submitted Transport Assessment (TA).

#### *Highway Safety and Site Access*

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The County Highway Authority (CHA) have been consulted on the application and have considered the details contained within the submitted Transport Assessment (TA).

#### *Highway Safety and Site Access*

Spring Lane is a Classified C road subject to 30mph speed limit with dwellings on the northern side only in the vicinity of the proposed site access. In order to establish the 85th percentile speeds on Spring Lane, a speed survey was undertaken in November 2018, however, this survey did not include a location plan and as the surveys which were carried out included traffic counts, the subsequent surveys carried out in May 2019, which included school holiday periods, were initially rejected by the CHA. The applicant therefore commissioned a third survey in March 2020, which was terminated due to a burst water pipe which resulted in the closure of Spring Lane during the survey period. Subsequently, due to the Covid-19 pandemic, traffic conditions have not been representative of normal conditions, and therefore no further surveys were undertaken.

The applicant has therefore submitted an assessment of all data obtained which demonstrates

that the November 2018 survey is the most robust, and is therefore acceptable to the CHA.

The survey identified speeds of 43.4 mph southbound, and 43.7 mph northbound, visibility splays of 2.4 metres x 120 metres should therefore be provided at the site access in accordance with the Leicestershire Highway Design Guide.

The existing access is shared between the site and adjacent land. Consideration has been given to the access width of 5.5 metres and the 12.5 metre radii, as well as the interaction between the vehicles associated with the proposed use and those vehicles utilising the adjacent fields and paddocks. The revised TA states that the paddocks are visited less than once per year. Whilst the CHA acknowledge that the level of vehicular activity associated with the paddocks would not be limited to this, it is considered unlikely that vehicles accessing the paddocks, and vehicles accessing the site, would result in severe harm on the highway network, especially when having regard to the fact that the existing access arrangements serves the fishing lakes, and therefore the access has an extant permitted use. It has also been confirmed that no touring caravans would utilise the site.

The CHA have reviewed Personal Injury Collision (PIC) Data within 500 metres of the site within the last 5 years at the site access and at the junctions of Main Street/Spring Lane/ Station Hill and Spring Lane/Thornborough Road, and have advised that no PICs have been recorded.

Overall, the CHA are satisfied that the proposed access and visibility splays would not result in severe harm to the highway network, subject to the detailed design which would be secured and agreed as part of the S278 process.

#### *Trip Generation*

The TRICS database contains no survey data relating to Saturday trip rates and therefore it was requested that the applicant undertook a survey at a comparable site in order to ensure that an adequate assessment of traffic impact was undertaken. Subsequently, the CHA agreed with the applicant that Mowbreck Caravan Park, Lancashire, was an acceptable site to survey. The TA therefore outlines that a TRICS compliant survey was undertaken between 4pm - 7pm on a Friday and 7am - 7pm on a Saturday. The surveys were carried out in February 2020, prior to any Covid-19 related impact on traffic counts.

Using the information submitted, the CHA have calculated the trip generation which confirmed that the worst case scenario to be 37 two-way movements per hour. This would be on Saturdays between 12pm - 1pm and 1pm - 2pm, which would not coincide with the network peak. The CHA have also noted that this assessment is on the basis that the proposed associated restaurant/bar/shop and office, for which outline (with access) approval is sought, is ancillary to the proposed caravan site. The CHA therefore recommends that a condition be imposed to ensure that this element of the proposal shall remain ancillary to ensure that it is not occupied or operated separately from the remainder of the site.

#### *Public Rights of Way*

Public Footpath N95, Public Bridleway N98 and Public Byway N39 are affected by the proposed development, therefore the CHA have advised planning conditions to be attached to secure details in relation to the treatment of these PRowS to ensure that they remain open and enjoyable for public use.

#### *Conditions*

The CHA have advised that conditions be attached to secure the proposed access width, gradient, surfacing, kerbed radii, 120 metre visibility splays, pedestrian visibility splays, on-site

parking, a construction method statement, details in relation to the treatments of the PRowS and a signage scheme in respect of the PRowS.

### *Representations*

With regard to the representations received, the CHA have not requested conditions to secure traffic calming measures, the installation of any speed measurement equipment, or any other highway infrastructure to be secured. No concerns are raised in relation to the internal road layout width, the highway rights of the Byway, or dangers to pedestrians and PRow users.

### *Highway Safety Summary*

The County Highway Authority are satisfied that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Overall, subject to the imposition of planning conditions, the application is considered to be in accordance with the guidance set out within the Leicestershire Highway Design Guide and the application is considered to be acceptable when having regard to Local Plan Policies IF4 and IF7 as well as the guidance set out within the NPPF.

### **Ecology**

Paragraph 174 of the NPPF states, amongst other things, that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.

Paragraph 180 of the NPPF states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Objections have been received in relation to the impacts of the proposal upon wildlife, habitats and protected species. The County Ecologist has been consulted on the application and has visited the application site. Throughout the course of the application, the County Ecologist has requested additional information to be submitted to include a badger survey and an extended Phase 1 habitat survey. Amendments to the Great Crested Newt survey was also requested. An amended herptile report and an amended mammal report was submitted, together with a Preliminary Ecological Assessment (PEA). An Enhancement Calculation spreadsheet has also been submitted to demonstrate the biodiversity net gain on site. The ecological impacts of the proposal are address in turn below.

The two private fishing lakes on site, due to a large toad population, are designated as a Wildlife Site (Number 90928). A GCN translocation pond located to the east of the site at Stephenson College is designated as a Local Wildlife Site (LWS) (number 61699).

The trackways with hedges and trees have been designated as a candidate LWS (92008); a further mature ash towards the eastern end is also designated (LWS number 92002). Three Ash trees, located outside of the application site, along a boundary of a paddock to the rear of houses off Spring Lane are also designated as a LWS (number 58193).

### *Badger and Mammals*

With regard to badgers, the ecologist has visited the site and has confirmed that the reported badger setts were no longer in regular use by badgers. The County Ecologist has confirmed that the presence of badgers would need to be kept under review and therefore a planning condition is advised to be attached requiring an updated survey prior to (within 3 months of)

commencement and a precautionary working method statement to be submitted.

*Great Crested Newts (GCNs)*

With regard to GCNs, the Ecologist requested that the Stephenson College ponds be surveyed by the applicants' ecologists, to establish whether the confirmed GCNs are breeding within this pond. The Stephenson College site had two great crested newt compensation ponds created when the college was built 15-20 years ago, to translocate great crested newts trapped from the college site. This survey was not carried out by the applicants' Ecologist, however the County Ecologist visited the Stephenson College ponds and the reported GCNs were present within a pond on site, and a colony of great crested newts was present in the area and GCNs are also present within the ditch by the college. On this basis the County Ecologist considers it likely that GCNs are present within the application site.

In the absence of evidence to the contrary, the County Ecologist has assumed that the GCN population is medium. Therefore, a method statement is advised to be secured by planning condition to ensure that precautionary working is secured when clearing land and carrying out any earthworks, constructions, creation of hardstanding, trackways etc.

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 the Principle of Development section 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.

*Invertebrates - grassland and deadwood habitats*

The County Ecologist confirms that the submitted invertebrate report is comprehensive and highlights the presence of several species of national significance associated with flower-rich rides and grasslands and dead wood habitats. The submitted PEA noted the presence of two LWS indicator species (*Rumex acetosa* and *Ranunculus acris*). The County Ecologist requested further clarification on the main dead wood and flower-rich habitat of value to invertebrates, as some of the rides and grasslands would be lost to the development, and because of the presence of notable invertebrate species.

Following a site visit, the County Ecologist has confirmed that the grasslands within the application site are of value, but do not meet Local Wildlife Site (LWS) criteria. Further, the County Ecologist has confirmed that the standing dead wood habitats along the central

trackways meet LWS criteria.

*Birds, Barn Owl and Woodland loss*

The County Ecologist notes that there is a good assemblage of woodland, scrub and woodland edge species breeding or present on the site, and a high number of territories. The County Ecologist states that this will be indirectly adversely affected by the development, through disturbance such as vehicle traffic, people and dogs/cats, and lighting, as well as directly through habitat loss.

Following amendments to the scheme which has removed the block of units closest to the site where Barn Owl was recorded, the County Ecologist is satisfied that significant impacts on this protected species is less likely.

The County Ecologist confirms that the woodland is a young plantation, and its value is mainly because of its large size. It is however noted that there would be a significant loss of habitat for birds, mammals and invertebrates. Nonetheless, the trees are a replaceable habitat, being of recent planting, and part is low value dense coniferous plantation. The County Ecologist has confirmed that whilst an objection relating to the loss of woodland on ecology grounds cannot be sustained, the losses must be compensated for. The County Ecologist has noted that this offers an opportunity to plant with something better for wildlife and amenity than that of the poor coniferous plantation.

*Mature trees and hedgerows*

The County Ecologist notes that whilst most of the trees on the site are young, there are some significant Ash, some of which meet Local Wildlife Site criteria, and some good oaks, mostly along the central trackway. The County Ecologist has confirmed that T80, T81 and T82 identified on the submitted tree survey are already designated as LWS 58193. The County Ecologist has advised that the retention of the mature trees should form a planning condition.

The County Ecologist has further stated that the public bridleway through the site is of value including the presence of old trees and species-rich hedges. The hedges and many of the trees met the County's Local Wildlife Site criteria, and therefore a condition is advised to be attached to secure the retention of this candidate LWS.

*Biodiversity net-gain, enhancement strategy and management plan*

The development is required to demonstrate measurable biodiversity net-gain. The County Ecologist has confirmed that there is potential within the site to secure biodiversity net gain through the management of retained woodland, enhancement of grasslands and deadwood habitats, creation of wetlands and off-site woodland planting in compensation.

Throughout the course of the application, the County Ecologist has advised that the existing baseline habitats and habitats to be lost, retained or enhanced, needed to be agreed and measured, and that a strategy for achieving net-gain should be secured.

In response to the County Ecologists' advice, a Biodiversity Impact Assessment calculation and Enhancement Strategy calculation have been submitted. Upon reviewing the enhancement and creation proposals, the County Ecologist requested that the applicants' Ecologist revisit the submitted metric following concerns in relation to the way in which it had been completed.

Following amendments to the Enhancement Calculation spreadsheet, the County Ecologist has confirmed that the proposal now shows a net gain, due to enhancement of 10.24ha of deciduous and 4.9ha of coniferous woodland adjacent to the application site.

The Enhancement Calculation document has been amended to include figures for habitat loss, creation and enhancement taken from the metric, which the County Ecologist considers to be acceptable. There is reference to pond creation within the submitted information and the maps in Appendix D of the report shows the location of the two new ponds, the scrub, the wildflower grassland, the rain garden and the grassland buffer strips, as set out in the metric, however these are not shown on the Amended Illustrative Site Layout Plan and conflict slightly with the proposed planting arrangements and therefore full details of these elements of the biodiversity enhancement would be secured via condition, to ensure that the proposal secures the net-gain and the appropriate planting and screening across the site.

The County Ecologist has confirmed that there are some inconsistencies between the tabular management plan and the submitted metric. Whilst a tabular management plan has been submitted, which includes details of hedgerow and woodland management, the woodland management proposed is purely for creation of glades and rides and excludes the management to the woodland structure. The tabular management plan excludes works to the woodland outside the glades and rides which would result in a metric loss, and not a gain. The County Ecologist has however confirmed that it is appropriate to secure a detailed management plan via condition and following consultation with the NFC, the County Ecologist is satisfied that this should be a pre-commencement condition.

With regard to the wetland creation and woodland planting, the County Ecologist has advised that some of the proposed woodland and wetland species are not appropriate for a variety of reasons to include the provision of non-native species, low wildlife value, or their affliction with disease.

In conclusion, the metric is now acceptable and shows net-gain; the gains are dependent on woodland enhancement which would be secured via condition.

#### *Lighting*

The County Ecologist states that the lighting strategy provided would be likely to adversely affect the retained woodland and other habitat if light spill of more than 1 lux impinges on the habitats. On this basis, a planning condition is advised to be attached to secure full details of the proposed on-site lighting.

#### *Ecology Summary*

Overall, following significant amendments to the scheme and amendments to the Biodiversity net gain data, the County Ecologist is satisfied that the proposal would achieve an overall biodiversity net-gain and no objection is raised to the application, subject to the imposition of planning conditions to secure a woodland management, a biodiversity management plan and landscape plan.

#### **Impact upon the National Forest, existing tree cover and woodland loss**

The site is located within an existing woodland and the application has been supported by a submitted Arboricultural Impact Assessment and a Tree Protection Plan. Initial concerns were raised by the Council's Tree Officer that development of the originally proposed scale would be incompatible with the site's woodland environment. Further concerns were raised in relation to the impact upon new woodland edges which are likely to be unstable and susceptible to windthrow which would result in trees being uprooted by wind, resulting in further losses and increased site exposure. Based on the tree officers' original calculations, the original proposal for the erection of 208 units would have resulted in an approximate woodland loss of at least 63%, plus the loss arising from the creation of the originally proposed fishing lake.

Comments have been received in relation to the Forestry Commission felling licence and concerns have been raised that felling on site has not been carried out in accordance with this licence. Whilst compliance with the terms of the licence is a matter to be addressed by the Forestry Commission, the terms of the licence have been reviewed by the Local Planning Authority following correspondence with the agent. The licence is for the felling of 30% of the canopy across the whole woodland to allow for thinning and the management of the woodland, and does not allow clear felling in one location. On this basis, the felling licence has not been considered as a fall-back position for the level of felling proposed under this application, as the thinning is a required part of the management of the woodland and is not comparable to clear felling targeted to certain parcels of the site.

Original consultation comments received by the Council's Tree Officer confirmed that compartment W2, which consists mainly of European larch, is of limited quality and susceptible to disease. The tree officer therefore advised that clear felling of this area in the north section of the site near the existing fishing lake, could provide opportunities for low key installation of pods or chalets. It was further advised that there was further scope for construction in the clearings and around existing individual trees in the south-east sector of the site (W8/ T42-T79) and also in the south-west sector in the open space near W9 - W11, in order to avoid tree loss. Concerns were also raised by the Tree Officer that the development would not be screened from view when viewed from the PRowS.

The Tree Officer has sought greater clarity in relation to confirm the Tree Root Protection Areas (RPAs) of the trees, so as to ascertain the number of feasible units which could be installed on site. During the course of the application, a particular area of concern for the tree officer has been a group of Poplars on site. Concerns have been raised by the Tree Officer in relation to unit positions, which whilst may equate to the BS5837:2012 recommended RPAs, would be too close to the Poplars for them to be compatible or sustainable.

The Tree Officer has further stated that development should consider the species, condition, future growth, work space outside the RPA, tree risk assessment and actual root spread. Any root severance would result in extensive and unacceptable sucker growth.

Following amendments to the scheme which results in a greater separation distance between the proposed units and retained trees, the Tree Officer has no objection to the proposal and has advised that the indicative layout, providing that a suitable Tree Protection Plan is secured, would ensure that the poplar trees would have the ability to integrate. The Tree Officer does however state that the suckers from their root systems and the previously felled poplars will be an ongoing problem which the applicant will have to manage.

The application does not seek a specific number of units in the description of development, although the specific number would be constrained as a consequence of a detailed layout plan which would be secured through the use of a planning condition. Throughout the course of the application, the agent has suggested that the specific number, position, orientation and layout of units, including landscaping, and subject to Arboricultural constraints, could be a matter to be resolved through planning conditions. To ensure that the development is well integrated, all service corridors would need to be pre-planned and areas of no-dig construction identified, both of which would be secured through the use of planning conditions.

#### *Off-setting tree loss*

The amended scheme now results in the loss of approximately 1.35 ha of woodland which the Tree Officer has estimated to require approximately 3375 replacement trees. The Tree Officer

has identified that the areas of loss mainly affect the lower quality tree stock.

The Tree Officer has stated that the loss should be off-set by new planting elsewhere in the National Forest. It should be noted that a calculation in relation to the net tree loss cannot be carried out until detailed proposed layout and landscaping plans have been submitted, which would show the precise proposed planting and precise positioning of units in relation to tree roots, consideration would also be given to the foundation design of each unit. It may be possible to secure this planting on land owned by the applicant, adjacent to the application site. In the event that this is not possible the Local Planning Authority would look to secure commuted sums for replacement tree planting. Whilst there is no adopted / standardised formula for such replacement planting, it is considered that it would be appropriate to use the standard contribution calculation used by The National Forest Company which is applied to developments where National Forest planting is required; this figure stands at £35,000 per hectare, which in this case would equate to approximately £47,250.

Should the applicant wish to provide off-site planting within land already owned to the south of Spring Lane, then an appropriately worded Grampian condition could be used to secure this. Alternatively, if off-site planting is more appropriate elsewhere within the National Forest on land falling outside of the applicants' ownership, or if the applicant wishes to utilise a combination of the two, then the Local Planning Authority would look to secure commuted sums for this planting which would be secured through a S106 legal agreement (and in accordance with advice from the Council's legal team on the most appropriate mechanism to secure this planting).

Discussions have taken place with the agent for the application to establish how the applicant intends to address the required tree planting. The agent has advised that the applicant intends to explore the possibility of tree planting taking place on land owned by the applicant to the south of Spring Lane. However, a net loss calculation would need to be secured, together with information to show that the full loss could be accommodated on the applicants land, in order for a Grampian condition to be imposed by the Local Planning Authority. In the event that this information is not submitted to demonstrate that the full net loss could be carried out on land owned by the applicant, a S106 legal agreement would be secured, in accordance with advice from the Council's legal team.

#### *National Forest Planting*

Local Plan Policy En3 states that new developments within the National Forest will contribute towards the creation of the forest by including provision of tree planting and other landscape areas within them and /or elsewhere within the National Forest in accordance with National Forest Planting Guidelines.

It is noted that the scheme would fall within the 'all development' development type within the National Forest Planting Guideline document, however the site area also falls below 10ha in size, and as the proposal is also not for residential or employment development, the scheme is not required to provide additional National Forest Planting over and above any required replacement planting.

#### *Protected Trees*

Concerns have been raised during the consultation period that the proposal would result in the felling of three protected Ash trees along a boundary of a paddock to the rear of houses south of Spring Lane. These trees fall outside of the application site and it is not proposed that these trees be felled.

Upon submitting the application, there were no protected trees within the site, however during

the course of the application a provisional Tree Preservation Order (TPO number T495) has been made in respect of the group of 33 Poplar trees which are located within the southern part of the site. The Tree Officer does not consider there to be a benefit in making a TPO in respect of the other forested areas, stating that the applicant would need to manage these other areas in accordance with Forestry Commission felling licence requirements.

### *Summary*

Overall, it is considered that subject to securing replacement tree planting either on land owned by the applicant to the south of Spring Lane, or elsewhere within the National Forest, that the felling proposed would be acceptable. The Tree Officer has also confirmed that compatibility issues between each unit and retained trees could be addressed by securing a detailed layout plan showing each unit proposed and their relationship with RPAs. A Woodland Management Plan and a Tree Protection Plan would also be secured via condition.

### **Impact upon Heritage and Archaeology**

Objections have been received during the course of the application raising concerns that the proposal would result in unacceptable impacts upon the historic environment.

The County Archaeologist has been consulted on the application and a review of the Leicestershire and Rutland Historic Environment Record (HER) indicated that the site lies in an area of archaeological interest, including the discovery of prehistoric, Roman and Saxon finds from a number of locations within the site and from its immediate surrounding area. On this basis it was considered that the archaeological potential of the site would be high.

A desk-based assessment has been submitted and whilst the County Archaeologist is largely satisfied with report's conclusions, the Archaeologist does not agree with the assessed 'low' potential for archaeological remains to exist within the application area. Despite this, when taking into account the site conditions (previous works, tree and scrub growth, etc.) and the potential subsidence the site has experienced, the County Archaeologist considers that the archaeological interest of the application area can best be addressed by conditions secured upon a determined application.

On that basis, conditions are advised to be attached to secure a two-stage programme of archaeological mitigation, comprising an initial exploratory phase (geophysical survey, test pitting) followed, if shown necessary, by a final phase of targeted investigation and recording to address the impact of the development upon any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance.

With regard to the impact upon listed buildings, 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. The closest listed building to the site is located approximately 400 metres to the north of the application site, with no intervisibility between the two sites. It is therefore not considered that the scheme would result in any harm to the building or its setting or any features of special architectural or historic interest which it possesses.

It is therefore considered that subject to the imposition of planning conditions, that the application would accord with Local Plan Policy He1 and the advice set out within section 16 of the NPPF.

### **Flood Risk and Drainage**

Third party letters of objection have been received during the course of the application relating to flooding, surface water drainage and foul waste provision.

The site lies within Flood Zone 1 and is therefore in an area at the lowest risk of fluvial flooding. Small pockets of the site are affected by a low, medium and high risk of surface water flooding, as defined by the Environment Agency's Surface Water Flood Maps.

Section 11 of the submitted application form does not address how foul waste would be disposed of and it does not specify whether the application proposes to connect to the existing drainage system. The application also does not specify how surface water would be disposed of.

Further information has been provided during the course of the application to confirm that the site would discharge surface water to a nearby watercourse at a rate not exceeding the existing greenfield run off rate, The Lead Local Flood Authority (LLFA) are satisfied that the proposal would be acceptable, subject to the imposition of conditions to secure a surface water drainage strategy, a strategy for the management of surface water during construction, and a scheme for the long-term maintenance of the surface water drainage system. Severn Trent Water have also requested that a condition be attached relating to the disposal of surface water.

In terms of foul waste disposal, Severn Trent Water have been consulted on the application and have advised for a condition to be attached to secure a scheme for the disposal of foul sewage to be submitted to and agreed in writing by the Local Planning Authority.

### *Representations*

It is noted that an objection has been received in relation to the impact upon the existing watercourse on site, however the LLFA have raised no objection to the application and no concerns have been raised in relation to the impact upon this existing watercourse.

Overall, subject to the imposition of planning conditions, the application is not considered to result in drainage or flooding issues. The application is therefore considered to be compliant with Policies Cc2 and Cc3 of the adopted Local Plan and Paragraph 163 of the NPPF.

### **Coal Mining Risk**

Parish Council and third-party letters of objection have been received during the course of the application relating to the impact upon the Coalfield.

Part of the application site lies within the defined Development High Risk Area, where the submission of a Coal Mining Risk Assessment (CMRA) is usually required to support an application.

No CMRA has been submitted in this instance, and having liaised with The Coal Authority, it is considered necessary to attach conditions requiring the submission of a CMRA to ensure the safety and stability of the development. The conditions would secure intrusive site investigations as necessary to establish the risks posed to the development by past coal mining activity, as well as remediation works and/or mitigation measures to address land instability arising from coal mining legacy, in order to ensure that the site is made safe and stable for the development proposed.

It is noted that the findings of the above may have an impact upon the site layout as proposed, and in any case a detailed proposed layout would need to be secured via condition.

On the above basis, subject to the imposition of planning conditions, the application is considered to be acceptable when having regard to Local Plan Policy En6 and paragraphs 174 and 183 of the NPPF.

## **Other Matters**

### **Bin Collection**

The Council's Waste Services Team have been consulted on the application and have no objection to the proposal. They have confirmed that the waste and recycling generated by the development would need to be managed through the provision of a commercial waste service.

The proposed access road is unlikely to be constructed to an adoptable standard as it is proposed to be a permeable gravel surface. Therefore, the preference (if the Council's Waste Team are contracted to collect waste from the site) would be to not enter the site due to the absence of an access road constructed to an adoptable standard. As such, a bin collection point (BCP) adjacent to or as near to (as what is reasonably practicable) to the public adopted highway of Spring Lane would be required.

It is considered necessary to attach a condition to secure the provision of adequate waste storage points across the site and a bin collection point as close to the adopted highway as possible.

### **Planning Obligations**

Leicestershire County Council Planning Obligations Officer has confirmed that no contributions have been requested given that the site is a leisure use and would not trigger any financial contributions under the LCC Planning Obligations Policy (2019).

### **Conclusion**

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2021).

In summary, the principle of the development is considered to be acceptable and accords with Local Plan Policies S3 and Ec13. The proposed scale, design and layout of the proposal, together with the visual impacts, would be acceptable subject to the imposition of planning conditions to secure full details of the proposed design and layout of the units and therefore the scheme also accords with Local Plan Policies D1 and En3. The tree and ecology impacts are considered to be acceptable subject to the imposition of planning conditions to secure full details in relation to layout, tree protection, a woodland management plan, lighting scheme and biodiversity enhancement details and as such the proposal is considered to accord with Local Plan Policy En1. Subject to the imposition of conditions, the proposal is not considered to result in any unacceptable highway safety, residential amenity, flooding, drainage, coal or archaeological impacts and on this basis the application also accords with Local Plan Policies IF4, D2, Cc2, En6 and He1.

It is therefore concluded that the proposed development would comply with the provisions of the development plan as a whole as well as the guidance set out within the NPPF. Overall, there are no material considerations which indicate the determination of this application other than in accordance with the development plan.

Accordingly, the application is recommended for planning permission, subject to the imposition of planning conditions and subject to a S106 agreement, or Grampian condition to secure replacement tree planting.

**RECOMMENDATION- PERMIT, subject to Section 106 Obligation or Grampian condition (as considered appropriate by the District Council's Legal Services team) to secure replacement tree planting, and subject to the following conditions**

**Full**

- 1 Time (3 years)
- 2 Detailed Layout Plan
- 3 Full details of Design, Materials and Surfacing and Foundation Design
- 4 Levels
- 5 Tree Protection and Removal Plans
- 6 Landscaping Plans
- 7 Woodland Management Plan
- 8 Details of off-site Tree Planting
- 9 Ecology Method Statements
- 10 Badger Survey
- 11 Retention of LWS
- 12 Highway Conditions
- 13 Details of Treatments to PRowS
- 14 Construction Method Statement
- 15 Cycle Parking
- 16 Archaeology Conditions
- 17 Coal Investigations
- 18 Drainage, Surface Water and Foul Waste Disposal
- 19 External Lighting Scheme
- 20 Signage and Infrastructure Design
- 21 Bar, Restaurant, Office and Shop to be ancillary
- 22 Units not occupied until Bar, Restaurant, Office and Shop are available for use
- 23 Existing Uses on Site to Cease
- 24 Restrict Occupancy
- 25 Maximum Number of units 52
- 26 No touring caravans
- 27 Details of Waste Provision

**Outline**

- 1 Time period for submission of the reserved matters application
- 2 Reserved Matters to follow
- 3 Full details of Design, Materials and Surfacing and Foundation Design
- 4 Levels to be submitted
- 5 Tree Protection and Removal Plans
- 6 Landscaping and Landscape Management Plans
- 7 Woodland Management Plan
- 8 Details of off-site Tree Planting
- 9 Ecology Method Statements
- 10 Badger Survey
- 11 Retention of LWS
- 12 Highway Conditions

- 13 Details of Treatments to PRoWs
- 14 Construction Method Statement
- 15 Archaeology Conditions
- 16 Coal Investigations
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