

**Residential development for up to 101 new dwellings (outline
- all matters other than part access reserved)**

**Report Item No
A1**

Land North Of Waterworks Road Coalville Leicestershire

**Application Reference
20/00831/OUTM**

Grid Reference (E) 444339

Grid Reference (N) 313782

Date Registered:

20 May 2020

Consultation Expiry:

28 January 2022

8 Week Date:

19 August 2020

Extension of Time:

30 April 2021

Applicant:

Mr Martin Vickery

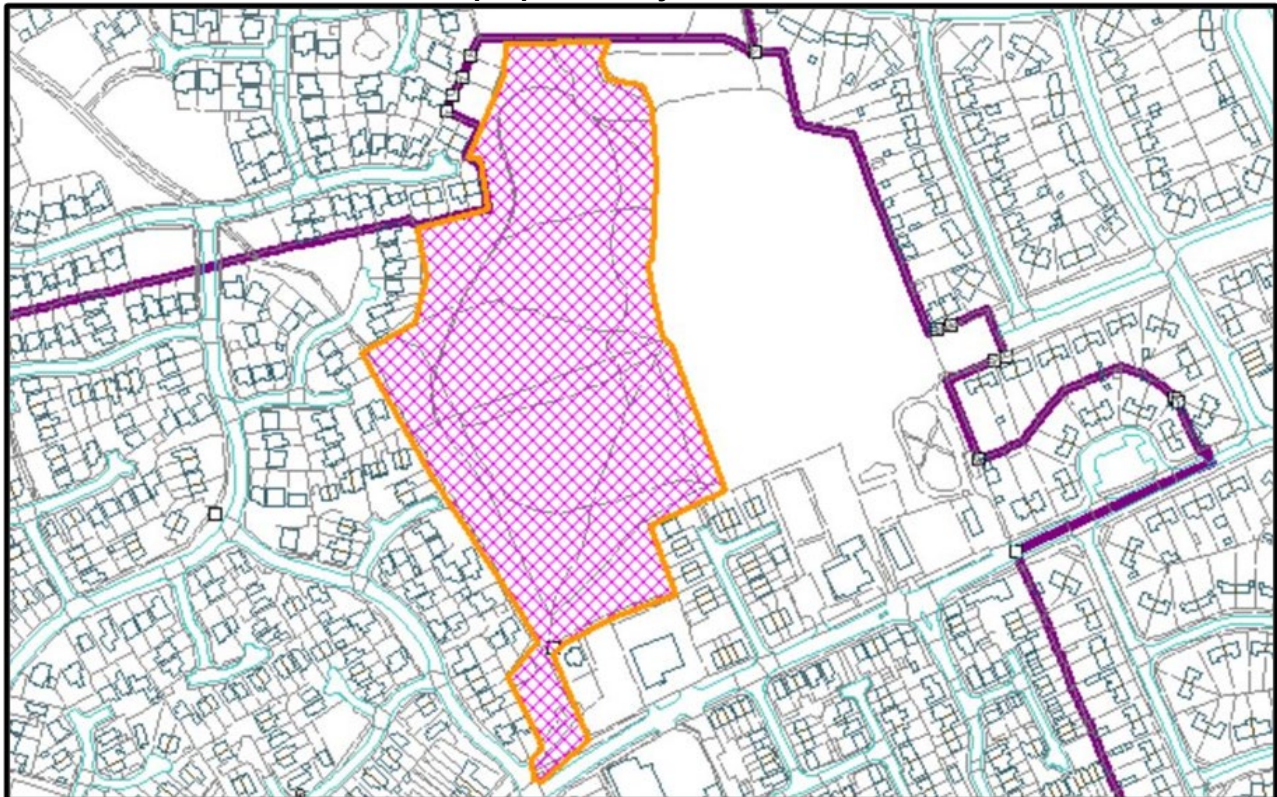
Case Officer:

James Knightley

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 Planning Committee for determination as the District Council is the applicant.

Proposal

This is an outline application for residential development of up to 101 dwellings.

Consultations

Members will see from the main report below that objections have been raised by third parties, and in respect of ecological issues by the County Ecologist and the Leicestershire and Rutland Wildlife Trust. No objections on other technical issues are raised by statutory consultees.

Planning Policy

The site is located within Limits to Development as defined in the adopted North West Leicestershire Local Plan, and is also identified as a housing allocation under Policy H3.

Conclusion

Having regard to the site's allocation for residential development in the adopted Local Plan, the development is considered acceptable in principle. Whilst the scheme would result in the loss of grassland of ecological and biodiversity value, when having regard to the site's allocation for residential development, and to the proposed off-site biodiversity mitigation, the scheme would, overall, be considered to constitute sustainable development.

RECOMMENDATION:-

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

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

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for residential development for the erection of up to 101 dwellings on a site of approximately 4.2ha to the north of Waterworks Drive, Coalville.

Part access is included for determination as this outline stage (namely vehicular access from Buckingham Road), with all other matters being reserved for subsequent approval.

Whilst not formally seeking approval for layout at this stage, the application is accompanied by an indicative layout.

Two accesses were originally proposed, from Beech Tree Road and from Buckingham Road. During the course of the application, amended access options were explored, including from Waterworks Road. Following discussions with the County Highway Authority, the scheme now proposes one vehicular access point from Buckingham Road with pedestrian access (including the re-alignment of a public right of way (Footpath N88) from Beech Tree Road).

2. Publicity

86 Neighbours have been notified.
Site Notice displayed 29 May 2020
Press Notice published Leicester Mercury 3 June 2020

3. Summary of Consultations and Representations Received

Coal Authority has no objections

East Midlands Airport has no objections

Leicestershire County Council Archaeologist has no objections subject to conditions

Leicestershire County Council Ecologist objects on the basis of the loss of existing grassland on the site

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

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

Leicestershire County Council Local Education Authority requests developer contributions totalling £871,446.10 in respect of the Primary, Secondary and Post 16 sectors

Leicestershire County Council Library Services requests a developer contribution of £3,000 in respect of Coalville Library

Leicestershire County Council Waste requests a developer contribution of £6,603 in respect of Coalville Household Waste Recycling Centre, and requests imposition of a condition in

respect of provision of Waste Minimisation and Recycling Packs to new residents

Leicestershire and Rutland Wildlife Trust objects on the following grounds:

- Site meets Local Wildlife Site (LWS) criteria for grassland species and community and is of county importance
- Conflicts with local and national policies, including the NPPF and Local Plan Policy En1
- Application should be refused and the important habitats in this site managed in an appropriate way with the site used as a nature reserve for the community

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

National Forest Company advises that woodland planting and landscaping would be required to be provided on-site (or, alternatively, addressed by way of a financial contribution)

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

North West Leicestershire District Council Leisure Services requests developer contributions of £57,512.28 and £49,545 in respect of public open space / children's play and playing fields respectively

North West Leicestershire District Council Waste Services comments that, based on the illustrative layout, a disproportionate number of households would be required to present their bins / recycling containers at bin collection points, and advises that this matter be addressed by an updated layout at the reserved matters stage

Severn Trent Water - no comments received

Sport England has no objections

University Hospitals of Leicester NHS Trust requests a financial contribution in respect of healthcare of £33,776

Third Party Representations

107 representations (and including from County Councillor Craig Smith, together with two petitions (one containing 809 signatories, submitted by Councillor French, and one submitted containing 207 signatories, submitted by Councillor Eynon)) have been received raising the following objections:

Principle

- Loss of green space / area for exercise
- Adverse impacts on health / wellbeing from loss of recreational facility
- Visual impact
- No need for further development
- Development should be directed to other areas of the District
- Site should be an Asset of Community Value
- Site is allocated for 95 dwellings, not 101

Highways/Access

- Insufficient traffic data / Transport Assessment
- Exacerbation of existing congestion issues
- Single means of access would be unsafe / fire risk
- Insufficient car parking
- Increased problems with on-street car parking/loss of on-street parking space for other residents
- Unsafe, particularly in respect of pedestrians (including children)
- Obstruction of routes during construction works
- Unnecessary/unsafe pedestrian and cycle link proposed to Oak Close
- Too many cul-de-sacs proposed as part of the scheme
- Public rights of way must be maintained

Trees/Ecology

- Loss of trees/hedgerow
- Loss of habitat/impact on wildlife
- Impact on protected species
- Site should be retained for biodiversity enhancement
- Insufficient arboricultural and ecological survey information

Other Matters

- Insufficient infrastructure to accommodate the development (including in respect of transportation, shops, policing, healthcare and education)
- Noise
- Pollution/impact on air quality/dust/odour
- Impact on climate change
- Insufficient drainage/flood risk
- Misleading literature circulated indicating that the development is required to fund the proposed leisure centre
- Increased risk of crime
- Overlooking/loss of privacy
- Incorrect site boundary in ecological report
- Inappropriate to submit application during a pandemic
- Insufficient time to comment on the application
- Any damage to neighbouring property from construction works should be paid for/ repaired
- Site should be redeveloped as a solar farm
- Site should be developed into woodland
- Proposed appearance of the development would be out of keeping with the surrounding area/properties
- Insufficient open space proposed
- Flats would be out of character
- New fencing should be provided to boundary with adjacent property

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

4. Relevant Planning Policy

National Policies

National Planning Policy Framework 2021

The following sections of the National Planning Policy Framework (NPPF) are considered relevant to the determination of this application:

Paragraphs 8, 11 and 12 (Achieving sustainable development)

Paragraphs 47, 55, 56 and 57 (Decision-making)

Paragraphs 93, 99 and 100 (Promoting healthy and safe communities)

Paragraphs 104, 105, 108, 108, 111, 112 and 113 (Promoting sustainable transport)

Paragraphs 119, 120 and 124 (Making effective use of land)

Paragraphs 126, 130, 131, 132, 133 and 134 (Achieving well-designed places)

Paragraphs 154, 157, 159, 162, 166, 167 and 169 (Meeting the challenge of climate change, flooding and coastal change)

Paragraphs 174, 180, 183 and 186 (Conserving and enhancing the natural environment)

Paragraphs 194, 195, 197, 203, 204, 205 (Conserving and enhancing the historic environment)

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

Adopted North West Leicestershire Local Plan (2021)

The site is located within Limits to Development as defined in the adopted Local Plan and is also identified as a housing allocation under Policy H3 (site H3b). The following policies of the adopted Local Plan are considered relevant to the determination of this application:

Policy S2 - Settlement Hierarchy

Policy H3 - Housing Provision: New Allocations

Policy H4 - Affordable Housing

Policy H6 - House Types and Mix

Policy D1 - Design of New Development

Policy D2 - Amenity

Policy IF1 - Development and Infrastructure

Policy IF3 - Open Space, Sport and Recreation Facilities

Policy IF4 - Transport Infrastructure and New Development

Policy IF7 - Parking provision and New Development

Policy En1 - Nature Conservation

Policy En3 - The National Forest

Policy En6 - Land and Air Quality

Policy Cc2 - Flood Risk

Policy Cc3 - Sustainable Drainage Systems

Other Policies / Guidance

Good Design for North West Leicestershire Supplementary Planning Document (SPD)

Affordable Housing SPD

Leicestershire Highway Design Guide (Leicestershire County Council)

5. Assessment

Principle of Development

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

Paragraph 11 of the NPPF requires that plans and decisions should apply a presumption in favour of sustainable development and that, for decision-taking, this means:

- "...c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole".*

The site is located within Limits to Development as defined by the adopted Local Plan.

Policy S2 defines Coalville as a "Principal Town" and is the primary settlement in the District, providing an extensive range of services and facilities to the surrounding area and to other large settlements outside the district, which are accessible by sustainable transport and supports the largest amount of development taking place.

The site is also allocated in the Local Plan for residential development through Policy H3b for "*about 95 dwellings*". The policy states that the development will be subject to contributions towards education provision, affordable housing, green infrastructure and community facilities and enhanced public transport provision.

It is noted that the policy under which the site is allocated refers to the site accommodating "about" 95 dwellings, whereas up to 101 are proposed under this application. Clearly this figure exceeds that referred to in the policy, although a view would need to be taken on what constitutes "about" 95 dwellings. In this instance, it is acknowledged that, by exceeding the 95 unit figure by 6 dwellings, an argument could be made that the maximum figure is not in accordance with that suggested in the policy. However, it is nevertheless noted that, given that the site falls within Limits to Development (and is within the primary settlement in the District, in a location well-related to services and public transport (with regular buses serving a number of roads close to the site), the development of the site would (subject to other matters as detailed below) be acceptable in this regard in any event (and without a specific limit on dwelling numbers per se). The number of dwellings that the site may reasonably accommodate will depend on a range of other factors (including, for example, design, development density / efficient use of land, proposed and retained landscaping requirements and highway safety), and the scheme has accordingly been assessed against such matters in order to ascertain whether the quantum of development proposed would be appropriate.

In summary, therefore, the principle of development is considered to be acceptable, subject to all other planning matters being addressed.

Means of Access, Highways and Transportation

As set out in the introduction above, the application is in outline, although the means of vehicular access into the site is included for determination at the outline stage; all other matters (including all other elements of access to and through the site) are reserved for subsequent approval.

The application was originally submitted with a Transport Assessment and two accesses were originally proposed, from both Beech Tree Road and Buckingham Road. During the course of the application, amended access options were explored, including from Waterworks Road.

Following concerns raised by the County Highway Authority, a revised Transport Assessment and amended Transport Addendum have been received and the scheme now proposes one vehicular access point from Buckingham Road with pedestrian access (including the re-alignment of public footpath N88) from Beech Tree Road.

In terms of the various issues relating to transportation, the County Highway Authority advises as set out in more detail below.

Site Access

The County Highway Authority notes that the previously proposed vehicular access onto Waterworks Road has been removed from the proposals (albeit a pedestrian access to Waterworks Road would remain via a realignment of public footpath N88). Previous iterations of the scheme had also included a proposed emergency access onto Beech Tree Road; this has also been removed from the proposals, and the County Highway Authority comments in respect of this application that it does not typically support emergency accesses due to enforcement problems arising from their misuse, difficulties encountered by the emergency services, maintenance issues and vandalism of access-control equipment and general crime and anti-social behaviour problems. From its point of view, therefore, the principle of the single point of access is considered acceptable to the County Highway Authority.

The proposed site access would be formed via an extension to Buckingham Road with a carriageway width of 5.5m, two 2m wide footways and a raised table in the vicinity of nos. 55 and 72 Buckingham Road (the properties at the eastern end of the existing cul-de-sac). The continuation of the existing road would, in effect, cross land currently forming curtilage (driveways/parking) to those existing properties. It is also noted that the existing drives to those properties are set at a similar level to the existing road (and which sits slightly below the application site with the difference in level being accommodated by a small retaining wall); as such, some regrading works would be likely to be required in order to provide the site access. A Stage 1 Road Safety Audit (RSA) in relation to the proposed access has been undertaken and identified two problems, namely the potential for inappropriate speeds, and inappropriate parking resulting from the loss of parking associated with nos. 55 and 72 Buckingham Road. These have been addressed by way of the introduction of a raised table and confirmation that suitable car parking in relation to nos. 55 and 72 Buckingham Road will be provided as part of the final site layout. This is not shown on the latest illustrative layout, but it is not clear at this point if the intention would be to provide this within the retained curtilages of nos. 55 and 72, or whether additional land within the application site itself would be required. However, this matter could be dealt with by way of condition (and may, in practice, be dependent on the final form of

development proposed at the reserved matters stage).

Subject to the above, the County Highway Authority is content with the proposed vehicular access and raises no objections. Insofar as the likely re-grading of the land in the immediate vicinity of the site access is concerned, the County Highway Authority is content that this can be addressed as part of the Section 278 detailed design process.

Wider Highway Network

In terms of trip distribution as set out in the revised Transport Assessment and associated documents, the County Highway Authority confirms that, following submission of additional supporting information (and including changes to reflect the deletion of the previously proposed Waterworks Road access), this is acceptable (subject to assessment of impacts on affected junctions, as set out in more detail below).

In terms of impacts on specific junctions within the local highway network, the County Highway Authority advises as follows:

Buckingham Road and Broom Leys Road priority junction:

Based on a capacity assessment for this junction, a maximum Ratio of Flow to Capacity (RFC) of 0.32 is identified in the future assessment year (2025). [The County Highway Authority advises that RFC is a term used in transport modelling to assess the operation of a junction, and the result provides an indication of the likely junction performance, with a value of 1 implying that the demand flow is equal to the capacity. The County Highway Authority also advises that, typically, a value of 0.85 is seen as the practical capacity, with results higher than this more likely to experience queuing or delay]. Whilst the County Highway Authority had queried the exclusion of committed development traffic, given the minimal level of trips, and the operation of the junction as shown in the capacity assessment results, the County Highway Authority is satisfied that no further assessment of this junction is required, and that the impacts would be acceptable.

Broom Leys Road and A511 Stephenson Way signalised junction:

The junction has been modelled using LINSIG (modelling software used in the assessment and design of traffic signal junctions), and the results are provided in the form of Practical Reserve Capacity (PRC), which is an estimate of the spare capacity of the junction based on the link with highest degree of saturation. This modelling shows that the junction is already operating beyond capacity in all scenarios and, as a result of the development proposal, the PRC would be further reduced by 0.5% in the AM peak period, increasing delays by 9 Passenger Car Units (PCUs) per hour; in the PM peak period the PRC would be further reduced by 3.4%, and delays increased by 8 PCUs per hour. The County Highway Authority does however note that this junction forms part of the Coalville Transport Strategy (CTS) and, therefore, it is not necessary for a mitigation scheme to be proposed as a result of this development proposal as a contribution towards the CTS is proposed.

Beech Tree Road and Waterworks Road priority junction:

The County Highway Authority had requested that capacity assessments be undertaken at the junction due to concerns regarding the operation of the junction. Based on the assessment now provided, the County Highway Authority is satisfied that this demonstrates that the junction would continue to operate well within capacity in the future assessment year (2025).

A511 Bardon Road and Botts Way priority junction:

Following previous modelling that identified that the junction would operate over capacity in the

future assessment year, the junction has been remodeled based on a two lane approach on Botts Way (as the road is wide enough to accommodate this). Based on this, the County Highway Authority is content with the proposals, but advises that conditions be imposed so as to secure minor improvements to the junction (e.g. provision of white lining to ensure that drivers on Botts Way queue in the more efficient two lane manner assumed in the modelling).

Waterworks Road and A511 Bardon Road priority junction:

Following amendment to the scheme, no development traffic is proposed to route via Waterworks Road, albeit the capacity assessment has identified that the junction would nevertheless be impacted by development traffic in that some traffic which routes past the junction along Bardon Road would affect the assessment results. The County Highway Authority is content with the submitted modelling in respect of this junction.

Buckingham Road and Botts Way priority junction:

The County Highway Authority had previously requested that junction capacity assessments be undertaken at the junction given the level of development traffic that would route through the junction. This assessment has not been provided but the County Highway Authority accepts that, having regard to its location within the residential estate and its likely performance, no assessment is required.

Overall, the County Highway Authority is satisfied that the impact of the development on the wider highway network has now been suitably assessed, and that any impacts can be mitigated by way of a contribution towards the CTS and a minor junction improvement scheme at the junction of A511 Bardon Road and Botts Way. Insofar as the works identified in the CTS are concerned, these would be secured under a contribution towards the Coalville Transportation Infrastructure strategy, and the County Highway Authority considers that a contribution of £484,800 (equivalent to £4,800 per unit) would be an appropriate figure, commensurate with contributions secured elsewhere towards the mitigation required along the corridor to accommodate the wider growth. In January 2013, the District Council's Cabinet considered a report in respect of Delivering Growth and Prosperity in Coalville, and which set out proposals to prioritise highways infrastructure contributions in Coalville above affordable housing contributions where development viability issues arose given the need for significant transportation infrastructure to be provided so as to enable otherwise stalled development to be delivered (and which subsequently resulted in the adoption of the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy); the sum suggested by the County Highway Authority would fall within the range of potential contributions set out in that report (i.e. between £4,419 and £4,884 per dwelling). In this instance, no viability case is made for reduced contributions to affordable housing (or other items) so as to accommodate the transportation contributions, and the full extent of contributions as set out here and under Planning Obligations below are intended to be made.

In addition to the wider highway network mitigation referred to above, the County Highway Authority requires the following (and to be secured by way of Section 106 obligations):

- Submission / approval of a construction traffic routeing agreement
- Travel Packs (one per dwelling) to inform new residents from first occupation what sustainable travel choices are available in the surrounding area (these can be provided by the County Council if required at a cost of £52.85 per pack);
- Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour (these can be provided by the County Council if required at an average cost of £360 per pass (approx.));

- Raised kerb provision at the two nearest bus stops on Broom Leys Road (£4,000 per stop) to support modern bus fleets with low floor capabilities
- Provision of information display cases at the nearest bus stop on Broom Leys Road (£120);
- STARSfor (Sustainable Travel Accreditation and Recognition Scheme) monitoring fee (£6,000);

The applicant is agreeable to making the transportation contributions referred to above.

Public Rights of Way

As set out above, public footpath N88 crosses the site; this runs along the western boundary of the site, providing connections to Garganey Close and Waterworks Road. Based on the submitted illustrative site layout, some minor alterations to the routeing of the public footpath would be required, although it would still allow for connection between Garganey Close and Waterworks Road as present.

For its part, the County Highway Authority raises no objections, and recommends attaching conditions in respect of any works to the right of way (including in respect of surfacing, boundary treatment, signing and temporary diversions). It is considered that, given the scope of the access matters forming part of the outline application (i.e. being limited to the vehicular access from Buckingham Road), these matters would be more properly dealt with as part of any reserved matters approval (depending on what exactly was proposed in respect of the reserved matters scheme) and as part of any diversion order process (if applicable).

In terms of the amenity impacts on the right of way, it is considered that the development of the site in itself would, inevitably, have some adverse implications on the currently undeveloped character of this part of the route. However, it is accepted that some impacts will often be unavoidable when developing a greenfield site, and it is also considered that, notwithstanding the presence of this new built development, subject to the details proposed at the reserved matters stage(s), the right of way could continue to provide a pleasant non-vehicular route.

Other Means of Access, Highways and Transportation Matters

Whilst not for determination at this stage, the County Highway Authority has provided some initial comments on the submitted illustrative layout. The County Council advises that the layout, as submitted, would not comply with the County Council's standards if the estate roads were to be put forward for adoption, but notes that this could be addressed at the reserved matters stage; further consideration of this matter is contained within Layout and Design below.

As noted, the means of access (save for the vehicular access into the site from Buckingham Road) is reserved for future consideration; the suitability of the internal layout (in terms of those highway matters relevant to the planning considerations) would need to be addressed at the reserved matters stage(s).

Overall, therefore, subject to planning obligations as set out, and subject to the imposition of conditions, the highway and transportation aspects of the scheme are considered acceptable. The proposal is considered acceptable in relation to the Leicestershire Highway Design Guide and Policies IF4 and IF7 of the adopted Local Plan.

Ecology and Biodiversity

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

The application is supported by a number of ecology reports/documents, including a Preliminary Ecological Appraisal (plus addendum), a subsequent (further) Preliminary Ecological Appraisal, and a Briefing Note (in respect of habitat/biodiversity mitigation and compensation).

Site Designations and Habitat

The submitted Preliminary Ecological Appraisals identify the site as comprising a number of habitat types, including semi-improved neutral grassland (covering the majority of the site), together with areas of dense scrub (principally around the edges of the site and the hedgerow which divides the site into two parcels) and scattered trees. To the southern end of the site, small areas of scattered scrub and amenity grassland are also identified, together with a small watercourse (approx. 0.5m wide) adjacent to the southern boundary.

The submitted Preliminary Ecological Appraisals also identify the closest designated sites, with six statutory designated sites for nature conservation located within 2 km of the Site (one National Nature Reserve (NNR) and five Sites of Special Scientific Interest (SSSI)) with the closest statutory site being the Bardon Hill Quarry SSSI, located 1.05km from the site. In terms of non-statutory designated sites, the submitted Preliminary Ecological Appraisals identify a total of 47 within 2km of the site, with the closest being identified as the Coalville, Greenhill Meadows potential Local Wildlife Site (pLWS) (located within the site itself and comprising the majority of the site area). The Preliminary Ecological Appraisals identifies the reason for designation as it being "a grassland with LWS indicator plant species of a mesotrophic grassland".

Concerns have been raised by Leicestershire County Council's Ecologist in respect of the impacts on this existing grassland on the site, and County Ecologist has engaged in extensive dialogue with the applicant's ecological consultants in respect of this issue; similar concerns are raised by the Leicestershire and Rutland Wildlife Trust. In particular, the County Ecologist advises that both of the meadows comprising the site were identified as species-rich grassland when surveyed in 2017; a further survey, undertaken by the County Ecologist in November 2020 confirmed this position. Following the 2020 survey, the County Ecologist noted that both the northern and southern meadows are unmanaged and scrub and bramble is advancing into the grassland from the hedges, that small oak trees are establishing in the northern meadow, creating a parkland feel, and that both meadows are moderately species-rich, despite the lack of management, with frequent wildflower species. The County Ecologist also identified a number of species within the grassland, including a number of LWS grassland indicator species.

On the basis of this survey work, the County Ecologist advised that the site met LWS criteria on the basis of grassland and community use, that the northern section met the secondary grassland criteria (9 indicators) and the southern section met the primary criteria (10 indicators, 8 of which frequent or occasional). When having regard to two further LWS indicators identified by the applicant's ecologist (considered to have not been identified during the County Ecologist's survey due to the time of year the survey took place), the site would, the County Ecologist advises, comfortably meet LWS criteria, with a combined "score" of 13 indicator

species across both meadows. The County Ecologist advises that any site that meets Local Wildlife Site criteria is, by definition, of County-wide value to wildlife and a key part of the County's biodiversity and natural greenspace network.

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

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

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

In this case, whilst the Preliminary Ecological Appraisals identify the site as a pLWS, the County Ecologist takes the view that the grassland is a cLWS rather than a pLWS (having designated it as a cLWS following a site visit in 2017). On this basis, the site would be subject to Local Plan Policy En1 (2) criterion (d)). Regardless, however, (as species-rich neutral grassland) it would in any event also seem to fall under Policy En1 (2) criterion (g). Whilst (unlike Policy En1) it is accepted that the definition of irreplaceable habitat as set out in the NPPF does not specifically reference neutral grassland, this list is not an exhaustive one. Paragraph 180 of the NPPF provides, amongst others, that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists..."

In view of the impacts on the grassland, the County Ecologist had suggested amending the scheme so as to retain part of the grassland with improved management and access on the remaining section; the County Ecologist considers that, if this approach was taken, it should be possible to provide a large proportion of the compensatory habitat measures within the site boundary, thus following the first principle of biodiversity protection (i.e. that avoidance and mitigation are the first options to pursue before compensation is considered). Such an approach would be considered to sit more comfortably with the requirement in Paragraph 180 of the NPPF for developments to integrate opportunities to improve biodiversity in and around developments as part of their design. The application has not however been amended in this manner and, as an alternative, a scheme of off-site biodiversity enhancement is proposed.

In response to the concerns raised by the County Ecologist, the applicant's ecological consultants have proposed a scheme of mitigation and enhancement, intended to provide a net gain in biodiversity; such an approach would be considered to accord in principle with the provisions of Policy En1. The proposals are supported by detailed calculations of the existing biodiversity value of the site, the value following development, and the value of proposed off-site measures. The applicant's ecological consultants consider that the development proposals offer

little opportunity to retain significant areas of grassland habitat (and which, in any event, they consider would be difficult to manage successfully). As such, a scheme of off-site mitigation is proposed. The off-site scheme proposed relates to the provision of works to create a variety of habitats on an area of public open space located at Hermitage Road, Whitwick, and including provision of ponds and grassland enhancement. The proposals are accompanied by a range of measures setting out how the proposed mitigation areas would be established and managed in the long-term. Proposed grassland works would include areas of both dry wildflower meadow and wet wildflower meadow grassland; insofar as pond creation is concerned, the proposals include the creation of 0.5 hectares of biodiversity ponds and areas of adjacent aquatic planting, and with each pond planted with a range of native aquatic species. The detailed specification of the proposed mitigation measures would need to be secured by way of a suitably worded condition; depending on the precise nature of the off-site works (and, potentially, who undertakes the works), it may be the case that a separate planning permission would be required for them. However, any such condition(s) could be framed in a way as to address this.

In terms of the measures themselves, the submitted information indicates that, when applying Defra's biodiversity metric, the proposed development would represent a net biodiversity gain of +3.97 biodiversity units for habitat biodiversity value, and a +0.63 biodiversity units for hedgerow biodiversity, equating to a biodiversity net gain of +12.04% for habitat units and +25.41% for hedgerow units. Having reviewed the submitted mitigation measures, the County Ecologist raises no objections to the measures themselves and, following submission of further supporting information in respect of the calculation of the metric figures, raises no issues in respect of the methodology or calculations provided (albeit the more fundamental concerns in respect of the loss of the grassland on the application site remain). In this respect it is noted that the DLUHC's Planning Practice Guidance advises that biodiversity net gain complements and works with the biodiversity mitigation hierarchy and does not override the protection for designated sites, protected or priority species and irreplaceable or priority habitats set out in the NPPF. Nevertheless, the mitigation proposed would be a material consideration of some significant weight, and it is noted that Policy En1 does not necessarily presume against loss of habitats identified under Policy En1(2) where the impacts can be mitigated or compensated for.

On the basis of the mitigation proposed, the scheme would appear to result in a net biodiversity gain and, in this sense, the loss of the grassland would be mitigated for. Regardless, given the approach set out in the DLUHC's Planning Practice Guidance (and, indeed, the provisions of Local Plan Policy En1 and Paragraph 180 of the NPPF), the issue is whether the development would result in the loss of irreplaceable habitat. Local Plan Policy En1 allows for significant harm to an irreplaceable habitat if the harm can be mitigated for; NPPF Paragraph 180 however, presumes against the loss or deterioration of irreplaceable habitats unless there are "wholly exceptional" reasons and a suitable compensation strategy exists. In this case, whilst there are arguments in favour of the development (and including in respect of the economic and social objectives of sustainable development), the public benefits are not, in this case, considered so significant as to meet this test. Nevertheless, as set out above, this needs to be considered in the context of Policy En1 which does not presume against loss of those habitats identified under the policy where the impacts can be mitigated or compensated for.

In this case, whilst the view is taken that Policy En1 (2) (g) is engaged (by virtue of the grassland in question being species-rich neutral grassland), it is considered relevant to come to a view as to whether the grassland is truly "irreplaceable" in this case. Using the NPPF definition, it would need to be a habitat which would be "technically very difficult" (or take a very significant time) to recreate. On the basis of the submitted mitigation strategy, it is considered that the recreation of the habitat would not necessarily be very difficult nor take a very significant time to achieve. On this basis, it is not considered that there would be a clear conflict with the

overall aims of this element of Policy En1 (and Paragraph 180 of the NPPF). Nevertheless, the fact remains that the scheme would result in the loss of grassland of LWS status, and this would be a factor that would need to be considered in the overall planning balance.

Whilst not directly applicable to the tests set out under Policy En1 and Paragraph 180, it is also considered appropriate to have regard in the overall planning balance to the opportunity provided to secure new ecological habitat (and the identified biodiversity net gain). On balance, the view is taken that, having regard to the measures set out within the proposed mitigation scheme, the grassland would not be truly "irreplaceable" and, a rigid application of the approach set out in Paragraph 180 of the NPPF would not be appropriate. Whilst it should, nevertheless, be borne in mind that the scheme would result in a negative impact on the *existing* grassland, the impacts would be mitigated to a significant degree by the establishment of replacement habitat in accordance with approach allowed for under Policy En1.

Impacts on Species

In terms of the effects on protected species, those identified within the Preliminary Ecological Appraisals include the following:

Amphibians:

No waterbodies suitable for breeding Great Crested Newts (GCN) were identified within the site, although the submissions note that GCN could potentially utilise the site terrestrially for non-breeding, if there are suitable breeding waterbodies within 500m of it, with the closest identified as being 320m away. Whilst the Preliminary Ecological Appraisals indicate that semi-improved grassland, dense scrub and hedges within the site could provide suitable terrestrial habitat for amphibians, given that the closest potentially suitable waterbodies are more than 250m from the site, and given the likely lack of connectivity between different GCN populations in the area, the Preliminary Ecological Appraisals conclude that the importance of the site to GCN is likely to be negligible.

Badgers:

The Preliminary Ecological Appraisals indicate that no badger setts or badger field signs were identified within the site when surveyed but having regard to the presence of dense scrub and hedges on the site, they suggest that it has the potential to support badger setts; the site is also connected to further suitable habitat with badger records (with the closest recent record available from the Leicestershire and Rutland Environmental Records Centre (LRERC) being 690m away). Having regard to this, and to the transient nature of badgers, it is acknowledged that badgers could potentially dig a sett on the site between the time of the appraisal and the commencement of the development and, as such, a further pre-commencement survey is recommended.

Bats:

Having regard to LRERC and licensing information and given the nature of the on-site habitat and its potential for roosting, commuting and foraging, the site is identified as being a potential receptor to the proposed development. In terms of roosting, a mature oak to the northern end of the site (and indicated as retained on the illustrative layout) is identified as having "moderate" potential, and the Preliminary Ecological Appraisals recommend that additional bat surveys be undertaken prior to development. If roosting bats are identified and impacts cannot be avoided, the Preliminary Ecological Appraisals indicate that a licence from Natural England will be

required. In terms of commuting and foraging, whilst the site is identified as having "low" suitability, additional surveys are also recommended.

Birds:

The Preliminary Ecological Appraisals identify that scrub, hedges and scattered trees within the site provide nesting opportunities for common bird species and recommend any clearance works be undertaken outside of the nesting season (or under ecologist supervision).

Hazel Dormouse:

The Preliminary Ecological Appraisals indicate that the dense scrub and hedges within the site are not considered suitable dormouse habitat, given their quality and quantity to support a population, and because they are not connected to further suitable habitat outside the site.

Reptiles:

The Preliminary Ecological Appraisals indicate that semi-improved grassland on the site could provide shelter for common reptiles as the sward is dense and structurally diverse. The semi-improved grassland, dense scrub and hedges on the site could also, the Preliminary Ecological Appraisals state, provide suitable habitat for common reptile species, offering opportunities for refuge, foraging and basking. Further surveys (and, if necessary, translocation) are recommended.

Other Species:

Given the presence of a stream on-site, the Preliminary Ecological Appraisals also consider the potential for impacts on otter, water vole, white-clawed crayfish and freshwater/migratory fish, but the Appraisals indicate that the stream is not considered suitable for such species.

In terms of the impacts on protected species, Leicestershire County Council's Ecologist advises that the submitted details are acceptable in this regard.

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 Principle of Development above, it is considered that (subject to being acceptable in planning terms) the site needs to be released for the proper operation of the planning system in the public interest; (ii) the works affecting the protected species would be necessary to enable the development to proceed in a logical/ efficient manner; and (iii) the proposed mitigation measures would satisfactorily maintain the relevant species' status. It is therefore considered that the proposal would meet the requirements of the Habitats

Regulations in respect of protected species and would also comply with this element of Local Plan Policy En1.

Subject to the imposition of suitably-worded conditions, therefore, the submitted scheme is, on balance, considered acceptable in ecological terms, and would provide suitable mitigation for the habitat affected, as well as delivering opportunities for biodiversity enhancement off-site. Whilst the scheme would result in the loss of an established grassland habitat (and, in this sense, doesn't perform particularly well in the context of this element of Local Plan Policy En1 and Paragraph 180 of the NPPF), the mitigation proposed would, it is considered, be an acceptable approach towards addressing the harm.

Flood Risk and Drainage

Local Plan Policy Cc2 sets out a number of criteria in terms of flood risk against which proposals will be considered; Policy Cc3 sets out the requirements for the implementation (and management/maintenance) of Sustainable Drainage Systems (SuDS). The application is accompanied by a Flood Risk Assessment and Outline Drainage Strategy (FRA), setting out how surface and foul water is proposed to be accommodated, and assessing the existing flood risk to the site along with any resulting flood risk associated with the proposed development.

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

In respect of surface water flood risk, the site is identified within the FRA as being predominantly at "very low" risk, with some areas "low to medium" risk within the southernmost portion of the site, and with the flood risk to the proposed development from surface water identified as low.

Insofar as flood risk from other sources is concerned (including sewer flooding, groundwater flooding and flooding from artificial sources), this is identified within the FRA as "very low".

In terms of disposal of surface water, the FRA indicates that surface water run-off from the site can be attenuated to a maximum discharge rate of 13.50 l/s, with no flooding for events up to the critical 1 in 100 year plus 50% climate change rainfall events, and that all surface water run-off for the assessed events may be managed with two proposed attenuation basins, proposed to be located in the western and the south-western areas of the site. Following attenuation, surface water would be discharged to existing surface water sewers (subject to Severn Trent Water being satisfied in respect of capacity). No comments have been received in respect of the application from Severn Trent Water; for its part, the LLFA advises that attenuation calculations confirm that discharge rates lower than greenfield rates would be achieved, in accordance with Severn Trent Water requirements. The LLFA raises no objections to the application subject to conditions.

Insofar as foul water disposal is concerned, the FRA indicates that foul flows would be directed via gravity towards two nearby foul sewers, and that Severn Trent Water has confirmed that sufficient capacity exists to accept the additional flows.

Having regard to the above, the proposed development is considered acceptable in flood risk and drainage terms and would meet the relevant requirements of Local Plan Policies Cc2 and Cc3, subject to the imposition of conditions.

Layout and Design

The need for good design is set out within Policy D1 of the Local Plan, together with the Council's Good Design for North West Leicestershire SPD and relevant sections of the NPPF; the site is located within the National Forest

As set out within the introduction above, this is an outline application for part access only. Accordingly the layout, design and appearance are not for consideration within this application, although the application is accompanied by an illustrative site layout (with the most recent iteration showing 101 dwellings).

The application proposes a total of up to 101 dwellings; based on the site area (4.2ha), this would equate to a gross density of approximately 24.0 dwellings per hectare (approximately 30.6 per hectare net, based on the illustrative layout (and assuming 101 dwellings as per that drawing)). Paragraph 124 of the NPPF requires development to make efficient use of land; the density of the proposed development would, when having regard to the location of the development and the implications of meeting the District Council's design policies, be considered reasonable in this location.

The agent has confirmed that the intention of the District Council (as applicant) would be to work closely with the future site developer at the reserved matters stage with a view to providing an exemplar scheme on the site. In particular, the agent advises that this would entail developing the site in accordance with the principles set out in Building for a Healthy Life, and achieving "green" scores in respect of each of the criteria set out in that document, and including by providing the following:

Natural connections

A well-connected development that supports pedestrian movement to Buckingham Close and Waterworks Road and supports the retention of natural corridors through retained hedgerows and links.

Walking, cycling and public transport

Making walking and cycling within and around the development easy and pleasant to encourage healthier lifestyles.

Homes for everyone

A housing mix that responds to local needs.

Making the most of what's there

Working with the landscape assets such as hedgerows and mature trees and incorporating them into the proposals as well as introducing new habitats.

A memorable character

Developing a distinctive character for the development through the approach to building design, the materials palette, and the design of public spaces.

Well defined streets and spaces

A clear framework of streets and spaces around the development that allows people to move around easily and safely, with good levels of overlooking along streets, footpath links and across landscape features.

Easy to find your way around

Creating a network of streets and spaces that introduce a sense of place, with a strong and demonstrable street hierarchy.

Healthy streets

Designing the street network with low traffic speeds so that streets are attractive, encourage use and provide opportunities for activity.

Cycle and car parking

Integrating car parking so that it doesn't dominate.

Green and blue infrastructure

Adopting a strong landscape strategy that makes drainage solutions across the site work as landscape features that can be enjoyed by all and retaining and enhancing habitat networks to achieve Biodiversity Net Gain.

Back of pavement, front of home

Creating clearly defined spaces through strong boundary treatments that help frame streets and spaces, to tie the development together.

In addition to the above, the agent advises that the scheme would achieve net zero carbon via the Government's Standard Assessment Procedure (SAP) (a calculation of predicted energy use and resulting carbon dioxide emissions from a dwelling). In order to achieve this, the agent advises that the proposed approach would be to explore the introduction of air source heat pumps, enhanced levels of thermal insulation and PV panels, and take a design-led approach to ensure that each property is as efficient as possible.

Officers are satisfied that an exemplar scheme could be worked up at the reserved matters stage. However, for the purposes of determining the current outline planning application, however, the key tests to be met in terms of design quality would be as per set out in the adopted policies of the Council (including Local Plan Policy D1 and the Good Design for North West Leicestershire SPD), as opposed to any intention of the Council (in its capacity as applicant rather than as Local Planning Authority) to go above and beyond that level as the scheme progresses.

The illustrative site layouts have been assessed by the District Council's Urban Designer, and a number of issues have been raised in terms of matters such as pedestrian and vehicular connectivity, treatment / surfacing of adopted and unadopted routes, surveillance of public open space/pedestrian routes/SuDS, treatment of landscaped areas/dwelling frontages, treatment of corner units and creation/reinforcement of character through distribution of house types and materials.

Earlier iterations of the illustrative layout indicated greater use of unadopted edge lanes (maintained by a management company) which would be accessible to waste collection vehicles (subject to agreements on liability). The extent of these lanes has been reduced on later versions, with greater reliance on adopted cul-de-sacs (and, as a result, additional use of bin collection points (BCPs)). In response, the District Council's Waste Services team has identified that, on the basis of the later iterations of the illustrative layout, there would likely to be what the team considers to be an over-reliance on BCPs, leading to inconvenience for both residents and waste operatives. Whilst no objection is raised to the scheme (in that the layout is

illustrative only), the District Council's Waste Services team recommends reinstatement of previously indicated edge lanes within any details reserved matters scheme so as to allow the number of BCPs to be reduced. Whilst it is noted that the County Highway Authority has advised that, in order to be suitable for adoption, shared private drives should not connect two adopted highways, such concerns generally relate to the potential for future requests to be submitted to the County Highway Authority by residents to adopt such routes rather than any specific planning-related (e.g. highway safety) reason. Elsewhere in the District where similar concerns have arisen, developers have entered into separate agreements/undertakings with Leicestershire County Council so as to ensure that future residents will not be able to petition the County Council to adopt private drives; there would appear to be no reason why such an approach could not be followed in this instance if (depending on what was proposed) the issue were to arise at the reserved matters stage.

Whilst the illustrative layout would appear to raise a number of unresolved issues in respect of design, it is considered that, in principle, these issues could be addressed in an appropriate manner whilst retaining an acceptable relationship with the surrounding area, together with appropriate landscaping and access arrangements (and whilst still achieving a development of 101 dwellings).

At this outline stage, therefore, the proposal is considered to be capable in principle of complying with the provisions of Policy D1 of the adopted Local Plan. It is recommended that the first reserved matters application be required to be accompanied by a site-wide masterplan such that, in the event the scheme was to come forward in smaller parcels, an overall, comprehensive, strategy for the logical development of the site would be established at an early stage and be complied with as the development progressed. In view of the scale of the scheme, however, it is not considered that, in this instance, separate approval of a site-wide design code would be necessary.

Trees and Hedgerows

There are currently a significant number of trees and hedgerows within the site, and the application is accompanied by a Tree Survey identifying 7 hedgerows, 11 tree groups and 54 individual trees, and which has been considered by the Council's Tree Consultant.

The majority of the site's trees are located to the site's edges, and in a central belt; whilst layout is a reserved matter, the illustrative layout would indicate that the majority of the trees (including much of those on the periphery and in the central section) could be retained. Based on the illustrative layout, two individual trees in the northern part of the site, together with a group on the southern boundary, would appear likely to be removed (but would be within retention category C (low value)). Some sections of hedgerow (retention category B (moderate value)) would be required to be removed (including a portion of the central belt so as to enable formation of an estate road), but the likely extent of removal would seem limited.

Based on the submitted survey and the illustrative layout, the Council's Tree Consultant confirms that he is satisfied that residential redevelopment of the site would be sustainable from an arboricultural perspective. Whilst layout is not a matter for consideration at this outline stage (and whilst the Council's Tree Consultant raises no objection to the application), he advises that, should outline consent be granted, any future reserved matters application should be accompanied by an updated tree survey and a full BS5837:2012 Arboricultural Implications Assessment which is specific to the proposed final site layout and ensures that existing trees are appropriately retained and integrated within the new site layout.

It is noted that the application site includes four trees (three oaks and a field maple) identified as part of a wider Tree Preservation Order (TPO) (T115); these are all located on the western periphery of the site and, based on the illustrative layout, would be retained.

It is therefore considered that, in principle, the proposed development is capable of being undertaken in a manner that would allow for appropriate retention of trees and hedgerows.

Impact upon Residential Amenity

Policy D2 of the North West Leicestershire Local Plan provides that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents within the development and close to it, and provides that proposals will be supported where they do not have a significant adverse effect on the living conditions of existing and new residents through loss of privacy, excessive overshadowing and overbearing impact, nor generate a level of activity, noise, vibration, pollution or unpleasant odour emission, which cannot be mitigated to an appropriate standard.

The application is in outline and, as such, scale, siting, landscaping and appearance are to be considered at the reserved matters stage(s), and the impact on adjacent occupiers particularly (including in respect of issues such as privacy, loss of light and overdominance etc.), would be a matter to be considered in more detail at the reserved matters stage.

Insofar as the illustrative site layout is concerned, it is noted that, whilst there would appear to be instances where the full separation distances (and extent of private garden space) required under the District Council's Good Design for North West Leicestershire SPD would not be met, it is considered that, in principle, there is no reason why an appropriate form of development to comply with the relevant guidelines in the SPD could not be achieved at the reserved matters stage.

In terms of issues relating to construction works, the District Council's Environmental Protection team makes recommendations in respect of working hours, and it is therefore recommended that any permission granted be subject to a construction environmental management plan so as to ensure that neighbouring residential amenities are not unacceptably affected during the construction period.

Subject to this, at this outline stage, the proposals would be considered acceptable in residential amenity terms and would comply with the provisions of Policy D2 of the adopted Local Plan.

Other Matters

Historic Environment

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

The application is accompanied by a Historic Environment Desk-Based Assessment, which has been considered by the County Archaeologist.

The County Archaeologist confirms that the site has been undeveloped since at the least the 19th Century and is located next to a 19th Century farm complex and that, due to the lack of development in the area, if any archaeological remains exist, they could be well preserved.

Whilst raising no objections to the development, the County Archaeologist therefore recommends the imposition of conditions requiring an appropriate programme of archaeological mitigation including, as necessary intrusive, and non-intrusive investigation and recording. The proposals are therefore considered to be acceptable in terms of the impacts on heritage assets and would comply with the principles set out in Local Plan Policy He1.

Air Quality

Insofar as air quality is concerned, Local Plan Policy D2 seeks to ensure that impacts of development on residents' amenities are minimised (and including in respect of pollution); Policy En6 provides that development close to an Air Quality Management Area (AQMA) will be supported where an application is accompanied by a detailed assessment of the issues, and appropriate mitigation is identified.

The application as originally submitted was accompanied by an Air Quality Assessment. Following concerns raised by the Council's Environmental Protection team regarding the modelling for the original assessment, however, an updated assessment has been submitted.

The updated assessment considers impacts of the proposed development on the air quality of the area and including in respect of the Coalville Air Quality Management Area (AQMA) (located adjacent to the Broom Leys Crossroads). The assessment concludes that future residents of the development would experience acceptable air quality, with pollutant concentrations well below the air quality objectives. Whilst the assessment acknowledges that the development would generate additional traffic on the local road network, it indicates that the emissions associated with this additional traffic would not result in significant impacts at any existing properties along the local road network, including properties in the Coalville AQMA and, overall, identifies the operational air quality effects of the proposed development as "not significant".

The District Council's Environmental Protection team confirms it is content with the amended Air Quality Assessment and raises no objections. On this basis it is accepted that the proposals would not prevent sustained compliance with, limit values or national objectives for pollutants, and that the development would be acceptable in air quality terms, complying with the relevant elements of Policies D2 and En6.

Coal and Land Contamination

Local Plan Policy En6 provides that development subject to land instability issues or contamination or located within the defined Development High Risk Area will be supported where an application is accompanied by a detailed assessment of the issues, and appropriate mitigation is identified. Whilst part of the site lies within a Coal Mining Development High Risk Area the Coal Authority notes that the area marginally intersects the north/northwest of the site boundary; the Coal Authority advises that it holds no treatment details for the off-site mine entry and that it is unlikely that this mining feature will impact upon this site. The Coal Authority therefore confirms that a Coal Mining Risk Assessment is not necessary for this application and that raises no objections.

The application was accompanied by a Phase 1 Site Investigation Report, which has been

considered by the Council's Environmental Protection team; no objections are raised subject to the imposition of conditions to secure a further risk based land contamination assessment and relevant remediation and verification where necessary.

The development would therefore be considered to comply with the relevant elements of Policy En6.

Housing Mix

In terms of housing mix issues, Local Plan Policy H6 requires a mix of housing types, size and tenure to meet the identified needs of the community, and refers to the need to have regard to the most up-to-date Housing and Economic Development Needs Assessment (HEDNA), and sets out the range of dwelling size (in terms of numbers of bedrooms) identified as appropriate in the HEDNA as follows:

<i>Tenure</i>	<i>No. of Bedrooms (% of each tenure type)</i>			
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4+</i>
Market	0-10	30-40	45-55	10-20
Affordable	30-35	35-40	25-30	5-10

The application is in outline only but is supported by an illustrative site layout. Based on this illustrative layout, the submitted scheme proposes the following proportion of units (albeit the submitted details do not indicate separate figures for market and affordable units):

<i>No. of Bedrooms (%)</i>			
<i>1</i>	<i>2</i>	<i>3</i>	<i>4+</i>
7.9	26.7	38.6	26.7

Notwithstanding the scheme as shown on the illustrative material, the residential development would need to meet the Council's requirements under Local Plan Policy H6 and, whilst the affordable mix would in effect be secured under the Section 106 agreement (and as set out in more detail below), a condition is recommended in order to secure the housing mix for the site as a whole. Policy H6 also sets out requirements in respect of single storey dwellings (and as referred to in more detail under Affordable Housing below).

Planning Obligations

Paragraph 57 of the NPPF sets out the Government's policy in respect of planning obligations and provides that planning obligations should be:

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

Equivalent legislative tests are contained within Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

As set out above, Local Plan Policy H3b states that this site will be subject to a Section 106

Agreement to secure the provision of any specific requirements including on and off-site infrastructure including contributions towards education provision, affordable housing, green infrastructure and community facilities and enhanced public transport provision.

Affordable Housing

In accordance with Policy H4 of the Local Plan, the scheme is required to provide 20% affordable housing which, based upon the proposal of up to 101 dwellings, would equate to 21 dwellings.

In response to the application, the District Council's Strategic Housing team notes that the scheme as shown on the submitted illustrative layout does not include sufficient information to ascertain whether or not the affordable housing requirements would be met in terms of the types and affordable tenures of the proposed dwellings. The Strategic Housing team also advises that, based on the submitted Design and Access Statement's indication that the dwellings would be 2, 2.5 or 3 storey, identified affordable housing requirements for bungalows would need to be complied with when the detailed affordable housing scheme was prepared.

It is therefore considered that whilst, in principle, the outline scheme is capable of meeting the relevant affordable housing requirements in terms of affordable house types and tenures, the precise details would need to be secured by way of a Section 106 obligation.

Insofar as the affordable housing scheme that would need to be secured within the Section 106 obligation is concerned, as well as needing to meet the minimum 20% total requirement, the District Council's Strategic Housing team advises that the contribution secured would need to include the following mix of affordable units:

Affordable Rented:

<i>Property types / sizes</i>	<i>Proportion</i>
1 bed 2 person bungalows	12% (minimum)
2 bed 3 person bungalows	18% (minimum)
1 bed 2 person flats	37%
2 bed 4 person houses	18%
3 bed 5 person houses	6%
4 bed 6 person house	6%

Shared Ownership:

<i>Property types / sizes</i>	<i>Minimum Proportion</i>
2 bed 4 person houses	50%
3 bed 5 person houses	50%

In the event that the development was to come forward as the full 101 units proposed under the outline application, the District Council's Strategic Housing team advises that the mix required would need to include:

Affordable Rented: 17 units, comprising:

- 2 x 1 bed 2 person bungalows (minimum internal size 45sqm)
- 3 x 2 bed 3 person bungalows (minimum internal size 57sqm)
- 6 x 1 bed 2 person flats (minimum internal size 45sqm)
- 4 x 2 bed 4 person houses (minimum internal size 67sqm)
- 1 x 3 bed 5 person houses (minimum internal size 82sqm)

1 x 4 bed 6 person house (minimum internal size 95sqm)

Shared Ownership: 4 units, comprising:

2 x 2 bed 4 person houses (minimum internal size 67sqm)

2 x 3 bed 5 person houses (minimum internal size 82sqm)

Whilst the Government has recently introduced new requirements in respect of First Homes, the District Council's Strategic Housing team advises that, under the transitional arrangements, applications determined prior to 28 March 2022 where there has been significant pre-application engagement, the requirements do not apply. The Strategic Housing team also draws attention to the fact that the provision of some of the affordable units on the development as First Homes would reduce the amount of affordable rented properties which are the District's priority need.

It is therefore recommended that any Section 106 obligation entered into be framed so as to secure this mix (or any alternative mix agreed by the Local Planning Authority (and including where overall numbers change in the event that the development delivers fewer than 101 units in total)).

Transportation and Accessibility Contributions

These are as set out under Means of Access, Highways and Transportation Issues above. In addition to Local Plan Policy IF1, relevant policy also includes Policy IF4; this provides (amongst others) that commensurate network contributions will be sought towards new development which has a demonstrable impact upon the highway network (and including in respect of Junction 13 of the A42 and Junction 22 of the M1 (and the A511 corridor in between)). As set out in the relevant section above, the applicant has agreed to make a number of contributions sought by the County Highway Authority (and including the £484,800 contribution towards transportation infrastructure).

Education

In respect of the proposed education contributions, Leicestershire County Council comments as follows:

Primary School Requirements:

The site falls within the catchment area of Broom Leys School. The school has a net capacity of 595 and 660 pupils are projected on the roll should this development proceed (a deficit of 65 pupil places). Given existing capacity at five other primary schools within a two mile walking distance of the development, the overall deficit would be 43 pupil places, and a request for an education contribution in respect of the additional 29 pupil places created by the development within the primary school sector is made (£525,513.92), to be used for improving, remodelling or enhancing existing facilities at Broom Leys School (or any other school within the locality of the development).

Secondary School (11-16) Requirements:

The site falls within the catchment area of Castle Rock High School. The school has a net capacity of 1,250 and 1,345 pupils are projected on roll should this development proceed (a deficit of 95 pupil places). A total of 88 pupil places are included in the forecast for this school from Section 106 agreements for other developments in this area and are therefore discounted. This, the Local Education Authority advises, reduces the total deficit for this school to 7 pupil

places. There is one other high school within a three mile walking distance (Newbridge School), and the overall deficit including all schools within a three mile walking distance of the development is 258 pupil places. The 16 pupil places generated by this development cannot therefore be accommodated at nearby schools, and a request for an education contribution in respect of the additional pupil places created by the development within the secondary school sector is therefore made (£285,033.00), to be used for improving, remodelling or enhancing existing facilities at Castle Rock High School (or any other school within the locality of the development).

Post 16 Sector Requirements:

The site falls within the catchment area of Castle Rock School. The school has a net capacity of 286 and 296 pupils are projected on roll should this development proceed (a deficit of 10 pupil places, of which 6 are existing and 4 are created by this development). In order to provide the additional Post 16 school places anticipated by the proposed development, the Local Education Authority requests a contribution for the Post 16 school sector (£60,899.18), to be used for improving, remodelling or enhancing existing facilities at Castle Rock School (or any other school within the locality of the development).

No contributions are sought in respect of the Early Years or Special School service areas.

The applicant is agreeable to making the education contributions referred to above.

Library Services

Leicestershire County Council advises that an additional 299 people would be anticipated to be added to the catchment population of Coalville Library by the proposed development and, in order to meet the requirements for providing a minimum of 1,157 stock items per 1,000 population, additional items would be required, and a contribution of £3,000 towards library services is requested by the County Council. The applicant is agreeable to making this contribution.

Civic Amenity

Leicestershire County Council advises that an additional 21 tonnes of municipal waste are anticipated to be generated annually by the proposed development, and a contribution of £6,603 towards additional facilities at the Coalville Civic Amenity site is therefore requested by the County Council. The applicant is agreeable to making this contribution.

Children's Play, Public Open Space and National Forest Planting

Policy IF3 of the adopted Local Plan requires that developments of 50 or more dwellings provide for the provision of open space, sport and recreation facilities. Policy IF3 also presumes against loss of open space, and it is noted that the site is currently used on an informal recreational basis (including walking in conjunction with the right of way passing through the site and the adjacent playing fields). Insofar as the loss of open space is concerned, however, whilst the loss of this amenity value of the land would be regrettable, it is noted that the site is not formally designated per se as public open space. It is also noted that, given the site's identification under Policy H3, it would not be reasonable to refuse the application on this basis, or to require any replacement facility in accordance with the approach in respect of open space loss set out in Policy IF3.

Insofar as the scheme itself is concerned, objection had been raised by Sport England on the basis that, as indicated on previously submitted iterations of the illustrative site layout, the siting of pedestrian connections on the boundary of the site and the adjacent playing fields would create desire lines crossing the pitches (where currently marked out). This element of access would in fact be a reserved matter; however, the illustrative layout has been amended in accordance with the advice of Sport England so as to site the connections in positions that are less likely to result in pedestrians choosing routes across the recreation ground that would impact on use of the sports pitches (and also lead to increased wear and tear). Sport England is now content with the proposals in this regard.

In terms of the separate elements of the open space, however, it is considered as follows:

Children's Play:

In terms of the proposals in respect of children's play, it is noted that the applicant does not intend to provide on-site children's play equipment. In respect of the scheme, the District Council's Leisure Services team comments that, as a minimum, a play area to the LEAP standard with equipment of a minimum of 8 activities should normally be provided. Given that no on-site play area is proposed, and given likely increased use of existing nearby facilities, an off-site contribution is sought, intended to be used to enhance existing play facilities (including the nearby skate park / BMX track and other existing play provision in the locality). Detailed calculations are provided, and a sum of £57,512.28 is requested. The applicant is agreeable to making this contribution.

Other Public Open Space:

The District Council's Leisure Services team has also requested a contribution in respect of sports pitches and has provided detailed evidence in respect of existing and anticipated capacity in the area in the event that the development were to proceed. The submitted assessment identifies that the proposed development would generate requirements for additional sports pitch and associated changing room facilities, and a total contribution of £49,545 (for use at Greenhill Recreation Ground) is requested. The applicant is agreeable to making this contribution.

In addition, Sport England had originally suggested making further contributions towards improvement of the existing multi-use games area (MUGA) on the recreation ground; it now confirms that it has no objections subject to the provision of the contributions as sought by the District Council's Leisure Services team, albeit continues to suggest further discussions in respect of improvements to the MUGA which, it advises, could help release the opportunity of partnership funding from the Football Foundation.

National Forest Planting:

Under the relevant National Forest planting standards, 20% of the site is required to be provided as woodland planting and landscaping. The National Forest Company advises that, as the application area extends to 4.19ha, 0.83ha of woodland planting and landscaping would be required to be provided within the development site or, if the required National Forest habitats cannot be accommodated, a Section 106 agreement should secure a financial contribution in lieu of on-site planting at £35,000 per hectare. As such, for a scheme of this size, this would

equate to a contribution towards woodland creation elsewhere in the district of £29,050. Given that the final extent of National Forest planting is not known at this stage, it is recommended that any Section 106 obligation be framed to require financial contributions (based on the National Forest Company's figures) commensurate with the extent of any shortfall of on-site planting. The applicant is agreeable to making this contribution.

Healthcare

It is noted that the University Hospitals of Leicester NHS Trust has requested a financial contribution in respect of healthcare of £33,776 in order to bridge a gap in the funding created by each potential patient from the development within the Leicester, Leicestershire and Rutland area.

Whilst such a request has been made, the evidence to justify the contribution is not considered robust, particularly given that the estimate of the population of the district is in excess of the actual figure, and as the calculations do not break down the number of residents of Coalville who previously received treatment within the administrative area of the Trust. Paragraph 57 of the NPPF outlines the tests which should be met in order for a planning obligation to be sought and, at this time, it is considered that the Trust's request does not meet all of the criteria identified. It is also the case that NHS revenue shortfalls are a matter to be dealt with through national NHS funding arrangements and through commissioning of services. On this basis, it is not considered that it would be appropriate to require this contribution from the applicant.

Insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations. In view of the identity of the applicant, determination of the precise mechanism for securing any such obligations (i.e. by way of a Section 106 agreement, or by way of an alternative arrangement if considered more appropriate procedurally) is recommended to be delegated to the Head of Legal and Commercial Services.

Overall Planning Balance, Contribution to Sustainable Development and Conclusions

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan. The site is located within Limits to Development as defined in the adopted Local Plan and is allocated for residential development under Policy H3. However, a view needs to be reached as to whether the scheme would comply with the development plan as a whole (and including its performance against other Local Plan policies). Whilst issues would (in particular) arise in respect of compliance with Policy En1, the fact remains that the site is allocated for housing in the Local Plan and the view is taken that the scheme would, overall, be considered to comply with the plan as a whole.

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

Economic Objective:

It is considered that the proposals would sit well in terms of the economic role insofar as they would make a positive contribution to economic growth associated with the proposed development (albeit it is acknowledged that the economic benefits which would accrue would not only be achievable by the development of this site; there is no reason to suggest that they could not equally be achieved by the development of other sites within Limits to Development or allocated for residential development in the Local Plan).

Social Objective:

Whilst the development would bring the benefit of providing additional housing, and whilst the need to boost housing supply is a key message of the NPPF, the District currently has a five year supply of housing land, but approval would assist in maintaining that supply, and some weight may therefore be afforded to the benefit of boosting supply as a material consideration. The scheme would also deliver a 20% affordable housing contribution which would be positive in respect of this dimension of sustainable development, as would the associated provision of public open space and other green infrastructure. Whilst it is noted that the scheme would result in the loss of an informal area of open space (and whilst that would be considered to count against the proposals to some extent in terms of the social objective of the NPPF), it is accepted that the site is not formally designated per se as public open space and that, given the site's identification under Policy H3, it would not be reasonable to refuse the application on this basis. The NPPF also refers to the need to foster a well-designed and safe built environment under the social objective. Subject to any future reserved matters submission addressing the design issues set out in the relevant section above, the scheme is considered to have the potential to provide for a good form of development in terms of its design. Insofar as the need to provide for a safe form of development is concerned, the scheme is again considered to have the potential to be acceptable in this regard.

Environmental Objective:

The scheme would also, it is considered, perform relatively well in terms of a number of aspects of the environmental objective, and including in respect of the impacts on the built and historic environment, making an effective use of land, and (insofar as those matters assessed at the outline stage are concerned) mitigating and adapting to climate change.

In terms of issues relating to protecting and enhancing the natural environment, and as set out in the report above, however, the development of the site would result in the loss of an area of species-rich neutral grassland which, it is considered, is of candidate Local Wildlife Site status and, on the basis of the definitions set out within Local Plan Policy En1, would constitute irreplaceable habitat. Whilst the scheme would also include a number of benefits in terms of habitat (and would, overall, be considered to deliver a net gain in biodiversity terms (when assessed under the submitted metric) with the proposed habitat including recreated areas of grassland and other habitats off-site), the loss of the existing grassland would be considered to represent a material consideration weighing against the proposals in terms of the environmental objective, albeit it would be offset to some considerable degree by way of the proposed mitigation measures, and in accordance with the approach allowed for under Policy En1. It is also noted that, whilst Policy En1 seeks to protect habitats such as this, it does nevertheless allow for harm to result if it is (as in this instance) mitigated or compensated for. In this sense, it is acknowledged that, when considering Policy En1 in the round, the scheme would not

necessarily conflict with the policy. Furthermore, when having regard to the approach taken in respect of assessing development plan compliance as a whole, the view is taken that, notwithstanding the issues surrounding Policy En1, the scheme would, overall, comply with the Local Plan as a whole (and, particularly when having regard to the significant issue of the site's allocation for residential development).

As set out above, the site is accessible by public transport, assisting the development to perform well in terms of need to travel and the movement towards a low carbon economy.

Having regard to the three objectives of sustainable development, therefore, and notwithstanding the adverse ecological impacts in respect of this element of the environmental objective, the scheme would nevertheless still represent sustainable development overall.

It is therefore concluded that, notwithstanding potential conflict with Local Plan Policy En1 as set out above, the proposed development would comply with the provisions of the development plan as a whole and would benefit from the presumption in favour of sustainable development. Overall, there are no material considerations which indicate the determination of this application other than in accordance with the development plan as a whole. Approval is therefore recommended.

RECOMMENDATION- PERMIT, subject to Section 106 Obligations (or equivalent obligations secured under an alternative mechanism as considered appropriate by the District Council's Head of Legal and Commercial Services), and subject to the following condition(s):

- 1 Time limits
- 2 Details of reserved matters
- 3 Approved plans
- 4 Masterplan
- 5 Housing Mix
- 6 Tree / hedgerow protection (in respect of site access works)
- 7 Site access
- 8 Car parking to nos. 55 and 72 Buckingham Road
- 9 Off-site highway works
- 10 Travel Plan
- 11 Construction environmental and traffic management plan(s)
- 12 Ecology and biodiversity (including mitigation)

- 13 Archaeology
- 14 Flood risk / drainage (including foul and surface water, design and long-term maintenance of SuDS, and management of surface water during construction)
- 15 Noise mitigation
- 16 Contaminated land
- 17 Provision of waste minimisation and recycling packs to residents