
Erection of 41 dwellings and associated infrastructure including the provision of play space and combined cycle and footpath.

**Report Item No
A5**

Land Adjoining Wells Road And Willesley Road Ashby De La Zouch Leicestershire

**Application Reference
14/00520/FULM**

**Applicant:
Mr David Prowse**

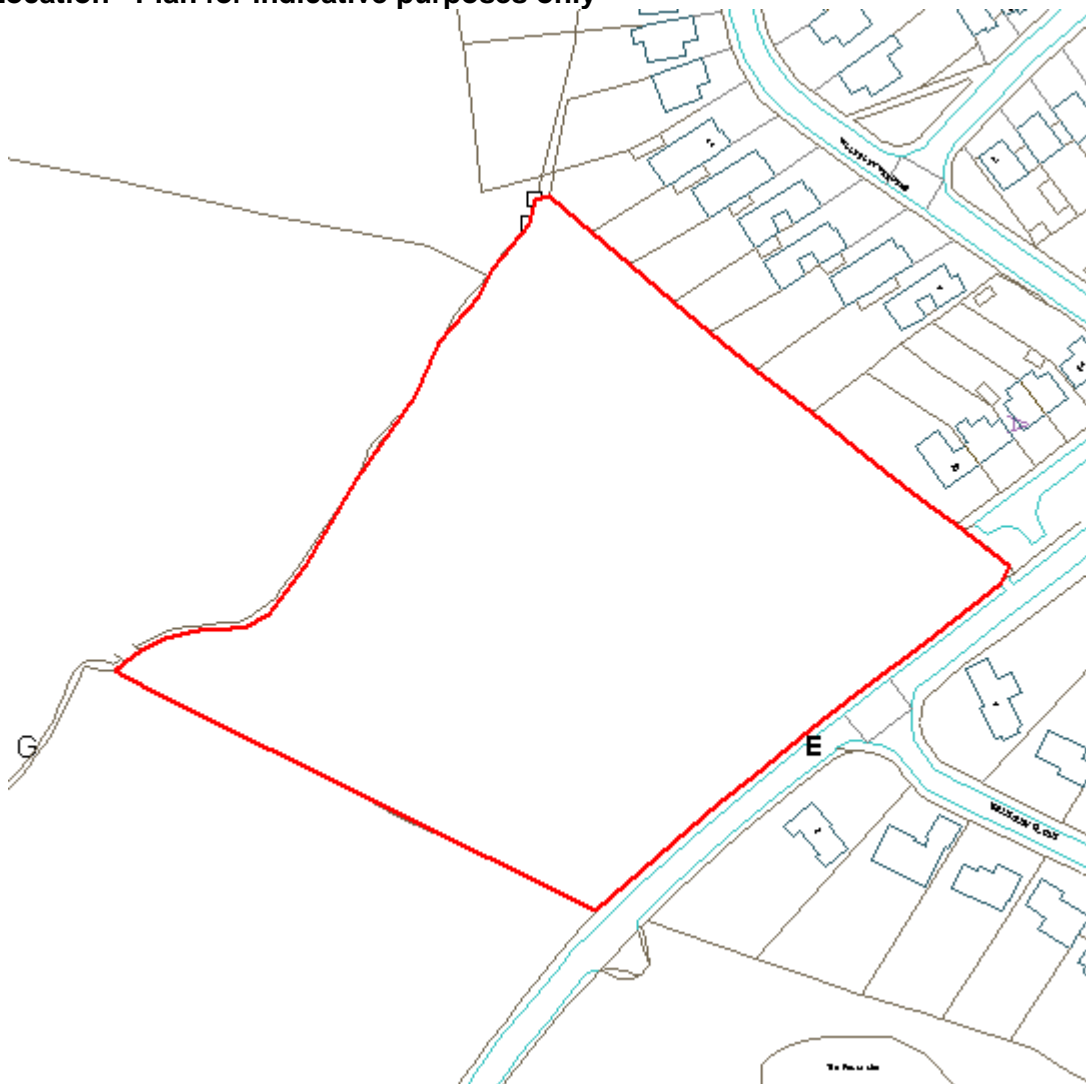
**Date Registered
19 May 2014**

**Case Officer:
Ebony Mattley**

**Target Decision Date
18 August 2014**

**Recommendation:
PERMIT**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Reasons for Approval

Reason for Call In

The application is reported to the Planning Committee as it is an application of public interest and raises matters which should be referred to the Planning Committee for consideration.

Proposal

This application seeks full planning permission for forty-one dwellings, comprising twenty-nine open market dwellings and twelve affordable dwellings at land at Willesley Road, Ashby.

Access to the site would be from Willesley Road to the east of the site and a combined pedestrian/cycle route is proposed from the north east corner of the site with Willesley Gardens, to the northern boundary of the site.

Consultations

Members will see from the main report below that there are over 120 objections to the scheme, and an objection from Ashby Town Council. There are no other objections raised from statutory consultees.

Planning Policy

The application site is located outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also relevant, is the District's housing land requirements, and the need as set out in the National Planning Policy Framework, (NPPF) to demonstrate a five year supply.

Conclusion

The site lies within the countryside, as defined in the Local Plan. Notwithstanding the conflict with the provisions of Policy S3 of the Local Plan, when having regard to the sustainability credentials of the settlement and the site, along with the fact that the site is well related to existing built development and the settlement boundary, as defined in the Local Plan, the development of countryside land is considered acceptable in this instance.

The proposed development would be acceptable in terms of density, layout and scale, trees, residential amenities, highway safety, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services. There are no other relevant material planning considerations that indicate planning permission should not be granted.

It is therefore recommended that planning permission be granted, subject to conditions and the signing of the S106 Agreement.

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

Main Report

1. Proposals and Background

This application seeks full planning permission for forty-one dwellings, comprising twenty nine open market dwellings and twelve affordable dwellings at land at Willesley Road, Ashby.

The open market dwellings are made up of 2 x two beds, 16 x three beds, 11 x four beds, with the affordable comprising 8 x one beds, 2 x two beds and 2 x three beds.

The originally submitted scheme proposed thirty seven dwellings, comprising twenty six open market dwellings and eleven affordable dwellings.

For the avoidance of doubt the actual number of plots on site has reduced from 37 to 35, but due to the configuration of the eight, 1 bedroomed affordable units, the overall number of individual units has been calculated as forty-one.

During the course of the application amended plans have been received to show:-

- o An increase in the number of open market dwellings from 26 to 29 and increase in affordable dwellings from 11 to 12;
- o An increase in the number of 1 bedroomed affordable dwellings;
- o Provision of a combined cycle/footpath and connections to the wider area;
- o Re-location of un-equipped play space and provision of five pieces of equipped play;
- o Layout changes to roads and dwellings;
- o Changes to house types and additional fenestration detailing;
- o Additional tree planting;
- o Confirmation of retention of hedgerow and ash tree to the frontage.

Re-consultation has been undertaken with all neighbours and statutory consultees for a period of 14 days.

The layout has subsequently been amended to show:-

- o Improvements to parking area of plots 34-41;
- o Re-alignment of combined cycle/footpath route through the play area;
- o Removal of pedestrian connection to the sites frontage and retention of this section of hedgerow;
- o Removal of section of hedgerow required to achieve visibility at the sites entrance.

The amended plans have been re-considered by the County Highway Authority and the County Footpaths Officer.

The scheme proposes areas of play space and a balancing pond to the north west border of the site. Access to the site would be from Willesley Road to the south east of the site and a combined pedestrian/cycle route is proposed from the south east corner of the site with Willesley Gardens, to the north west boundary of the site. The combined pedestrian/cycle route is then proposed to be extended beyond the site to the Hicks Lodge Cycle Centre. A separate agricultural access is also proposed from the site to the north west boundary.

One ash and two lime trees are sited close to the access point with the two lime trees proposed

to be removed to facilitate the access. The ash tree is to be retained.

An informal, un-designated footpath runs to the north east boundary of the site parallel to the rear gardens of Willesley Gardens.

The site is in arable, agricultural use and is located outside Limits to Development, as identified in the North West Leicestershire Local Plan 2002.

The application is accompanied with a Transport Statement, Archaeological Desk Based Assessment and Field Walking Survey, Ecological Appraisal, Arboricultural Assessment, Flood Risk Assessment, Landscape and Visual Appraisal, Desk Study and Ground Investigation Report, Building for Life 12 Assessment, Planning Statement, Design and Access Statement and Draft Heads of Terms.

Planning History:-

72/4243/02 - Erection of dwellings and formation of access - Refused - 07.09.72

2. Publicity

49 no neighbours have been notified. (Date of last notification 14 October 2014)

Press Notice published 18 June 2014

Site notice posted 11 June 2014

3. Consultations

Ashby De La Zouch Town Council consulted
NWLDC Footpaths Officer consulted 12 June 2014
County Highway Authority consulted 14 October 2014
County Planning Authority consulted 14 October 2014
LCC Development Contributions consulted 14 October 2014
LCC/Footpaths consulted 14 October 2014
Environment Agency consulted 14 October 2014
County Archaeologist consulted 14 October 2014
National Forest Company consulted 14 October 2014
Manager Of Housing North West Leicestershire District Council consulted 14 October 2014
NHS Leicester, Leicestershire And Rutland Facilities Manager consulted 14 October 2014
Severn Trent Water Limited consulted 14 October 2014
Natural England consulted 14 October 2014
Police Architectural Liaison Officer consulted 14 October 2014
Head of Environmental Protection consulted 14 October 2014
Head Of Leisure And Culture consulted 14 October 2014
Development Plans consulted 14 October 2014
NWLDC Urban Designer consulted 14 October 2014
LCC ecology consulted 14 October 2014
NWLDC Tree Officer consulted 14 October 2014
LCC/Footpaths consulted 13 June 2014
National Forest Company consulted 16 July 2014
Natural England consulted 9 June 2014
LCC ecology consulted 9 June 2014
Development Plans consulted 9 June 2014

Head Of Leisure And Culture consulted 9 June 2014

4. Summary of Representations Received

Statutory Consultees:

Ashby Town Council raise objection on the following grounds:-

- Not consistent with the character and appearance of the local landscape
- Outside of the established urban area of Ashby, open countryside and at the heart of the National Forest
- The location has been given the landscape quality of 9 which is the highest value of all the sites in Ashby
- Not in accordance with the NPPF in terms of achieving and delivering sustainable development and conserving and enhancing the natural and historic environment
- Concerns regarding the ingress and egress from Willesley Road and the County has installed speed bumps indicating that there are concerns with speeding
- Streetscenes are out of character with the surrounding area, poor and unsympathetic design

Natural England has confirmed that the proposal is not likely to have a significant effect on the River Mease Special Area of Conservation and therefore raises no objection, subject to condition. Natural England has also confirmed that the scheme will not impact upon the River Mease Site of Special Scientific Interest (SSSI) and therefore raises no objection subject to the imposition of conditions.

Severn Trent Water raises no objection, subject to condition.

The Environment Agency raises no objection, subject to condition.

National Forest Company has confirmed that a surfaced footpath and cycleway through the site and the adjoining field to the cycle centre would be acceptable as a contribution towards the National Forest from this development.

The County Highway Authority raises no objection subject to the imposition of planning conditions.

The County Footpaths Officer is fully supportive of the route proposed for the cycleway/footway within the site.

The County Archaeologist considers that the site has low archaeological potential and consequently no further archaeological requirements have been recommended.

The County Ecologist raises no objection subject to conditions.

NWLDC Affordable Housing Enabler is satisfied with the provision and tenure of the proposed affordable units on site.

NWLDC Urban Design Officer is satisfied with the amended layout and house types and raises no objection, subject to the imposition of conditions.

NWLDC Environmental Protection has no environmental observations.

NWLDC Footpaths Officer considers that no footpath diversion considerations are necessary for this application.

NWLDC Tree Officer advises that the trees to the sites frontage should be protected by a Tree Preservation Order.

Third Party Representations

2 letters do not object to the dwellings being built but would like to see a permanent access to the bike trails from Ashby to Hicks Lodge.

124 original letters of objection have been received, raising the following concerns:-

Principle

- a) Contrary to NPPF in terms of achieving and delivering sustainable development and conserving and enhancing the natural and historic environment
- b) Significant impact on the character and landscape value
- c) The site is in an area of natural beauty
- d) Eats into the green belt between Ashby and Donisthorpe
- e) Loss of view
- f) Location given the high landscape quality value of 9 in the withdrawn Core Strategy - is of the highest value and only equalled by one other site in the whole District
- g) Site is located outside the established urban area
- h) Introduces an intensive form of development which is out of character
- i) Adds little to the 5 year housing land supply
- j) Facilities located to the North side of the town, the development is in excess of the 800 metre walking distance to everyday facilities and the nearest bus stop is 450 metres away, in excess of the 400 metre guidance.

Scale and Layout

- a) Contrary to Policy E4
- b) Decimate the visual aspect and approach to Ashby from Willesley
- c) The development does not include a play space and the nearest space is 1.2 km from the site
- d) Scale and massing is out of character with the built form
- e) Green infrastructure could become a nuisance
- f) The existing hedgerows and trees will only have a limited screening effect on the scheme
- g) The development is not consistent with the character and appearance of the landscape, which forms a gateway and access into the adjacent National Forest open access areas.

Highway Safety

- a) A number of accidents and incidents
- b) Poor visibility
- c) No footpath
- d) Narrow country road
- e) Increased traffic will pose a threat to pedestrians

- f) Recent traffic calming measures have not addressed this issue
- g) Junction design
- h) The use of the development access by agricultural vehicles would be in conflict with the safety and amenity of residents, particularly children.

Drainage

- a) No provision for enhanced drainage and sewage facilities
- b) Increased risk to flooding
- c) Lack of consideration for drainage

Natural England

- a) Impact upon wildlife, bird life, flora and fauna
- a) Song thrush, bats, wood peckers and other endangered species
- b) Should be planting more trees, not houses
- c) Loss of habitats
- d) On site hedgerows have been designated
- e) The visibility splays will require the removal of the existing hedgerow and trees fronting the site.

Links/Footpath

- b) Considerable numbers of the public, up to 100 a day walk or cycle down the side of this site to gain access to the trails.

Other

- c) Set a precedent and further adjacent applications would be difficult to resist
- d) Other developments in Ashby and schools and doctors cannot cope
- e) Other sites identified in the local plan and SHLAA 2014 and Ashby proposal plan west are likely to fulfil the 5 year supply of housing need
- f) The development has many similar aspects to the Packington Nook developments which have been refused and successfully upheld on appeal
- g) The documentation refers to Melton Local Plan and there are a number of assumptions and errors within the submitted accompanying documentation
- h) Other brownfield sites should be developed
- i) The site has history and an application has been refused in the late 1970's.
- j) Plans and street scene do not show the relationship between the new development and existing development.

Following re-consultation one additional letter of objection has been received raising the following objections:-

- a) Concern regarding local amenities and more house will exacerbate this
- b) Do not need any more house, far too many being built
- c) Greater noise and general discomfort and disruption
- d) Houses no longer stare into kitchen but are of lower standard than is in keeping with the area
- e) Parking - most homes would have more than 2 cars.
- f) Views into Ashby is picturesque, and scheme will lower the perception of Ashby and devalue the town

- g) De-valuation of property prices
- h) Do not wish to see another revised plan with even more houses on it.

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

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document.

The NPPF (paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage effective use of land by reusing land that is previously developed;
- conserve heritage assets in a manner appropriate to their significance;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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

"Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
 - 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; or
 - specific policies in this Framework indicate development should be restricted."

"32. ...Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and

- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

"47. To boost significantly the supply of housing, local planning authorities should:

...- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

"49. Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

"54. ... Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs."

"57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"59. Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."

"61. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

"100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere."

"112. Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."

"118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;

- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest; ...
...- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"119. The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."

"123. Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal taking account of the available evidence and any necessary expertise."

"131. In determining planning applications, local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

"173. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

"203. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

"204. Planning obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development."

North West Leicestershire Local Plan:

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan.

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst other things, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account a number of issues including housing mix, accessibility to centres and design.

Policy H7 seeks good quality design in all new housing development.

Policy H8 provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy E7 seeks to provide appropriate landscaping in association with new development.

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the River Mease.

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting.

Policy F2 states that the Council will have regard to the existing landscape character of the site and the type of development when seeking new planting.

Policy F3 seeks to secure implementation of agreed landscaping and planting schemes for new development by the imposition of planning conditions and/or the negotiation of a planning

agreement.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development. In relation to car parking standards for dwellings, an average of 1.5 spaces off-street car parking spaces per dwelling will be sought.

Policy L21 indicates that new housing development will be required to incorporate the provision of children's play area, except where the development is a discrete site of less than 10 dwellings; or all play space needs arising from the development can be adequately met by existing facilities within walking distance.

Other Guidance

Submission Core Strategy- At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs).

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System) sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

River Mease Water Quality Management Plan - August 2011 draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

The River Mease Developer Contributions Scheme (DCS) - November 2012 is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

The Community Infrastructure Levy Regulations 2010 provides a legislative requirement that an obligation must meet the following tests:

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

The Technical Guidance to the National Planning Policy Framework - March 2012 provides additional guidance relating to flooding.

National Planning Practice Guidance - March 2014 supplements the policies in the NPPF. The

Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

North West Leicestershire District Council Supplementary Planning Document (SPD) for Affordable Housing Key Principle AH3 provides that 30% affordable housing will be sought on all sites of 15 or more dwellings in 'Ashby de la Zouch'.

North West Leicestershire District Council Supplementary Planning Guidance (SPG) Play Area Design Guidance sets out the relevant requirements in respect of children's play provision required in association with residential development.

6. Assessment

The main considerations with regards to this application are the principle of development, density, layout and design, impact upon residential amenity, highway considerations, public footpaths and cycle routes, impact upon trees, protected species/ecology, archaeology, drainage and flood risk, the impact upon the River Mease Special Area of Conservation/SSSI, developer contributions and other matters.

Principle of Development

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

The application site lies outside the Limits to Development of Ashby, as defined by the proposals map of the adopted Local Plan. The overarching principle of the NPPF is to protect the countryside but to allow sustainable development where appropriate. Schemes outside Limits to Development fall to be considered against Saved Policy S3 of the Local Plan.

Notwithstanding the site's countryside location, in determining the application regard must be had to other material considerations, including other Development Plan policies and whether the proposal constitutes sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

In terms of the Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
- the latest urban capacity information;
- the need to maintain an appropriate supply of available housing land;
- lead times before houses will be expected to be completed and build rates thereafter; and
- other material considerations.

Whether or not this site would be considered "appropriate" is a matter of judgement. The settlement boundary of Ashby runs along the rear gardens of Willesley Gardens incorporating Willesley Close and 'The Paddocks' to the south, accordingly the application site abuts the settlement boundary along its north east, east and south east boundaries.

The site is therefore bordered by residential development to two boundaries - to the north east

by Willesley Gardens and to the south east by Willesley Close and does not extend or encroach any further to the south of the settlement of Ashby, than Willesley Close. Insofar as the site's location is concerned, whilst the site it is located outside of Limits to Development, the site is well related to the settlement boundary, is bounded by existing development and is not therefore considered to be an isolated development in the countryside.

Objections have been raised by the Town Council and neighbouring residents, on the basis that the site been given a landscape quality value of 9. At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy. Accordingly no weight can be attributed to the policies contained with the Core Strategy for the purposes of determining applications.

It is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan. The provisions of the NPPF do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

Housing Land Supply

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, concluded that the Council's 5 year housing land supply calculation should be based on the "Sedgefield" approach (i.e. an approach requiring planning authorities to deal with any past under-supply within the first 5 years rather than to spread this over the whole plan period) an approach now expressly preferred in the recently published National Planning Practice Guidance, and thus even more likely to be favoured by appeal inspectors going forward. The Moira Road Inspector also applied a buffer of 20% for persistent under delivery. As such, officers have recently been advising Members of the Council's inability to demonstrate a five-year supply of deliverable housing sites. The consequence of this has been that the Council has not been able to rely on adopted Policies S3 and H4/1 in determining housing applications as they are "relevant policies for the supply of housing" for the purposes of Paragraph 49 of the NPPF which, Members are aware "should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites".

The latest housing supply trajectory indicates that, as matters currently stand, using the approach of an annualised requirement with a 20% buffer, the District is able to demonstrate a supply of 6.65 years.

As a result of the above Policies S3 and H4/1 should no longer be considered 'out-of-date' in the context of Paragraph 49 of the NPPF - indeed these are Development Plan policies to which the Council should again now properly have regard in determining future planning applications. Whilst the weight to be applied to these policies against other material considerations is a matter entirely for Members, officers would advise Members, in applying weight to any conflict with Policy S3 in the overall planning balance, to bear in mind the fact that the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006).

In addition, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute

sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

Sustainable Development

In March 2012 the National Planning Policy Framework (NPPF) was published and introduces the presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved without delay and where relevant policies are out of date planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

Economic - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.

Social - in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment. The development would provide both open market and affordable housing, appealing to a wider spectrum within the local market, thus increasing local market choice and appealing to groups whom may have otherwise been excluded from the locality.

Environmental - to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The site is located outside the limits to development but is well related to the existing settlement. Furthermore, as set out in the report below, it is considered that the proposal would not be contrary to the aims of protecting or enhancing the natural and historic environment. Accordingly the site is considered to be consistent with the 'environmental role'.

The NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. Based on the above discussions, the proposed scheme is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

Sustainability

In terms of sustainability, Ashby has a wide range of services and facilities and a regular public transport service. In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the preferred maximum walking distance to a town centre with 400

metres acceptable and 200 metres being desirable.

Below are the approximate distances from the site to local facilities and services via the existing footway network

Bus Stop - 465 metres
Western Park, via Packington Nook Lane - 675 metres
Primary School - 790 metres
Public House, Tamworth Road - 900 metres
Play Space (to the west of Ridgeway Road) - 950 metres
Town Centre boundary 1,050 metres
Market Street - 1,480 metres

Whilst the bus stop, park and primary school are the only amenities within the maximum preferred walking distance, the bus stop is in close proximity to the site and can provide access to the facilities within the town centre. The nearest bus stop is located approximately 465 metres to the northern side of Tamworth Road and an hourly bus service runs along Tamworth Road.

There is also an existing footpath along the southern side of Willesley Lane which runs the entire length to the junction with Tamworth Road. There are also footpaths on both the north and south side of Tamworth Road into the town centre.

In addition, the scheme seeks to provide its own on-site play space, and there is an area of equipped play space and larger area of play at Western Park which is accessed via Willesley Road, straight on to Tamworth Road and then via Packington Nook Lane, being located approximately 675 metres away.

Furthermore, the scheme itself also seeks to promote walking and cycling, by providing a combined footpath and cycle route within the site. This is proposed to continue beyond the site, to the Hicks Lodge Cycle Centre, with the applicant willing to enter into a Section 106 Agreement to provide and surface this route. This will provide both future occupiers and existing residents in Ashby access to the Hicks Lodge Cycle Centre.

Ashby provides a good and wide range of day to day services and facilities which meet the day-to-day needs of Ashby as well as some of the surrounding villages. These include primary schools, a secondary school, a good range of shops, leisure facilities and library, health centre as well as recreational facilities and public houses.

When having regard to the sustainability credentials of the settlement and the site, along with the fact that the site is well related to existing built development and the Limits to Development as defined in the Local Plan, it is considered that Ashby is a sustainable location for the level of development proposed for this site.

Loss of Agricultural Land

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. Whilst the site is currently in use as pasture land, the development of the site would result in an irreversible loss to a non-agricultural use.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it

would seem inevitable that greenfield land (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC).

The applicant has confirmed that the land would be assigned to Class 3, however the Agricultural Land Classification does not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification. If considering the scenario that the land is potentially BMV land, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively).

The site is approximately 1.54 hectares in size. It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process, which in this case would be small in scale but irreversible as there are no areas of open space/landscaping that would be large enough to accommodate an agricultural use in the future.

Nevertheless, if the site were to fall within Class 3a, it is not considered that the proposed development would sit particularly comfortably with the requirements of the NPPF and, in particular, the aims of paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, these concerns would not be so significant as to outweigh the considerations in favour of the scheme.

When considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the potential agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the potential loss (i.e. 1.54ha).

Density, Layout and Design

Density

The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances.

The application proposes 41 dwellings on a 1.54 hectare site equating to a net density of 26.6 dwellings per hectare (dph). Policy H6 requires a minimum of 40 dph in town centre locations and accessible locations and 30 dph in other locations. As the site is considered to be accessible by public transport and accessible to services and facilities, then in this case the 40 dph would be applicable.

This density at 26.6 dph is, however considered appropriate having regard to the location of the site on the edge of the town and the rural character to the north and east of the site. Accordingly it is not considered that a higher density of development could be achieved on the site, without having detrimental impacts upon the proposal. Therefore, the scheme is considered to be acceptable in relation to the advice contained in the NPPF and Policy H6 of the Local Plan.

Layout and Design

Paragraph 64 of the NPPF states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and

quality of an area and the way it functions.

Following the submission of amended plans the scheme proposes one access point from Willesley Road which runs round in a loop creating two main internal streets within the scheme, in addition to the street adjacent to Willesley Lane.

It is acknowledged from letters of representation that the site occupies, locally, an important and visually prominent entrance into the town. However, it is important to note, as previously discussed the site abuts the settlement boundary and is bounded by residential development in the form of Willesley Gardens and Willesley Close. On this basis it is not considered that the site is an isolated development in the countryside. Therefore it is considered that it would be viewed in conjunction with existing surrounding residential development on the approach into and out of the settlement.

Furthermore, the layout has taken into consideration these concerns, by setting the dwellings approximately 10 metres back from the sites frontage, and through the retention of existing hedgerows, retention of a number of existing trees and additional planting. In addition, the north of the site has been proposed for the balancing pond and play pieces, and not dwellings, and it is also considered that the natural topography of the site, lower density and feathering out of the development towards the peripheries will assist the development assimilating into the countryside. Therefore it is considered that the residential scheme would not have a significantly detrimental impact upon the character and appearance of this setting.

The amended layout shows plots to south (plots 6-9, 25 and 27-28) fronting Willesley Lane, creating a strong attractive streetscene. Within the scheme, within the exception of the 1 bed roomed affordable dwellings (plots 34-41) the layout proposes dwellings facing inwards, addressing the internal access road with gardens to the rear. Plots 1,5,6,16,19,25,26 and 34-37 are identified as feature plots. These are positioned on prominent corner locations and are dual aspect designs, ensuring that there are no dull or blank frontages.

In the wider area there are a variety of styles of dwellings. In relation to the visual appearance of the built environment, the scheme proposes ten differing house types. Each house type proposes different design features such as external chimney stacks, canopies, arched headers, brick cills and other brick detailing which adds additional interest to the external appearance of the site as a whole. Following discussions with officers, during the course of the application, there have been alterations to the types of the dwellings proposed and further additional fenestration details and improvements have been made to all, including hipped roofs, external chimney stacks and variation in materials.

Given the range of detached, semi-detached, and terrace dwellings of 2, 3 and 4 bedroom configurations, of 2 and 2.5 storey proportions within the site, there are also a number of differing footprints and heights within the site.

The development provides appropriately sized gardens commensurate to the size of the dwellings and the scale of the single and double garages are subservient in scale to the dwellings to which they serve.

Accumulatively as a result of the differing styles, features, materials and sizes it is considered that an attractive scheme would be provided.

Areas of un-equipped play space are shown in pockets throughout the scheme, with the main play area adjacent to plot 5 and five pieces of equipped play space to the north of the site.

These areas will be provided natural surveillance by plots 5 and 16-19.

In respect of soft landscaping, the scheme has been designed to create a prominent boulevard tree lined style street (street 1). The set back of the dwellings from the road, with mature tree planting is considered to soften and enhance the appearance of the scheme. The level of planting is considered appropriate to contribute to the overall 'semi rural' character of the area and will contribute to the visual amenity of the development. National Forest have confirmed that they are satisfied with the planting shown within the amended layout and the suggested landscaping condition.

In relation to hard landscaping, the scheme proposes three types of road surfacing and there is a mixture of frontage and side parking to add variation.

No representative samples of the types of materials to be used on the external elevations of the dwellings and garages have been submitted or details in respect of boundary treatments or surfacing of the roads, driveways and footpaths and lighting and it is therefore considered necessary to impose conditions to ensure that these important details will be submitted to and approved in writing by the Local Planning Authority.

The land levels vary within the site, with the levels highest at the frontage with Willesley Road, sloping south to north with the lowest parts of the site in the north and north-west corners. Accordingly a condition requiring finished floor and road levels is recommended.

In summary, it is considered that the range of terraced, semi-detached and detached properties of 2, 3 and 4 bedroom configuration and 2 and 2.5 storey proportions adds interest and provides strong attractive street scenes, softened by the variation in architectural detailing, materials, surfacing, boundary treatments, trees and landscaping. As such the scheme is considered to be in accordance with Saved Policy E4 of the Local Plan and overarching intentions of the NPPF.

Impact upon Residential Amenity

The residential dwellings most immediately impacted upon as a result of the proposal would be No.'s 1-9 Willesley Gardens and No. 28 Wells Road located to the north east of the site and No's 1 and 2 Willesley Close located to the south east of the application site.

The closest points between the rear of No. 1 Willesley Gardens and rear of plot 1 would be approximately 28 metres with 33 metres between No. 3 and plot 2, 32 metres between No. 5 and plot 3, 33 metres between No. 7 and plot 4 and 32 metres between No.9 and plot 5, respectively. It is therefore considered that there are sufficient distances to ensure no significant adverse impacts, in terms of loss of privacy, light and overbearing impacts. It is acknowledged that garages would be sited closer to the residential properties, however these are single storey and not habitable.

The largest area of play space is proposed adjacent to plot 5, and there would be a distance of approximately 18 metres between the rear wall of No. 11 Willesley Gardens and the proposed play space. It is considered that appropriate boundary treatments and planting, combined with the distance would ensure that there were not significant adverse impacts. For the avoidance of doubt the play area is proposed to be un-equipped.

There is a distance of approximately 20 metres between plot 6 and the side wall of No. 28 Willesley Road - which is considered sufficient distance away to ensure no significant adverse

impacts.

There is a distance of at least 25 metres between the front of plots 6 and 25 and the side elevations of No's 1 and 2 Willesley Close, with plots 7-9 being at least 20 metres (with no direct alignment) complete with an 'over the road' relationship, which ensures that there is no significant adverse impacts upon the occupiers of these neighbouring properties.

'The Paddocks' sited to the south east of the application site, to the south of properties on Willesley Close, is set back from the highway and it is not considered that there would be any direct impacts as a result of the proposal. Other neighbouring properties at Willesley Close, Willesley Gardens, Wells Road and Willesley Road are considered to be sited at sufficient distances away not to be significantly impacted upon as a result of the proposal.

In respect of impacts upon the future occupiers between the plots themselves, there is sufficient distance between the dwellings to ensure that there are no any significant overlooking, overshadowing, or overbearing impacts. Windows serving bathrooms and en-suites are to be fitted with obscure glass, secured by the imposition of a planning condition.

In summary, the proposal is considered to have minimal impacts upon amenity of existing neighbouring or future neighbouring residents. As such the scheme is considered to be in accordance with Saved Policy E3 of the Local Plan.

Highway Considerations

Access is proposed from Willesley Road. The application has been accompanied with a Transport Statement.

During the course of the application, in addition to the combined cycle/footpath link, the scheme has also provided pedestrian connection to the sites frontage.

There is a mixture of frontage and side parking and single and double detached garages. All plots open market and affordable have at least two car parking spaces, with the exception of the one bed affordable units, which have one space each and two visitor spaces between them. For the avoidance of doubt all 2 bed properties (8 plots) have two parking spaces, with all other 3 and 4 bed properties having three parking spaces. Following the submission of amended plans all single garages have internal dimensions of 3.1 metres width by 6 metres in length and double garages of 6.1 metres in width by 6.1 metres in length.

The scheme has been considered by the County Highway Authority (CHA) who raises no objection, subject to conditions including off site works.

It is considered that a condition recommended by the CHA requiring details of parking, turning and access is not necessary as these details are provided for consideration and details in respect of pedestrian visibility, surfacing and lining are subject to separate conditions.

In addition, a suggested condition requires the provision of 2 car parking spaces for a dwelling up to three bedrooms and 3 car parking spaces for four or more bedroomed dwellings. The car parking provision, as discussed above, is considered to be acceptable and a condition is recommended securing that the parking be provided prior to first occupation of the respective dwelling and thereafter made available for parking.

In summary, subject to the imposition of conditions it is considered that the scheme is

acceptable in relation to Saved Polices T3 and T8 of the Local Plan.

Public Footpaths and Cycle Routes

There are no formal, designated public footpaths running through the site, however a route has been used historically and informally to the north east periphery of the site, running parallel with the rear gardens of Willesley Gardens. Beyond the site to the north, the route continues before forking off in two directions, with the northern route used as an access to the National Forest Cycle Centre, at Hicks Lodge.

An application has been submitted by local residents to Leicestershire County Council for a Modification Order (ref: P114) to seek a Public Right of Way consistent with the existing informal route, as described. The County Council are currently proceeding with the preparatory work associated with the making of the Modification Order.

During the course of the application, discussions have been undertaken with the County Council, the National Forest and the applicant in respect of pedestrian footpaths and cycle routes. Accordingly the applicant has incorporated within the submission of an amended plan, a combined pedestrian and cycle route within the scheme, with the route also extending to the field to the north of the site. The applicant has made a commitment that this route will be formally offered as a formal Public Right of Way and Cycle Route for access to Hicks Lodge. The applicant has confirmed that they would be willing to enter into a Section 106 Agreement to secure the route, width and appropriate surfacing. The National Forest and Leicestershire County Council Footpath Officer have been consulted upon this and are fully supportive.

As such, whilst the route through the site, would not be consistent with that one currently used and sought by local residents, through the Modification Order, the scheme does seek to provide what will be a formally designated route through the site and beyond the site to the north, for access to the Hicks Lodge Cycle Centre.

In respect of the impact of the scheme on the current route used by residents, given that the route is not a designated footpath, then no weight can be given to the impact of the development on this route.

Impact upon Trees

The scheme has been considered by the Council's Tree Officer who originally recommended that the lime trees to the sites frontage be protected by a Tree Preservation Order.

The issue that has been raised, was that if both of the lime trees were required to be retained, then the proposed access point would not be able to provide the necessary visibility required, for this speed of road, at the point proposed. The Tree Officer therefore advised that the removal of the lime trees, would only be acceptable providing that no other alternative access point along the sites frontage could be proposed and that adequate justification demonstrating this should be submitted.

Accordingly, during the course of the application the applicants, in direct consultation with the County Highway Authority have sought to propose alternative access points along Willesley Road.

An additional central access point was submitted, and additional speed surveys undertaken, however the County Highway Authority were of the opinion that highway safety would be

compromised and that the originally proposed access point should be re-proposed.

As such, it has therefore been demonstrated that there are no other suitable access points along Willesley Road, and therefore the originally proposed access point will be required to serve the development. Accordingly this results in the loss of the lime trees, to ensure that adequate visibility can be afforded for this access point.

The Tree Officer has therefore accepted appropriate, mitigation planting be proposed, to compensate for the loss of the trees, to be secured by way of condition.

It is considered that to insist upon the lime trees retention would be to the detriment of highway safety and accordingly on balance, the amenity value the lime trees added was not sufficient to outweigh the potential highway safety implications, in this case.

In respect of impacts upon other trees the proposed residential development is considered to be sited at sufficient distances away and it is recommended a condition be imposed for no dig construction in the vicinity of the play space to facilitate the route of the proposed cyclepath and footpath, to ensure no significant adverse impacts upon the tree (T13 - crack willow).

Protected Species/Ecology

The application has been accompanied by an Ecological Appraisal, which has been considered by the County Ecologist. The County Ecologist has raised no objections subject to the imposition of planning conditions, and has confirmed that the hedgerow to the sites frontage, has been incorrectly designated and that there is no formal designation now upon it.

Following concerns raised by residents, the County Ecologist has confirmed that most of the hedges are being retained and the layout would be adequate to protect crayfish and it is unlikely that water vole would be present.

The site lies within the catchment of the River Mease Special Area of Conservation (SAC) and consideration of the potential impacts of the development on this designated site will be covered later in this report.

Archaeology

The application has been accompanied by an Archaeological Desk Based Assessment and Field Walking Survey. The application has been considered by the County Archaeologist who has confirmed that no further archaeological involvement is required for this site.

Overall it is considered that the site has a low archaeological potential and consequently no further archaeological requirements have been recommended.

Drainage and Flood Risk

The site lies within Flood Zone 1 as defined by the Environment Agency as having a low probability of flooding (less than 1 in 1,000 annual probability in any year). An unnamed ditch forms the site's western boundary and a small drain flows along the site's northern boundary.

The scheme proposes an open attenuation pond, in addition to proposed permeable paving within proposed private parking areas.

The application has been accompanied by a Flood Risk Assessment, which has been considered by statutory consultees, all of which raise no objections, subject to the imposition of planning conditions.

The scheme has been considered by the Environment Agency who raises no objection subject to the imposition of the condition requiring the development to be undertaken in accordance with the details provided within the Flood Risk Assessment.

In response to neighbours concerns in respect of flood risk to Willesley Road and Willesley Close, the applicant has confirmed that the risk of flooding along the adjacent Willesley Road has been assessed as 'low' (which has been accepted by the Environment Agency), and so the risk of surface water run-off being directed off the highway and into the site is low. The combination of the natural slope across the site, the proposed site layout (and specifically the proposed road alignment through the site) and the detailed design of the proposed roads, will ensure that any such run-off would be retained within the proposed roads and directed through the site towards the existing ditch along the western site boundary. This will ensure that the flood risk posed to existing and adjacent properties is minimised.

In respect of the concerns raised regarding the existing surface water sewer, the applicant has confirmed that the proposed scheme would not utilise the existing 400 m surface water sewer and so the sewer functionality would not impact upon the scheme's feasibility. In respect of a surface water management plan, the application has been supported by a drainage strategy which includes drawings and hydraulic calculations which demonstrate the effectiveness of the drainage scheme proposed in terms of managing surface water on-site and ensuring flood risk is not increased off-site.

Severn Trent Water has been consulted on the application and raise no objection subject to the imposition of a condition requiring the submission of drainage plans prior to the commencement of development. Consideration of the capacity of STW's treatment works is set out below in the section relating to impact on the River Mease SAC.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The flows from the new dwellings will need to be taken into account against the existing headroom at Packington Treatment Works, which serves the Town. At March 2014 capacity as available for 533 dwellings but this is reduced by the number of dwellings that have consent and/or are under construction whilst also considering those which are pending consideration which at the time of writing totalled 233. Taking these into account, assuming all would be approved there would still be capacity for at worst case scenario, 300 dwellings. In addition, since this time there has been additional capacity, resultant of the closure of Arla Dairy on Smisby Road, Ashby. Accordingly a scheme for 41 residential units falls well within the existing capacity levels.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water in the river are met by potential developers. The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF. When having regard to the existing agricultural use of the site, the proposal for 41 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The exact calculation is provided later on in the report, under the heading "Developer Contributions".

Natural England has considered the scheme and raise no objections in relation to impact on the SAC/SSSI subject to conditions. Therefore based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

In response to comments made by residents regarding pollution, neither the Environment Agency nor Natural England have raised concerns regarding pollution to the watercourse.

Developer Contributions

Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:

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

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

Affordable Housing

Under the Council's Affordable Housing SPD, 30% affordable housing is required on sites of 5 dwellings or more, and this would equate to 12.3 dwellings for the current proposal. The applicant is proposing that 12 of the dwellings be affordable, which would generally comply with the requirements of the SPD.

The Council's Strategic Housing Team have been consulted on the application and specifically requested the provision of 1 and 2 bedroomed units within the scheme, based upon the analysis of the Leicestershire Choice Based Lettings systems.

Accordingly the applicant within the amended plan submission has proposed 12 affordable units in total comprising 8 x 1 bedroomed units, 2 x 2 bedroomed dwellings and 2 x 3 bedroomed dwellings.

The Council's Strategic Housing Team has been re-consulted on the application and has advised that they are satisfied with the proposed affordable housing provision.

Play Space

The Council's SPG also states that the Council will not seek any additional provision where existing play areas, within 400 metres walking distance, satisfy the needs of the area, including the proposed development. In this instance, whilst an existing play space would fall within 400 metres of the site, given the route that users (children) would need to take along existing footpaths, to access the play space, the site would be well in excess of 400 metres, and therefore on-site provision should be provided.

Discussions have been undertaken with the applicant and Town Council during the course of the application, regarding their preference between provision on-site or a commuted sum off site. Accordingly whilst within the latest discussions with the Town Council have confirmed their preference for a contribution in the form of a commuted sum to be given to an existing near play space, in lieu of the on-site provision, as the site is beyond the 400 metres walking distance of the existing play space, then the Local Planning Authority has considered that on site provision would be more suitable in this instance.

Under the District Council's Play Area Supplementary Planning Guidance (SPG), on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 41 dwellings are proposed, this would require a play area of not less than 820 square metres. The scheme provides in excess of the policy requirement. In addition, during the course of the application, amended plans have been submitted showing the re-location of the proposed play space and provision of 5 pieces of equipment, in conformity with the Council's SPG.

As the Town Council would have now confirmed their preference for a contribution towards the existing play space, it is unlikely that there would be willing to maintain the proposed play space. Accordingly if further negotiations fail, the play space would be managed by a private management company. For the avoidance of doubt, a contribution for maintenance would be required if the play area was taken on by the Town Council.

A scheme for the play provision will be secured through the Section 106 Agreement. An obligation relating to management plans for any open space, landscaping and SUDS to ensure that the land is properly established, maintained and managed in the future would also be required.

River Mease DCS

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage, as the code levels of the dwellings has not been finalised. A Section 106 agreement would be worded as such to allow flexibility based on the construction code levels.

National Forest Company

The application site extends to 1.54ha and the National Forest Planting Guidelines would normally require 20% of the site area to be for woodland planting and landscaping.

The National Forest has confirmed that if the surfaced footpath and cycleway through the site and the adjoining field to the cycle centre as shown on the 'Indicative Cycle Plan Improvement

Plan' is provided then we would be content with that as the contribution towards The National Forest from this development.

The National Forest have requested that the width of the cycle path should be 3 metres, with 2 meters being the absolute minimum and appropriate surfacing, similar to match the trails at Hicks Lodge. The National Forest have confirmed that they would be happy for these details to be secured through a submission required by the Section 106 Agreement, in addition to the long term ownership and maintenance.

Healthcare

NHS England have sought £12,410.55 towards the costs of providing additional accommodation at Ashby Health Centre for additional patients arising from the development. At the time of writing, the updated financial contribution from NHS England, following the revisions to the number of units has not been received, but will be reported via the update sheet.

Education

Leicestershire County Council is seeking the following contributions to provide additional places at the nearest schools where there is no capacity:

- a contribution of £95,824.16 for the primary school sector, for Ashby Willesley Primary School.
- a contribution of £58,991.36 for the high school sector, for Ivanhoe College.
- a contribution of £60,572.03 for the upper school sector, for Ashby School.

Libraries

Leicestershire County Council is seeking a contribution of £2,270 towards additional resources at Ashby de la Zouch Library.

Highways Contributions

The County Highway Authority has also requested the following contributions to encourage sustainable travel to and from the site, achieve modal shift targets, and reduce car use:

- o Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- o Six-month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car
- o Improvements to the nearest bus stop (Tamworth Road outside Loudoun House), including raised and dropped kerbs to allow level access, to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
- o Information display case at a nearest bus stop; to inform new residents of the nearest bus services in the area. At £120.00 per display.

Cycle Route

The applicant has agreed to provide a combined pedestrian and cycle route through the site and the route is to be extended beyond the site to the Hicks Lodge Cycle centre, which is to be secured through the Section 106 Agreement.

Other Contributions

No requests for contributions have been received from Leicestershire Police and the County Council has advised that a contribution towards civic amenity sites is not required.

Summary

Overall, it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development.

The applicant has confirmed that they would be willing to enter into an agreement to secure the above mentioned contributions, should there be a resolution to grant planning permission.

Other Matters

Previous Reason for Refusal

An application was refused in 1972 (ref: 72/4243/02) for residential development for the following four reasons:-

1. The Local Planning Authority is of the opinion that the proposal is undesirable in that it is contrary to the intentions of the Approved Ashby de-la Zouch Town Map and the approved County Development Plan, which includes the site as being within a "white" area where the existing uses are to remain undisturbed.
2. The Local Planning Authority is of the opinion that sufficient land has been allocated for residential purposes within the Town Map Area to cater for the housing needs of the area in the foreseeable future.
3. The erection of dwellings on this agricultural land would constitute an unwarranted extension of development into the open countryside and would adversely affect the visual amenities of the area.

The approved Ashby de-la Zouch Town Map and the approved County Development Plan have subsequently been replaced since 1972 and as such carry no weight in the determination of this application. The merits of this case are for consideration at this time and each case is considered on a case by case basis. As discussed within the main report the site does fall outside of the settlement boundary, however the NPPF is supportive of sustainable development and the scheme is not considered to adversely affect the visual amenities of the area.

4. Furthermore, it is considered that the construction of an additional estate road onto Willesley Lane in close proximity to the existing junction at Willesley Close would not be in the interests of road safety.

The County Highway Authority have considered this scheme and do not consider that there is any reason to sustain a highway objection.

Letters of Representation

In respect of other objections received which have not already been addressed within the report above:-

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy. Accordingly no weight can be attributed to the policies contained with the Core Strategy for the purposes of determining applications.

In respect of the concerns raised regarding the similarities with the Packington Nook developments, each case it considered on its own merits.

A right to a view is not a material planning consideration.

Conclusions

In conclusion, as set out in the main report above, the site lies outside the Limits to Development in the adopted Local Plan and constitutes greenfield land. Policies S3 and H4/1 which restrain the supply of housing are now considered to be up-to-date given the Council can demonstrate a five-year supply of deliverable housing land.

The site lies within the countryside, as defined in the Local Plan. Notwithstanding the conflict with the provisions of Policy S3 of the Local Plan, given its close proximity to built development and the settlement boundary, it is therefore considered that this site would form a natural extension.

When having regard to the sustainability credentials of the settlement and the site, on balance, it is considered that the proposal would represent a sustainable form of development for the purposes of the NPPF, and therefore, the principle of development is considered acceptable.

The proposed development would be acceptable in terms of density, layout and design, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, archaeology, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT, subject to the signing of the Section 106 Agreement and the following conditions, subject to no new significant material objections being received prior to the expiry of the consultation period on 28 October 2014.

- 1 The development shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act

1990 (as amended).

- 2 The proposed development shall be carried out strictly in accordance with the following amended plans, unless otherwise required by a condition of this permission:; 1160 House Type Drawing No. BC/1160/ASHBY; Whitehall + House Type Drawing No. BC/TWHIT/ASHBY; Marlborough House Type Drawing No. BC/MARB/ASHBY; Mayfair House Type Drawing No. BC/MAY/ASHBY; Knightsbridge House Type Drawing No. BC/KNIG/ASHBY; Hanbury Plus House Type (Semi) Drawing No. BC/HAN/ASHBY; 1010 House Type Drawing No. BC/1010/ASHBY; Alnwick + (Semi) Drawing No. BC/ALNWICK/ASHBY; Leicester House Type Drawing No. BC/LEIC/ASHBY; 1160 House Type Drawing No. BC/1160/ASHBY; Whitehall House Type Drawing No. BC/TWHIT/ASHBY; Single garage Drawing No. BC/SGARAGE/ASHBY and Double garage Drawing No. BC/DGARAGE/ASHBY received by the Local Planning Authority on 14 October 2014 and 1 Bed Flat Drawings No. BC/FLAT/ASHBY received by the Local Planning Authority on 16 October 2014 and Alnwick/Hanbury (Terrace) Drawing Nos. BC/ALNWICKT/ASHBY and Planning Layout (Scale 1:500) received by the Local Planning Authority on the 23 October 2014.

Reason: To determine the scope of this permission.

- 3 No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To determine the scope of this permission.

- 4 Notwithstanding the submitted detail, nor Condition 2 above, no development shall commence until precise details of all doors and windows (including porches and door surrounds, as well as doors to proposed garages) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: To ensure an appropriate form of design.

- 5 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence until precise details of the treatment of verges, eaves and rainwater goods have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: To ensure an appropriate form of design.

- 6 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence until such time as precise details of all proposed chimneys have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason: To ensure an appropriate form of design.

- 7 Notwithstanding the submitted plans, no development shall commence until such time as the precise details of a lighting scheme for all communal open space and parking areas are submitted and agreed to in writing by the Local Planning Authority.

Reason: To ensure that the development provides for a satisfactory form of design, in the interests of safeguarding against actual and fear of crime and anti-social behaviour.

- 8 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence until such time as a detailed scheme for the boundary treatment of the site including the precise details of the treatment of the demarcation of all public realm facing boundaries that will be a minimum of 1.2m high comprising of either railings with hedging, dwarf walls with railings, or dwarf walls have been submitted to and agreed in writing by the LPA. The development shall be carried out in accordance with the agreed details. The development hereby permitted shall not be brought into use until such time as the approved scheme has been implemented in full (unless an alternative timescale is first agreed in writing by the Local Planning Authority). Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no gates, fences, walls or other means of enclosure (other than any approved pursuant to this condition) shall be erected, unless planning permission has first been granted by the Local Planning Authority.

Reason: To preserve the amenities of the locality, in the interests of highway safety, to ensure that there is a clear and robust demarcation between public and private spaces and to ensure an appropriate form of design.

- 9 No development shall commence until a detailed landscaping scheme, including mitigation planting for the loss of trees, has been submitted to and approved in writing by the Local Planning Authority. The eight proposed trees along Street 1 shall be semi-mature trees of a minimum height of 5.5m and girth of 25-30cms, with focal trees adjacent plots 1, 25 and 26 and lime tree mitigation planting to the frontage shall be super semi-mature trees of a minimum height of 7.0 and girth of 40-45cms. The approved scheme shall be implemented in the first planting and seeding season following the first occupation of the first dwelling hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

Reason: To ensure satisfactory landscaping is provided within a reasonable period and a reasonable period for the replacement of any trees and shrubs.

- 10 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence until such time as a detailed scheme for all surfacing of the access, driveways, parking areas and footpaths has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be undertaken in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority

Reason: To preserve the amenities of the locality.

- 11 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on the site until such time as details of the proposed bridge/structures to connect the site with the adjacent field to the north west of the site have been submitted

to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until the scheme has been constructed in accordance with the approved details.

Reason: To enable the Local Planning Authority to retain control over the external appearance, in the interests of the amenities of the area.

- 12 No development shall commence until a scheme that makes provision for waste and recycling storage across the site shall first be submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities for residents/collection crews, and adequate collection point space at the adopted highway boundary.

Reason: To ensure that the development provides for a satisfactory form of design, in the interests of amenity.

- 13 No development shall commence until precise details of the finished ground levels on the site and the finished floor levels of the buildings in relation to an existing datum point have been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason: To ensure the development takes the form envisaged by the Local Planning Authority.

- 14 No development shall commence until drainage plans for the disposal of foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of foul water drainage.

- 15 Notwithstanding condition 23 no development shall commence until drainage plans and surface water drainage management and monitoring plan have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of surface water drainage management and monitoring as to reduce the risk of creating or exacerbating a flooding problem; to prevent an adverse impact on the River Mease Special Area of Conservation.

- 16 No development shall commence until details for off-site highway work being a junction table at the Willesley Close/Willesley Road junction have been submitted to and approved in writing by the Local Planning Authority and no dwelling shall be occupied until the scheme has been constructed in accordance with the approved details.

Reason: To reduce vehicle speeds on the approach to the site access.

- 17 No development shall commence until details for off-site highway works being provision of a footway from the southern side of Wells Road to a suitable crossing point with drop kerbs and tactile paving on Willesley Road, have been approved in writing by the Local Planning Authority, and no dwelling shall be occupied until the scheme has been

constructed in accordance with the approved details.

Reason: To ensure a safe pedestrian route to the footway on the southern side of Willesley Road.

- 18 No development shall commence on the site until such time as a construction traffic/site traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.

- 19 Before first occupation of any dwelling hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users.

- 20 Before first occupation of any dwelling hereby permitted, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the access with Willesley Road. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

- 21 Before the first occupation of any dwelling hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of all accesses with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway. These shall be in accordance with the standards contained in the Highways Transportation and Development design guide and shall be so maintained in thereafter.

Reason: To afford adequate visibility in the interests of pedestrian safety.

- 22 Before first occupation of any dwelling hereby permitted, the respective car parking provision and any turning space shall be made within the curtilage, in accordance with the approved plans. The parking spaces and turning space so provided shall not be obstructed and shall thereafter permanently remain available for car parking and turning.

Reason: To ensure adequate off street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.

- 23 The development hereby permitted shall only be carried out in accordance with the

approved Flood Risk Assessment (FRA) revision 3, dated May 2014 Ref. R/C1409.001.03, under by Hydrock, including the mitigation measures detailed within it. The mitigation measures shall be fully implemented prior to the occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or with any other period that may be subsequently agreed in writing by the Local Planning Authority.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to assist in the achievement of good water quality status for the River Mease, to reduce the risk of flooding from blockages and to ensure maintenance access.

- 24 Should development not start for two years since the last survey (April 2014) an updated badger survey will be required to be submitted to and approved by the Local Planning Authority.

Reason: In the interests of protected species on the site.

- 25 The windows serving bathrooms, en-suites and WCs shall be glazed with obscure glass to Pilkington Standard 3 (or equivalent) and shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

Reason: To ensure that the development is not detrimental to the privacy and amenities of the existing and future occupiers.

- 26 Notwithstanding the provisions of Part 1 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) the dwelling hereby permitted shall not be enlarged, improved or altered, nor shall any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse be provided unless planning permission has first been granted by the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over future development in view of the form and density of the development proposed.

- 27 Utility boxes shall be painted black, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure an appropriate form of design.

- 28 No development shall commence until a scheme providing a tree protecting plan for the tree identified as T13 within the submitted Arboricultural Assessment (May 2014) and a method statement outlining cycle/footpath installation of "no dig" design is first submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved details and timetable.

Reason: To ensure that existing trees are adequately protected during construction in the interests of the visual amenities and character of the area.

Notes to applicant

- 1 In respect of condition 3, the applicant is advised that render will be traditionally applied rough cast render. Monocouche and/or the use of plastic beading will not be permitted.

- 2 In respect of condition 4, the applicant is advised that porches and door surrounds must be constructed of timber that is either painted or stained. Full or partial UPVC porch structures and/or door surrounds will not be acceptable. UPVC windows and doors shall be of a cream or olive green finish.
- 3 In respect of condition 5, the applicants are advised the Local Planning Authority will be likely to require the submitted details to provide for, amongst others, the following: open toe rafters, mid course projecting brick detailing and wet bedded verges throughout the development.
- 4 In respect of condition 8, the Local Planning Authority will be likely to require the submitted details to provide for, amongst others, the following: a plan indicating the type of boundary treatment to be employed and where landscaping is proposed to demarcate public and private space, a photographic illustration of the proposed species.
- 5 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001).
- 6 The applicant will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 7 The applicant will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences.
- 8 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).