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Erection of up to 50 dwellings (Outline - all matters other than access reserved)

Report Item No  
A6

Land To The North Of Top Street Appleby Magna Swadlincote Derby

Application Reference  
14/00082/OUTM

Applicant:  
Mr L Griffin

Date Registered  
6 February 2014

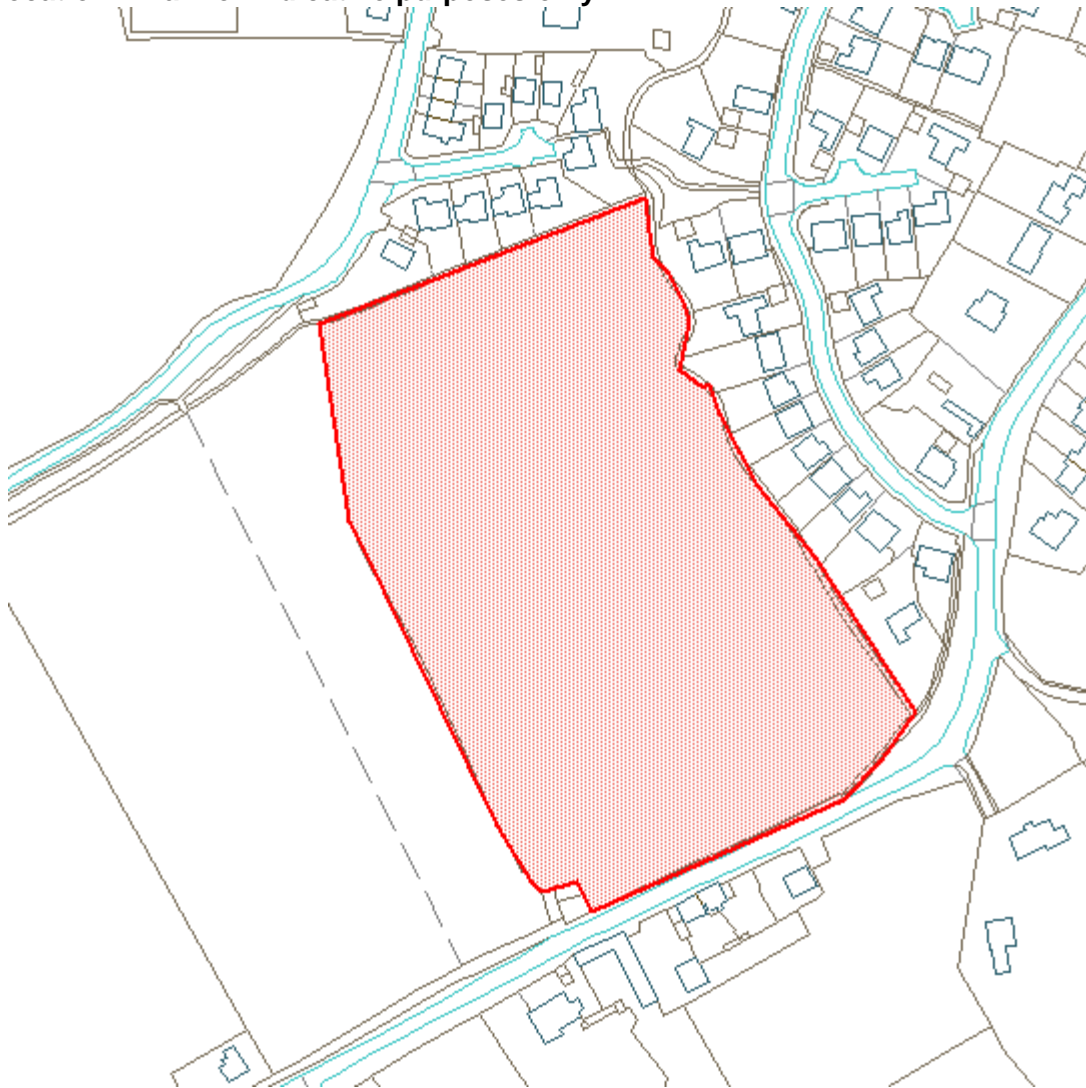
Case Officer:  
Sarah Worrall

Target Decision Date  
8 May 2014

Recommendation:  
REFUSE

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Site Location - Plan for indicative purposes only



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## **Executive Summary**

### **Call in**

The application is brought to Planning Committee at the request of Councillor Blunt on the grounds of public interest. It is also considered prudent for the item to be considered by Committee since other applications for Appleby Magna have been reported and considered by Members at previous meetings.

### **Proposal**

This is an outline application seeks permission, in principle, for 50 dwellings on agricultural land off Top Street. All matters other than the access off Top Street are reserved for subsequent approval. A revised design and access statement was submitted in September and includes an indicative masterplan layout for the site to demonstrate how the development could take place. Landscaping, boundary buffer zones and a sewage pumping station are also included on the masterplan.

### **Consultations**

Members will note that representations from local residents have been made and the full representations are available to view on the working file. In terms of the issues raised, there still outstanding concerns raised by statutory consultees which will be explored in the main report. Members will also note that the applicant undertook a public consultation event prior to submission of the application.

### **Planning Policy**

The impact of the proposal in terms of agricultural land and countryside location, design and heritage, residential amenities, highways issues, protected species and other ecological aspects, flood risk, noise and River Mease SAC and SSSI can be assessed in relation to the NPPF and development plan policies and other relevant guidance as set out in the main report. The District Council's 5 year housing land supply position also has to be taken onto consideration.

### **Conclusion**

The site lies outside the Limits to Development of Appleby Magna in the countryside on agricultural land which is characterised by being a ridge and furrow field within a wider ridge and furrow field network. Whilst issues relating to the River Mease SAC and SSSI, other developer contributions, ecology, design, amenity and highways could be addressed, the significant harm to heritage assets outweighs any possible benefits of such a scheme, particularly at a time when the District Council considers it has over and above a 5 year and 20% buffer of housing land supply. As such, refusal is recommended.

**RECOMMENDATION: REFUSE on heritage and housing land supply grounds.**

**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 and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

The application falls to be determined by the Planning Committee given that it has been called in by Councillor Blunt, and that there have recently been a number of other applications for major residential development within Appleby Magna which were also considered by Planning Committee.

Outline planning permission (with access included for determination) is sought for the erection of 50 dwellings with associated landscaping, open space and infrastructure. The application originally sought approval for 60 dwellings but has been revised by the applicant to 50. However, whilst an indicative draft masterplan has been submitted as part of the application, appearance, landscaping, layout and scale are all matters which are reserved for subsequent approval.

Various documents have been submitted as part of the application including a transport statement, design and access statement, ecological appraisal, tree survey and hedgerow assessment, flood risk and drainage assessment and a heritage statement. A Phase I ecological survey was submitted on 29 April 2014, and additional heritage statement information, flood risk information and supplemental design and access statement was received on 10 September 2014 along with a request to change the description from 60 dwellings to 50 dwellings.

The application site is a field which is situated at the south west edge of the village of Appleby Magna. The site lies outside the Limits to Development of Appleby Magna in the countryside and is evidently ridge and furrow land. Access to the site would be from Top Street and would be created towards the centre of the site frontage.

The site is surrounded by residential development at the northwest and northeast boundaries with adjoining agricultural land to the southwest. Top Street forms the boundary to the south east of the site. There is some linear development along this section of Top Street which leads down to the Grade I listed building Sir John Moore school. The site also lies within the River Mease Special Area of Conservation (SAC).

### History

There is no relevant planning history for the site in relation to the current scheme.

### 2. Publicity

28 No neighbours have been notified. (Date of last notification 18 September 2014)

Site Notice displayed 14 February 2014

Press Notice published 9 April 2014

### 3. Consultations

Appleby Magna Parish Council consulted 14 February 2014

Environment Agency consulted 18 September 2014

English Heritage- Grade I/II\* LB Works consulted 18 September 2014

NWLDC Conservation Officer consulted 18 September 2014  
NWLDC Urban Designer consulted 18 September 2014  
County Highway Authority consulted 14 February 2014  
Environment Agency consulted 14 February 2014  
Severn Trent Water Limited consulted 14 February 2014  
Head of Environmental Protection consulted 14 February 2014  
Natural England consulted 14 February 2014  
NWLDC Tree Officer consulted 14 February 2014  
County Archaeologist consulted 14 February 2014  
LCC ecology consulted 14 February 2014  
LCC Development Contributions consulted 14 February 2014  
NHS Leicester, Leicestershire And Rutland Facilities Manage consulted 14 February 2014  
Development Plans consulted 14 February 2014  
Head Of Leisure And Culture consulted 14 February 2014  
Manager Of Housing North West Leicestershire District Council consulted 14 February 2014  
LCC/Footpaths consulted 14 February 2014

#### 4. Summary of Representations Received

##### Representation

**NHS** - a sum of £23,446.80 would be sought for additional health facilities in relation to the proposal;

**English Heritage** - objected to the original application and this objection has been maintained following additional information submitted on 10 September 2014;

**Severn Trent Water** - has no objection subject to a foul and surface water drainage condition;

**Natural England** - has no objection in relation to the River Mease SAC and SSSI subject to a condition relating to a construction environmental management plan and a S106 River Mease DCS contribution;

**Environment Agency** - originally advised that flood risk information was inadequate. Comments received in relation to the additional information submitted on 10 September 2014 advise that the EA has no objection subject to conditions relating specifically to details contained in the supplemental information;

**Leicestershire County Council Developer Contributions** - no contribution is required for civic amenity facilities, and £3260 is required for library services. No education request has been submitted at this time. (NB Updated figures, and for NHS, would be required on the basis that the development proposal has reduced from 60 to 50 dwellings);

**Leicestershire County Council Highways** - objects on the grounds of sustainability;

**Leicestershire County Council Ecology** - objected to the original submission but is now satisfied with the Phase 1 survey which was submitted on 25 April 2014. The grassland does not meet wildlife site criteria. However, the commitment to the retention of buffer zones along the boundary hedges and watercourse would be required as a condition.

**NWLDC Housing Enabling Officer** - 30% affordable housing is required which would equate to

15 properties delivered on site through a registered provider. Ten affordable rented units would be likely to be sought along with five intermediate low cost shared ownership units. In addition, 2 bedroom bungalows and 1 bedroom homes would be sought as part of a proposal as there is unmet demand for this type of unit in the locality.

**NWLDC Environmental Protection** - no objection.

### **Third party representations**

One letter of support has been received for the proposal which simply states it supports the proposal. Forty four letters of objection, including a representation by Appleby Environment community group, have been submitted. The concerns can be summarised as follows:

#### *'In principle' Issues*

- Housing development in Appleby has already been approved;
- The village cannot sustain planning of this size;
- The proposal is contrary to the Village Design Statement;
- The site is outside limits to development;
- The site is countryside and brownfield sites should be developed first;
- The settlement boundaries of the Core Strategy should be taken into account;
- The proposals are systematically and resolutely destroying our community;
- The village shop is limited and there are not enough community facilities to sustain a development of this size;
- Local services are limited, the school is at capacity;
- Measham medical centre would be under extra pressure;

#### *Design concerns*

- Gardens would be extended up to our property into the buffer shown in the Design and Access Statement;
- The development would not be in character with the locality as this stretch of Top Street and New Road is made up of largely older detached dwellings;

#### *Heritage concerns*

- There would be a loss of historic green fields and an adverse impact on the rural setting especially near a Grade 1 listed building;
- The site is ridge and furrow which is of historical significance;
- The development would cause a loss of historic hedges which support a variety of wildlife including protected species;
- The plans show trees on the boundary with our property when there are none;

#### *Residential amenity concerns*

- Loss of privacy and overlooking as a result of the proposal;
- Noise, dust and intrusion during construction would be unbearable;
- Loss of privacy and light;
- How will our balconies be taken into account when considering overlooking from the housing plans;
- I don't want streetlighting running along the rear of my property;
- I don't want a playground next to my house;

#### *Highways concerns*

- Highway safety issues;
- There are narrow roads in the village;

- The development will be a hazard to pedestrians especially school children at Sir John Moore's school;
- There is limited public transport;
- New residents are unlikely to work in the locality or use the limited bus service, so there would be an increase in car journeys;

#### *Drainage concerns*

- The drainage system is at capacity;
- Roads are often flooded e.g. Duck Lane and Stoney Lane;
- Flooding is a key issue and the siltstone geology does not allow surface water to drain away well;
- The pumping station details are unclear as no explanation or visual is given;
- I don't want a swale next to my house as it would increase the flood risk;

#### *Other issues*

- There are slow broadband facilities;
- Loss of countryside views and outlook;
- Devaluation of property;
- The developer held a stakeholder event which included questionnaires but the issues raised at the event do not seem to be addressed in the application;
- An increase in traffic would result in an increase in CO2 emissions;
- There is a cumulative impact with other development an EIA is required;
- An additional footpath is not needed since there are others nearby;
- The potential route of HS2 has to be taken into consideration.

The Parish Council has also forwarded the results of a village survey carried out on its behalf, which had a 57.2% turnout. The responses indicate the following:

- *87% of respondents oppose all or most of the proposed developments;*
- *89% of respondents are quite or very worried about flooding and drainage issues;*
- *56% of respondents are quite or very concerned about the primary school having to move and 62% of respondents are quite or very concerned that the primary school would have to change its future development plans. 32% and 23% of respondents did not respond to these two questions;*
- *75% of respondents are very concerned about the impact of extra traffic;*
- *50% of respondents are very opposed to measures to accommodate extra traffic;*
- *The majority of respondents are in agreement with six out of seven of listed guidelines in the Village Design Statement being important to guide new development, and there being no over-riding view in relation to the seventh listed guideline;*
- *60% of respondents are quite or very unhappy with the process of consultation/planning;*
- *21% of respondents think 16 to 25 dwellings would be a reasonable level of new housing for the village.*

## **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."

"34. Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas."

"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."

"55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities."

"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."

"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."

"120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.... Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner."

"121. Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;...
- adequate site investigation information, prepared by a competent person, is presented."

"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..."

"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."

"132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...."

"133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or all of four other criteria apply."

"134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."

"135. The effect on the significance of a non-designated heritage asset should be taken into account in determining the application.

"138. Not all elements of a Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm or less than substantial harm."

"139. Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets."

"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 East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development 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 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 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 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 L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

#### 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 provide 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.

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.

NWLDC SPD for Affordable Housing - January 2011

Key Principle AH2 provides that affordable housing will be sought on all sites of 5 or more dwellings in Appleby Magna.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Appleby Magna.

NWLDC SPG - Play Area Design Guidance - July 2002 sets out the relevant requirements in respect of children's play provision required in association with residential development.

Appleby Magna Village Design Statement The purpose of the Village Design Statement is to influence the planning process so that any further development and change within the village and the surrounding countryside will be managed in a way that protects and enhances the qualities that give Appleby its special character, by taking into account local knowledge, views and ideas.

## **6. Assessment**

### **Principle of development**

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

In terms of the Local Plan, the site lies outside the Limits to Development, and Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development. The proposed development of 50 dwellings would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3.

In addition, 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".

As reported to Committee on 8 July 2014, however, a recently completed County-wide Strategic Housing Market Assessment (SHMA) has provided the Council with an up-to-date objectively assessed annual housing requirement. 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.

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.

Since the Council can demonstrate a five-year supply of housing land Policy H4/1 being a policy for the supply of housing, can be considered relevant to the application.

Whether or not this site would be considered "appropriate" is a matter of judgement. Insofar as the site's location is concerned, it is well related to the existing built up area of the settlement and would not result in isolated development in the countryside. However, 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. In terms of the site's greenfield status, it is accepted that the site does not perform well.

#### *Sustainability*

As set out above, the application site is an unallocated site located outside the Limits to Development in the adopted Local Plan. The County Highway Authority (CHA) raises concerns as it considers that the applicant has failed to demonstrate that the proposal is in a location where services are readily available and safely accessible by a variety of modes of transport. These are issues which Policy H4/1 of the Local Plan deals with.

In terms of the sustainability of the site, Appleby Magna provides a good range of day to day facilities, i.e. a primary school, shop/Post Office, church, church hall, two public houses, GP surgery, play area/recreation ground and some small-scale employment sites. It should be noted that public consultation was undertaken at the end of 2013 to close the GP surgery so patients would have to attend the surgery in Measham (3.05km away). There is also a limited public transport service.

Concerns have been raised about the impact on local services, in particular on Sir John Moore Primary School which is located in a Grade 1 listed building, and the capacity for the site/building to house additional pupils. Contributions are expected to be sought by Leicestershire County Council for education requirements and the County Council would decide where those spaces are provided. Contributions have also been sought to provide additional capacity at the library and GP surgery at Measham, to improve the open space/recreational facilities within the village.

#### *Scale of Development*

It is appropriate to consider the scale of the proposed development compared to Appleby Magna so as to understand its potential impact upon the scale and character of the village. Further work is currently being undertaken on this issue and information on this aspect will be reported on the Update sheet.

### *Loss of Agricultural Land*

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. The site is currently grassland although it is not clear if it is in active agricultural use. However the development of the site would result in an irreversible loss to 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. 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). Whilst the application submission does not clearly address the agricultural land classification issue, the Natural England Agricultural Land Classification online maps show the site falling within Grade 2 of the ALC.

However, 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 2.5 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, and taking into consideration that the Council can demonstrate a 5 year housing land supply. It is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of paragraph 112.

### *Conclusions in respect of the Principle of Development and Planning Policy*

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

The site is outside Limits to Development in the adopted Local Plan and its development for housing would therefore be contrary to Local Plan Policy S3 and Policy H4/1 both of which are up to date on the basis that the District Council is of the view that it can demonstrate a 5 year housing land supply.

Having regard to the three dimensions of sustainable development, it could be argued that the development would contribute to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in contributing to housing land supply, its proximity to services/facilities, the provision of affordable housing and open space and the inclusion of appropriate contributions to local services. However, the proposal would have a harmful impact on the significance of designated heritage assets and insufficient information has been submitted to ensure that the development would not harm archaeological remains. The public benefits of the proposal (contribution towards housing land supply, high quality design, provision of affordable housing and contributions to public service/facilities) would not outweigh this harm. In the overall balance it is considered that the proposal would not constitute a sustainable form of development.

### **Design and Residential Amenity Issues**

The application is an outline application for 50 dwellings and whilst an indicative masterplan has been submitted this is not definitive and layout of development on the site could change should permission be granted. The Design and Access Statement also submits information about

scale and the vision for the site. However, the issues of appearance, landscaping, layout and scale are all matters which are reserved for subsequent approval. As such, it is not possible to assess any design issues at this stage.

Representations from residents at Didcott Way and Wren Close have been received in relation to concerns about impacts of the proposal on their amenities, in particular concerns about overlooking, overshadowing and overbearing issues. It is not possible to comment on these aspects since the details are reserved for subsequent approval. Should the application be approved, any reserved matters submission would need to ensure that residential amenities were protected.

### **Heritage Assets and the development proposal**

English Heritage submits that the development of the site for housing would result in the loss of part of the rural agricultural setting to identified heritage assets including the conservation area, Sir John Moore's school and St Michaels church. The entire site is considered sensitive in terms of its contribution to heritage significance, including the presence of ridge and furrow. The proposed scheme would result in harm to this significance.

Neither is it considered that the revised heritage information and reduction of dwellings to 50 to provide for views towards St Michaels would enhance the significance of the conservation area and church.

Comments in relation to the ridge and furrow land are awaited from the County Archaeologist and any information received will be reported on the Update sheet.

In conclusion, the proposal would cause less than substantial harm to various heritage assets but an NPPF compliant sustainable scheme would need to demonstrate that conflict between heritage conservation and any other public benefits it may deliver could be resolved. It is considered that the submitted scheme does not resolve such issues, and the proposal would therefore not form a sustainable development in accordance with NPPF requirements.

### **Highways**

The Highway Authority has objected to the proposal on the grounds of sustainability which has been addressed above. However, it remains unclear as to the position of the Authority in respect of highway safety matters and clarification on this is being sought. Any comments received will be reported on the Update sheet.

### **Flooding and River Mease SAC**

The concerns of local residents in relation to flooding are noted. The application includes flood risk information and a supplemental flood risk assessment. The Environment Agency has confirmed that it has no objection to the proposal on the basis of the supplemental flood risk information that has been submitted subject to stringent conditions being attached to any approval. Any reserved matters application would need to address these requirements.

### **Developer Contributions**

Developer contributions in respect of health facility provision, River Mease SAC, affordable housing, national forest planting, open space and play areas, and library facilities are requested. It is expected that education requests will be forthcoming. Revised contribution requests are

sought on the basis that the scheme has been reduced to an outline application for 50 dwellings. Any additional representations will be reported on the Update sheet.

### **Other Issues**

Loss of view and devaluation of property are not material planning considerations. In addition the potential route of HS2 is not yet a material planning consideration.

The scheme, individually or cumulatively, does not meet the criteria required for an EIA assessment to be submitted. Any issues that relate to the suitability, or not, of the scheme in relation to the site and its surroundings can be dealt with by technical reports on the various issues and these have been submitted as part of the application.

### **Conclusion**

The site lies outside the Limits to Development of Appleby Magna in the countryside on agricultural land which is characterised by being a ridge and furrow field within a wider ridge and furrow field network. Whilst issues relating to the River Mease SAC and SSSI, other developer contributions, ecology, design, amenity and highways could be addressed, the significant harm to heritage assets outweighs any possible benefits of such a scheme, particularly at a time when the District Council considers it has over and above a 5year and 20% buffer of housing land supply. As such, refusal is recommended.

The proposed development would, overall, not be considered to constitute sustainable development as defined in the NPPF. It is therefore recommended that planning permission is refused on the grounds of impact on the historic environment.

### **RECOMMENDATION, REFUSE for the following reason(s):**

- 1 Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of protecting and enhancing our natural environment and using natural resources prudently. Policy S3 of the Adopted North West Leicestershire Local Plan sets out the circumstances in which development outside of Limits to Development would be acceptable. Paragraph 112 of the NPPF provides that, 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. The site is located outside of the Limits to Development as defined in the adopted Local Plan, and is Best and Most Versatile (BMV) in terms of its agricultural quality as set out on the Natural England online ALC maps. Insufficient information has been submitted through the application in respect of agricultural land classification. As such, approval of the application would result in the unnecessary development of BMV land located outside Limits to Development, not constituting sustainable development, and contrary to the policies and intentions of the NPPF and Policy S3 of the North West Leicestershire Local Plan.
- 2 The proposal would have a harmful impact on the significance of a scheduled monument, listed buildings and the Appleby Magna Conservation Area, all of which are designated heritage assets. It is considered that clear and convincing justification for the development has not been put forward nor would the public benefits of the proposal



outweigh this harm, when assessed against the policies of the National Planning Policy Framework, taken as a whole. As such the proposal would not constitute a sustainable form of development.