

Conversion of mill building and erection of new buildings to provide 44 No. dwellings along with associated works (Revised Scheme)

Report Item No
A7

Holywell Mill Burton Road Ashby De La Zouch Leicestershire

Application Reference
09/00082/FULM

Applicant:
Dunkin Rushton Ltd

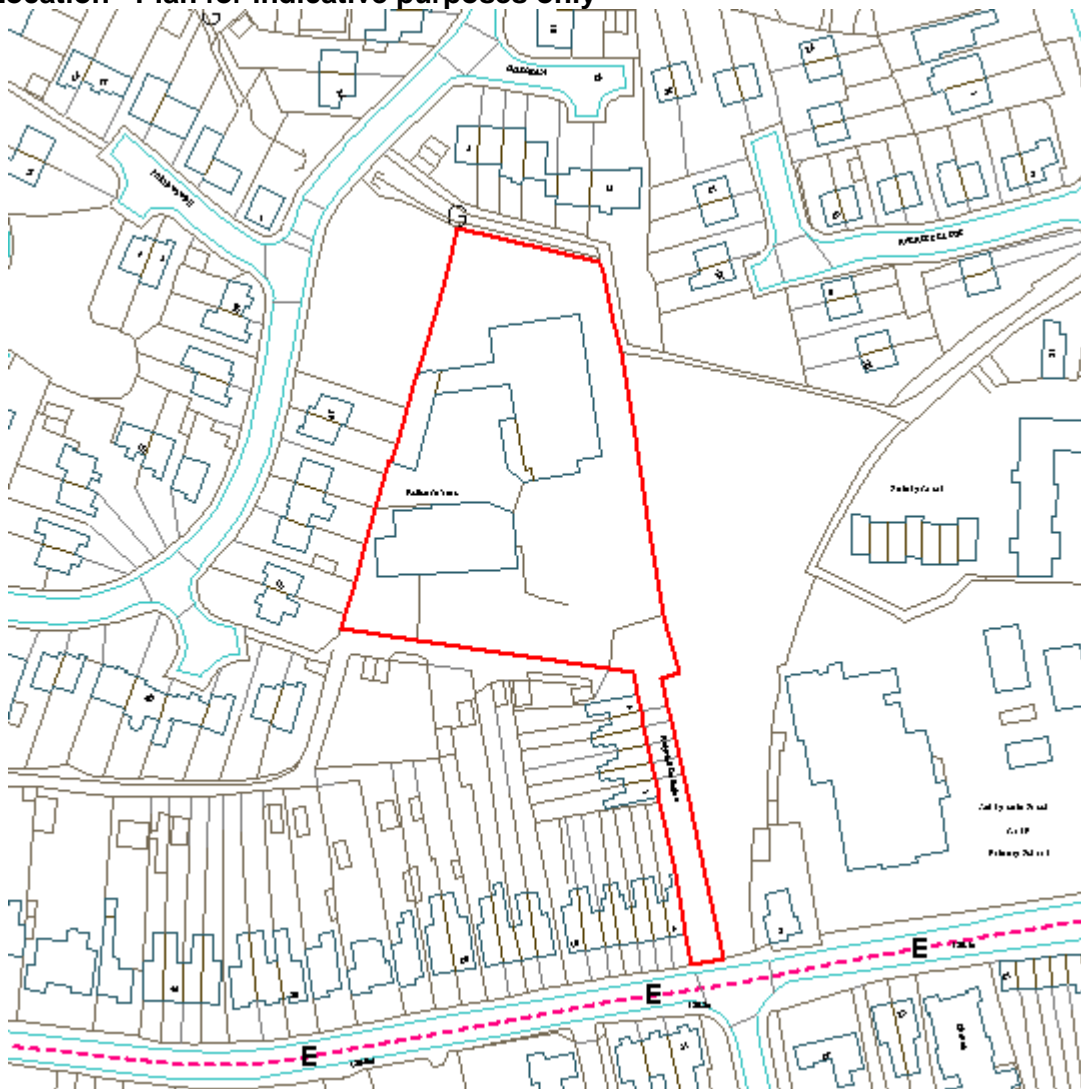
Date Registered
20 February 2009

Case Officer:
Alan Harvey

Target Decision Date
22 May 2009

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

This application was last considered at Planning Committee on 6 July 2010 where Members may recall that they resolved to grant planning permission, subject to the imposition of planning conditions and the signing of the Section 106 Agreement. The S106 Agreement was never completed and therefore planning permission has not been issued, and the applicant is now keen to complete the agreement.

Due to the lapse in time, the application needs to be reported back to Planning Committee to update Members of the updated financial contributions and any other subsequent changes to policy and conditions, where relevant.

Proposal

There have been no changes to the detail of the scheme, which still seeks consent for the conversion of the mill building and erection of extensions, and new buildings to provide a total of 44 No. dwellings on the site.

Consultations

Statutory consultees have provided updated financial contributions and Leicestershire County Council and Severn Trent have confirmed that no further information is required to be undertaken in respect of highway safety and the River Mease SAC/SSSI.

Planning Policy

Since the time of the resolution on 6 July 2010, there have been a number of changes to National Planning Policy, namely with the introduction of the National Planning Policy Framework and more recently published National Planning Policy Guidance. A full account of all relevant policy is contained within the main body of the report.

The previous East Midlands Regional Plan has been revoked and does not carry any weight in the determination of the application.

Conclusions

National Planning Guidance, and other material considerations have not changed in a manner that would now lead to a different conclusion on the acceptability of the application. It is considered that all conditions are considered necessary, subject to the removal of previous condition 3 and re-wording of condition 23. As such it is recommended that the Section 106 be completed, containing the latest, updated financial contributions, as set out in the main body of the report.

RECOMMENDATION - PERMIT, APPROVE SUBJECT TO SECTION 106 OBLIGATIONS AND THE IMPOSITION OF CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all recent 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.

A copy of the previous report to planning committee is enclosed within Appendix A and a copy of the late items enclosed within Appendix B of this report.

Main Report

1. Proposals and Background

Members are advised that this application for the conversion of the mill building and erection of new buildings to provide 44 no. dwellings with associated works at Holywell Mill, Burton Road, Ashby was originally reported to Planning Committee on 6 April 2010.

At that time the application was deferred to provide an additional time period for the submission and assessment of additional/revised information in relation to foul flows in relation to the impact of the proposal on the River Mease Special Area of Conservation (SAC).

The application was subsequently reported back to Planning Committee on 6 July 2010 where Members may recall that they resolved to grant planning permission, subject to the imposition of planning conditions and the signing of the Section 106 Agreement.

The S106 Agreement was never completed and therefore planning permission has not been issued, and the applicant is now keen to complete the agreement.

Due to the lapse in time, it is considered that the application needs to be reported back to planning committee to update Members of the updated financial contributions and any other subsequent changes to policy and conditions.

A copy of the previous report to planning committee is enclosed within Appendix A and a copy of the update sheet enclosed within Appendix B of this report.

2. Consultations:-

Severn Trent have confirmed that there is spare capacity available at Packington Sewage Treatment Works, and the recent closure of the Arla plant has made a lot more capacity available. Packington Sewage Treatment Works have also been upgraded to a phosphate discharge permit of 1mg/l and the necessary permit has been issued by the Environment Agency.

Leicestershire County Council Highway Authority have confirmed that the original consultation responses dated 16/3/09 continues to apply in full and have also provided updated financial contributions.

3. Changes to 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 contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- o approve development proposals that accord with statutory plans without delay; and
- o grant permission where the plan is absent, silent or where relevant policies are out of date

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.

The NPPF (Para 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 indicates, amongst other things, that planning should proactively drive and support sustainable economic development to deliver the 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 for all existing and future occupants of land and buildings;

Paragraph 32 outlines that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. 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;

Paragraph 49 outlines that 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;

Paragraph 57 outlines that 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;

Paragraph 60 outlines that planning policies and decisions should not impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness;

Paragraph 61 outlines that 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;

Paragraph 64 outlines that 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;

Paragraph 111 encourages the effective use of land by re-using land that have been previously

developed (brownfield land) providing that it is not of high environmental value.

Paragraph 118 outlines that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying particular principles;

Paragraph 119 states that '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.'

Paragraph 120 outlines that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account;

Paragraph 121 outlines that planning policies and decisions should also ensure that, amongst other things:

- 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;

Paragraph 123 outlines that planning policies and decisions should aim to avoid noise from giving rise too significant adverse impacts on health and quality of life as a result of new development;

East Midlands Regional Plan (March 2009)

The Government has revoked the Regional Spatial Strategy for the East Midlands with effect from 12 April 2013.

Other Guidance:

The Habitat Regulations:

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):

Circular 06/05 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:

This plan 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 - November 2012:

The Developer Contribution Scheme (DCS) 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:

The 2010 Regulations 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.

6C's Design Guide (Highways, Transportation and Development) - Leicestershire County Council:

Paragraphs 3.171-3.176 set out the County Council's guidance in relation to parking standards for residential development. This document also provides further info in relation to motor cycle/cycle parking, the design of on/off-street parking and other highway safety/design matters.

National Planning Practice Guidance - March 2014:

This 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.

Assessment:-

The main reason for referring this application back to Planning Committee was to provide an update on the financial contributions, since the application was last considered at Planning Committee in 2010. It is also necessary to consider whether there have any material changes in planning policy since the previous application that would affect the determination of the application and to consider if the originally imposed conditions are still required.

Changes to Policy

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 original application was resolved to grant planning permission in 2010 therefore it was considered against the same North West Leicestershire Local Plan policies which have been 'saved' by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004. As such the scheme has been considered in line with the development plan

policies.

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 appeal 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 within limits to development and is well related to the town centre and also relates to the re-use of an existing building. Furthermore, as set out in original report attached as an appendix, 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'.

Paragraph 111 within the NPPF is also supportive of the re-use of brownfield land.

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 still considered to be acceptable.

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

In summary, National Planning Guidance, and other material considerations have not changed in a manner that would now lead to a different conclusion on the acceptability of the application.

Housing Land Supply

The previous application was considered in line with the requirements of government guidance in PPS3, where there was an obligation on Local Planning Authorities to assess and demonstrate the extent to which existing plans already fulfil the requirement to identify and maintain a rolling five-year supply of deliverable land for housing.

The NPPF goes a step further, requiring 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.

As the site does not fall outside limits to development, Policy S3 would not be applicable and the scheme is considered to represent sustainable development and in conformity with Policy H4/1. It is therefore considered that the changes to the five year housing land supply position would not result in any changes to the recommendation in this case.

Highway Safety

Since the consideration of the application, a number of other developments have been granted in the area, particularly on Smisby Road and the County Highway Authority have been asked to consider whether additional assessments are required to be undertaken by the applicant.

The County Highway Authority have confirmed that their position remains the same as that given at the time of first consideration and that no further work on the applicants part is required.

Ecology

Within the original determination of the application, Natural England withdrew their objection following the submission of a necessary survey of bats and requested that a note as per paragraph 4.4 of the bat report be attached to the permission, if granted. Paragraph 4.4 states

“In addition to this, were the proposed development works not undertaken within a reasonable time-frame (approximately one year) a further survey may be required to re-confirm the absence of a bat roost.”

Accordingly condition 32 was imposed which required that should the development not commence on site by 1 July 2010 a further survey for the presence of bat roosts would be required to be undertaken.

Unfortunately the timeframe, should have actually read 1 July 2011, but nevertheless the originally intended one year time period has now clearly lapsed. It is considered, than in any case, this time period would not be relevant, as should any further surveys had identified the presence of bat roosts then appropriate mitigation would have been required.

Given that the mitigation would be to provide roosting sites, then it is not considered that the condition is required, as condition 30 already states this:-

No development shall commence on the site until details of the provision of roosting sites for bats within the site have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be provided prior to any residential unit being first occupied and thereafter be so maintained at all times.

Reason:- In the interests of the habitats of protected species.

As such it is therefore recommended that condition 32 be removed, as appropriate mitigation is already proposed within condition 30.

River Mease

The application was extensively considered in respect of surface water contribution and the Council commissioned expert consultants to provide a Habitats Regulations Assessment.

Since this application was last reported to Committee the River Mease SAC Developer Contribution Scheme has now been adopted.

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.

Natural England previously considered that the foul water discharge of the proposed development would not constitute a significant adverse effect upon the integrity of the River Mease SAC and was therefore considered that there was unlikely to be a significant increase in foul water. Furthermore, Severn Trent Water have now confirmed that there is spare capacity at Packington Severn Trent Water, as the recent closure of the Arla plant (on Smisby Road) has

been significant more capacity available.

When having regard to the existing commercial activities which currently exist on site, in comparison the proposed scheme it is still not considered to result in any significant increase in foul water, indeed when considering the current usage the scheme would result in a betterment, and therefore it is not considered that a contribution can be requested in this case.

Within the original application, condition 3 read:-

“No development hereby permitted shall commence until:

- (i) works to the Packington Waste Water Treatment Works have been completed and the works secure a reduction in phosphate levels in the discharge at the works to 1mg per litre*
- (ii) the developer submits to the local planning authority written confirmation from Severn Trent Water that the improvement works to Packington Waste Water Treatment Works have been completed and evidence of any necessary written consent issued by the Environment Agency or its successor, which limits phosphate levels in the discharge to a maximum 1 mg per litre.*

Reason- To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution and ensure that there is no adverse impact on the River Mease SAC in accordance with Policies 26 and 32 of the East Midlands Regional Plan”

Severn Trent Water have stated that Packington Sewage Works have been upgraded to meet a phosphate discharge permit of 1mg/1 and the necessary permit has been issued by the Environment Agency. Therefore on this basis it is no longer considered that condition 3 will be required to be imposed.

As such, the integrity of the River Mease SAC would be preserved in accordance with Paragraph 118 of the National Planning Policy Framework and the 2010 Habitats Regulations and Circular 06/05.

Other Matters

The scheme in design terms was assessed against Saved Policy E4 of the Local Plan and is considered to be in compliance with paragraph 57, 60, 61 and 64 contained within the NPPF.

In terms of impact upon residential amenity the scheme has not changed in any way since the previous resolution and the scheme was considered against Saved Policy E3 of the Local Plan and therefore no further consideration on this matter is required.

Financial Contributions

The resolution to grant planning permission originally sought to secure the following contributions through the Section 106 Agreement comprising:

- Leisure – £48,400.00
- Health care - £583 (1-2 bed), £1,167 (3-4 bed), £1,750 (5+bed)
- Education - £74,244.00
- Library £2,060.00

- Civic amenities - £4,097.00
- Affordable housing – 13 no. units in total, 9 as social rented and 4 no. low cost home ownership
- National Forest planting - £6,000 in lieu of on site provision
- Travel pack 1 no. per unit
- Two adult passes per unit
- Bus stop infrastructure £6,810.00
- Monitoring fees- £250.00

Following re-consultation with Leicestershire County Council and NHS England the following have been requested-

Healthcare

NHS England have sought £14,727.18 towards a new surgery for Ashby Health Centre for additional patients arising from the development.

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 £33,635.25 for the primary school sector.
- a contribution of £20,021.31 for the high school sector, for Ivanhoe College.
- a contribution of £20,557.78 for the upper school sector, for Ashby School.

Libraries

Leicestershire County Council is still seeking a contribution of £2,060 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:

- 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).
- 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
- Improvements to the two nearest bus stops, including raised and dropped kerbs to allow level access, to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
- Information display case at the two nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display.
- Contribution towards equipping the nearest bus stop(s) with Real Time Information (RTI) system at a total of £5,840.

Civic Amenity

No Civic Amenity contribution has been requested.

National Forest

National Forest have confirmed that as the site area is 0.56 hectares, which would equate to 0.11 hectares of on-site planting or a contribution of £2,200.00 in lieu of on-site planting.

Summary

The resultant contributions to be secured through the Section 106 Agreement would now comprise:-

- Leisure – £48,400.00
- Health care - £14,727.18
- Education - £74,214.34
- Library £2,060.00
- Affordable housing – 13 no. units in total, 9 as social rented and 4 no. low cost home ownership
- National Forest planting - £2,200.00 in lieu of on-site provision
- Travel packs £52.85 per pack
- Two adult bus passes per unit
- Bus stop infrastructure £12,606.00
- Monitoring fees- £250.00

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.

Changes to Conditions

Condition 3

As discussed above, resultant of the improvement works to Packington sewage works, it is therefore recommended that the following condition be removed:-

No development hereby permitted shall commence until:

- (i) works to the Packington Waste Water Treatment Works have been completed and the works secure a reduction in phosphate levels in the discharge at the works to 1mg per litre
- (ii) the developer submits to the local planning authority written confirmation from Severn Trent Water that the improvement works to Packington Waste Water Treatment Works have been completed and evidence of any necessary written consent issued by the Environment Agency or its successor, which limits phosphate levels in the discharge to a maximum 1 mg per litre.

Reason- To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution and ensure that there is no adverse impact on the River Mease SAC in accordance with Policies 26 and 32 of the East Midlands Regional Plan.

Condition 32

As discussed in the main body of the report, it is re-commended that the following condition be removed:-

Should the development not commence on the site by 1 July 2010 a further survey for the presence of bat roosts shall be undertaken in accordance with a survey scheme that shall have first agreed in writing by the local Planning Authority. Should any bat roosts be found at the site a mitigation scheme shall be first be agreed in writing by the Local Planning Authority. Any mitigation scheme shall then be implemented in accordance with the agreed scheme.

Reason- To provide protection for protected species.

For the avoidance of doubt the reason attached to condition 4 will be re-worded to remove the reference to the Policies 26 and 32 of the East Midlands Regional Plan.

All the other conditions imposed on the original consent are considered to be necessary, reasonable, relevant and enforceable and compliant with Circular 11/95 and therefore considered to be acceptable.

Conclusion

National Planning Guidance, and other material considerations have not changed in a manner that would now lead to a different conclusion on the acceptability of the application.

The proposed development is still considered to be acceptable in terms of layout and design, impact upon residential amenities, transportation and highway safety issues ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise.

It is considered that all conditions are considered necessary to be carried above, subject to the removal of previous condition 3 and re-wording of condition 23. As such it is recommended that the Section 106 be signed, contained the latest financial contributions.

RECOMMENDATION - PERMIT, APPROVE SUBJECT TO SECTION 106 OBLIGATIONS AND THE IMPOSITION OF CONDITIONS.

Appendix A: Previous Committee Report

1. Proposals and Background

Members are advised that this application was originally reported to Planning Committee on April 6th 2010 when the application was deferred to provide an additional time period for the submission and assessment of additional/revised information in relation to foul flows in relation to the impact of the proposal on the River Mease Special Area of Conservation (SAC).

This deferral resulted from further correspondence received from Ashby de la Zouch Civic Society following the completion of the Committee report questioning the accuracy of the methodology and conclusions of the Foul Flow Assessment submitted on behalf of the applicants. Specifically, the Civic Society contended that the development will actually result in a significant increase in foul water flow and a consequential increase in phosphate levels to the detriment of the River Mease Special Area of Conservation.

In response, and notwithstanding it previously raised no objections, Natural England indicated that they shared the concerns of the Civic Society in relation to the apparent inaccuracies surrounding the use of two calculating methods in the Foul Flow Assessment. As a result Natural England subsequently raised objections to the proposal because it was considered that, either alone or in combination with other plans or projects, it may have a significant effect on the internationally important interest features of the River Mease Special Area of Conservation, or any of the features of scientific interest of the River Mease Site of Special Scientific Interest.

In light of the issues raised in relation to the Foul Flow Assessment and the objection raised by Natural England, the applicants stated that they intended to provide further submissions in relation to the impact of foul flows as noted in the update sheet for the April Committee. The submission of this information would necessarily need to be the subject of further consultation with the Environment Agency and Natural England - along with the Civic Society - before the District Council is in a position (as the 'appropriate authority') to prepare a revised Habitats Regulation Assessment.

The applicant has now submitted the necessary further information in relation to the impact of the proposals on the River Mease SAC which states as follows:

Surface Water Contribution

The development proposals will bring about a reduction in the discharge rate to the existing combined sewer by virtue of the removal of surface water from the system; this is acknowledged by Ashby Civic Society.

Whilst we are aware that the matters in question relate to foul flow, we would contend that the reduction in surface water flow to the combined sewer can still be considered to have a substantial beneficial affect on the Packington STW and consequently on the SAC. We have used a 1:1 year flood return period to illustrate the potential reduction in surface water flows but surface drainage designs are often required to cater for up to 1:100 year rainfall events. In such an event the potential of reduction in surface water flows to the combined sewer is substantial. You will no doubt understand that discharges from the treatment works are currently maintained within consent levels. During extreme storm events it is inevitable that the sewerage infrastructure will struggle to cope, combined sewer overflows will operate and substantial

amounts of largely untreated effluent may be discharged to the watercourse. Such an occurrence can only be considered as detrimental to the overall integrity of the SAC and in such rare occurrences levels of all pollutants discharged to the SAC will be elevated. This risk will be reduced by the proposed development.

Generally it would appear that some confusion has now developed as to how this reduction has been applied within the figures provided in the report. For the avoidance of doubt we have not assessed proposed flows to the combined system as lower than existing flows on the basis of surface water contribution alone.

Below we set out a summary of our findings which shows the anticipated proposed and existing flows to the combined sewer.

Wastewater Type	Existing	Proposed
Foul	4.22 l/s	2.037 l/s
Surface Flows	22.2 l/s	0 l/s

Comments have been raised regarding the potential for increased concentration of pollutants caused by the removal of storm water from the combined system. Whilst the removal of storm water may well increase the concentration of effluent arriving at the treatment works it is unlikely to have an impact on concentrations within the Mease itself as surface water will still ultimately be discharged from the development to these watercourses by way of the proposed surface water system.

Notwithstanding the above our analysis has compared proposed and existing foul flows and the results indicate a reduction in foul water discharge rates.

In their letter below, the Civic Society argues that the comparisons used are “apple and pear”, however, the reasons for using differing comparison methods have been detailed within the report and I expand upon them further below.

The methods used are necessarily different as flow patterns within the proposed and existing applications are inherently different in nature. It is a matter of fact that a WC at a local gymnasium can be expected to experience higher usage rates than a domestic equivalent. Similarly we can expect much higher flow rates from a canine beautician where many dogs each day are washed than a domestic shower. However in order to make an assessment it is necessary to compare these wildly different uses, tables of foul flow rates from such a wide mix of applications are not available and we must use the best data available for this purpose. Given the eclectic nature of the development the foul flow rates have therefore been calculated in accordance with BS EN 12056. In doing this we are treating all drainage fittings equally – we have made no allowance for the canine beautician or the car valeters which would be expected to be high users of water and high dischargers of detergents. Diurnal flow patterns in dwellings are better understood and the widely accepted 4000 l/dwelling/day figure from Sewers for Adoption has been used to assess the proposed development discharge rate.

It would not be appropriate to assess the flow rates for both proposed and existing uses by the unit discharge method as this would ascribe the same usage rate for a shower used many times a day at the gym as its domestic equivalent.

We are also aware that comment has been made regarding site occupancy rates. Our initial report (paragraph 2.4) indicates that around 20 people are in permanent occupation of the site and around 10 people may be visiting at any one time. Our report goes on in paragraph 2.5 to

detail the existing Karate/Judo Dojo and Gym Membership rolls, estimated to be in the region of 45 and 150 patrons respectively. In retrospect it is possible that the statement in paragraph 2.4 may have been misleading but should not be taken as an indication that only 20 people make use of the facilities on site. Following our report we have now been provided with a list (Holywell Mill Occupiers) detailing the current site occupation levels and upon review it is clear that whilst permanent occupancy levels may be lower than for the proposed residential use, total usage numbers including patrons and visitors, are much higher than the proposed residential use."

This information has subsequently been the subject of re-consultation with Natural England, the Environment Agency and Ashby de la Zouch Civic Society and any further comments received are reported in the 'further representations' section of this report below. In addition, the Council has commissioned expert consultants to provide a Habitats Regulations Assessment of the application and their conclusions are reported in the officers assessment section of the report.

Proposal

Holywell Mill, along with the properties at Nos. 1-6 (inc) Holywell Cottages, are accessed off Burton Road via a private drive, which has a tarmac surface and is without a demarcated pedestrian pathway. The drive also provides vehicular access to garaging and parking areas to the rear of properties fronting onto Burton Road and a pedestrian link onto Rouen Way, albeit this link is not designated a public right of way. The application site is adjoined to the west by an area of public open space and the rear gardens of dwellings on Rouen Way, which are situated at a higher land level than the application site. To the east the site is bounded by an open grassed area; beyond which to the south-east is Ashby de la Zouch Church of England Primary School. A public footpath linking Rouen Way to Smisby Road runs along the northern boundary of the site - and in part along the eastern boundary - beyond which are properties situated on Roedean Close. The site is situated within limits to development as defined in the adopted North West Leicestershire Local Plan and within the catchment area of the River Mease Special Area of Conservation (SAC).

Holywell Mill is a four storey brick built structure which was constructed as a flour mill in the 1870s. The Mill, which was the subject of a recent unsuccessful request for listing building designation, has been the subject of subsequent external alteration - particularly in the post war period - including the erection of extensions to the front and western side elevations of little or no architectural merit. A further group of detached single storey buildings - also of no particularly architectural interest - occupy the south-western area of the site.

In 2008, an application for full planning permission (ref: 08/00726) was submitted for the conversion of the mill building and erection of extensions and new buildings to provide a total of 44 No. dwellings on the site. The application was withdrawn when it came to light that the incorrect land ownership certificate had been completed on behalf of the applicants.

A revised application for full planning permission (ref: 09/00082) has now been submitted for the conversion of the mill building and erection of extensions and new buildings to provide a total of 44 No. dwellings on the site. In addition to the external and internal alterations to the Mill building ('Block A') in connection with its conversion to 16 No. apartment units, the scheme comprises the following elements:-

- The erection of a three storey extension to the rear (northern) elevation of the Mill building to provide 12 No. apartments ('Block B'). The proposed extension is to be constructed in facing brickwork with a grey slate pitched roof to match the Mill. The extension is to be attached to the main Mill building by means of a three storey glazed

link with a flat roof.

- The erection of two storey structures, with grey slate pitched roofs, towards the western and southern boundaries of the site. The western structure ('Block C') comprises of 10 No. apartments/dwelling units and the southern structure ('Block D') contains 6 No. dwelling units. Block C is situated a distance of between 1.2 - 2.0 metres from the western boundary of the site and the submitted drawings show that a number of the window units to the rear elevation of the block – primarily those at first floor level - are proposed to be obscured glazed. The first floor rooms in question are either bathrooms or 'dual aspect' (i.e. with a clear glazed window unit facing towards the courtyard area to the development). Block D is situated a minimum distance of 6.0 metres from the southern boundary of the site and will benefit from enclosed rear garden areas. Blocks C and D will have a painted rough cast render finish to their exteriors.
- The erection of boundary treatments which include the provision of 2.4 metre high wooden slat fencing to the rear boundaries of Blocks C and D along with the proposed erection of 2.1 metre high galvanised steel fencing to the northern and eastern boundaries; both adjoining the public right of way and running around to the public open space onto Rouen Way (with 6 No. lighting bollards to be sited alongside the public right of way). Sections of 2.0 metre high brick built walls are also proposed along parts of the southern and western boundaries.
- The provision of 50 No. parking spaces within the curtilage of the site, including 6 No. spaces for Holywell Cottages. It is also proposed to provide a 1.0m wide path to the western side of the access drive off Burton Road and a pedestrian link to the existing public footpath is proposed to the eastern boundary.
- The provision of an enclosed childrens play area adjacent to the eastern elevation of Block D. A 1.0 metre high brick wall with 1.0 metre high fencing atop is proposed to the northern and eastern sides of the proposed childrens play area. A similar boundary treatment is proposed to the 'Holywell Cottages parking' area.
- The provision of bin stores and cycle parking facilities.

In overall terms the proposed development will provide 16 No. one bedroom apartments, 17 No. two bedroom apartments, 6 No. three bedroom units (of which 3 No. are apartments) and 3 No. four bedroom dwelling units. The scheme will result in the demolition of all existing buildings at the site other than the principal Mill building.

The application as originally submitted was accompanied by a design and access statement, Local Traffic Impacts Assessment and an Environmental Statement. Subsequent to the original submissions, revised plans were submitted providing for amendments to the design of the proposed development. The principal amendment to the design of the scheme was in relation to the link structure between the existing mill building and its proposed rear extension. The amendments were secured in conjunction with the Council's Urban Design Officer. Further, in response to the initial comments of statutory consultees, a Flood Risk Assessment, a Geo-Environmental Survey and a draft Section 106 Agreement were also submitted. The draft Section 106 Agreement proposes commuted sums towards education (£74,224), libraries (£2,060), civic amenity sites (£4,079), leisure facilities (£48,400), health facilities (pro rata based on the number of bedrooms per residential unit), national forest planting contribution (£6,000), along with travel pack, travel pass and bus stop infrastructure and affordable housing provision of 9 No. social rented units and 4 No. shared ownship units. The draft Agreement also provides

for the necessary monitoring fees.

Subsequently, surveys of the buildings and the external site in relation to determining the presence of bats was carried out and submitted in response to an objection raised by Natural England to the initial submissions (see below). The surveys (including a nocturnal survey) concluded that there was no evidence of bat usage observed in association with the structures on the site, although a small number of common pipistrelle bats were noted using the site curtilage as a commuting and foraging area. A Foul Flow Assessment was submitted to seek to demonstrate that the development would not have a detrimental impact on the River Mease.

In a letter to support to accompany the revised submissions the applicant's agents points out the following :-

- The ethos behind the design of the glazing (of the link between the original Mill building and its extension) is to draw on the industrial heritage and precedent of the site and considering that the stair represents the vertical circulation element of the design the new elevations suggest that the stair may have also been the system by which sacks of flour and other large items were moved in to the building and from floor to floor in the manner of early industrial buildings and warehouse's etc, with an external winch system and loading doors at each level.
- In relation to protected species it is requested that the bat survey be conditioned as suggested by Natural England.
- With regard to highway safety, the proposed site layout includes for a one-way traffic circulation system clockwise around the central mill and extension buildings. As such a dedicated vehicle turning head is not indicated as all vehicles are able to move through the site in a forward direction, without the need to reverse.
- This site is in a very sustainable location being very close to all local amenities and situated off the Burton Road bus network and local footpath network.
- Additionally cycle storage is provided within the scheme. Accordingly it is felt that the applicants are in compliance with the Authorities standards for car parking and the provision is also in line with the national objectives of PPS3 Housing, and PPG13 Transport. The scheme also provides 6 No. permanent off-street spaces for the residents of Holywell Cottages, or their visitors, thus reducing the need to park outside their properties. It is also proposed to provide a 1m footpath to the front of these cottages, as currently they are entered directly off the vehicle highway.
- The issue of addressing commuted sums etc is dealt with in the Section 106 Agreement (as noted above).

2. Publicity

55 Neighbours have been notified (Date of last notification 29 December 2009)

Site Notice displayed 23 February 2014

Press Notice published 4 March 2009

3. Consultations

Ashby De La Zouch Town Council consulted 23 February 2009

Environment Agency consulted 2 February 2010
Natural England consulted 23 April 2009
County Highway Authority consulted 24 February 2009
Severn Trent Water Limited consulted 24 February 2009
Head of Environmental Protection consulted 24 February 2009
Natural England consulted 24 February 2009
NWLDC Urban Designer consulted 24 February 2009
LCC Development Contributions consulted 24 February 2009
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 24 February 2009
Head Of Leisure And Culture consulted 24 February 2009
Manager Of Housing North West Leicestershire District Council consulted 24 February 2009
Natural England consulted 29 March 2010

4. Summary of Representations Received

The following comments were received in respect of the application as originally submitted:-

Ashby de la Zouch Town Council raised no objections.

Ashby de la Zouch Civic Society raised objection in commenting that the Society have no objection in principal (sic) to the development of this site for housing and are pleased to see the retention of the main building. The Society is, however, concerned that :-

- Adjacent new buildings should have sympathetic mass and positioning. The current proposal for additional new buildings is overbearing and represents overintensification of the site.
- There is a preference to see a further extension to the main mill building to accommodate further flats than the new blocks on the edge of the site..

County Highway Authority commented that there has been extensive discussions with regard to parking allocation on this site which revealed inter alia that unallocated parking provision cannot be controlled under the planning system. Accordingly, it is considered there is a slight under provision of parking. However the site is served by a private road system and is some way from the public highway (Burton Road) which itself is subject to a Traffic Regulation Order which prohibits parking. As such the County Highway Authority do not believe that an objection due to the shortfall in provision could be sustained on appeal in this instance.

The County Highway Authority also seeks a public transport contribution in respect of a travel pack per unit, two adult travel passes per unit and bus stop infrastructure.

Leicestershire County Council requested an education contribution of £74,224 (comprising Ashby CE Primary School £33,632, Ashby Ivanhoe High School £20,024 and Ashby School £20,568) along with commuted sums of £2,060 towards library facilities and £4,079 towards civic amenity site infrastructure.

Leicester, Leicestershire and Rutland Primary Care Trust seek healthcare contributions on the basis of £583 per dwelling (1/2 bedroom dwellings), £1,167 per dwelling (3/4 bedroom) and £1,750 per dwelling (5 plus bedrooms).

Severn Trent Water Ltd raised no objections in principle

District Councils Leisure and Cultural Services Division commented that a contribution of £48,400 is sought for Community Leisure Facilities. In seeking this contribution the Division point out that this does not offset any requirement for Children's Play facilities.

The Environment Agency objected because the proposed development involves a connection to the main foul sewerage system which would pose an unacceptable risk of deterioration to water quality. In relation to flooding issues, the Environment Agency raised no objections in principle albeit the Agency emphasised that the proposed development would only be acceptable (in flood risk terms) if the measure(s) detailed in the Flood Risk Assessment are implemented and secured by way of a planning condition on any planning permission.

Natural England originally objected on the basis that the protected species survey has not included a detailed survey of the buildings and the external site in relation to determining the presence of bats. With the submission of the necessary surveys, Natural England advised that the survey is satisfactory and that it had no objections with regards to bats.

Environment Services Manager raises no objections in principle.

District Council's Housing Division seeks 13 No. affordable housing units comprising 9 No. units as social rented and 4 No. units as low cost home ownership.

A total of 21 No. letters of representation were received in respect of the application as originally submitted raising objection on the following grounds summarised below :-

It is pointed out that pedestrian traffic from the Rouen Way estate uses the access onto Burton Road to get to the nearby primary school and it is a very popular route to the shops in the town centre. Further the development access is itself in close proximity to the Primary School. The increased traffic the development would create would be severely detrimental to vehicular and pedestrian safety in the locality, in particular to schoolchildren, as the site entrance off Burton Road is substandard and dangerous.

The unadopted access road onto Burton Road is of insufficient width and capacity to serve the proposed development and there will be an increase in the vehicular traffic passing in front of Holywell Cottages. The proposed development involves making a pavement and as such will make the lane narrower. Furthermore, no account has been taken for the access for emergency vehicles into the development. Also to improve safety there needs to be a pavement both sides of any access road serving the development.

The development would cause congestions at the junction between the access to the development and Burton Road, especially at rush hour times. The site is in a bottleneck.

Vehicular traffic using Burton Road is often speeding and the development will result in the removal of speed bumps on the existing access drive thus speeding up traffic. This would be detrimental to pedestrians and vehicular traffic.

Insufficient parking facilities will be provided to serve the number of residential units proposed and there will be no visitor parking. This will lead to increased on-street parking in the proximity of the development in an area where parking is already overstretched. The rights of the occupants of Holywell Cottages and residents of properties on Burton Road to park on the access road and on the track adjacent to the southern boundary of the site must also be maintained as the withdrawal of these parking spaces would also increase parking problems on Trinity Court, Hill Street etc.

The development scheme by reason of its height and proximity to existing surrounding dwellings would result in the loss of light/sunlight to existing residents. The development would also cause overshadowing and seem 'claustrophobic'

The scheme would affect the local meteorological conditions presently enjoyed by local residents in terms of sunlight, wind and daylight.

The development would lead to the overlooking of adjoining properties and garden areas with a resultant loss of privacy to existing residents.

The development would be detrimental to surrounding residents by reason of the noise that will be generated by future residents of the proposed scheme.

The children's play area is in a poor location; being situated next to a main road and adjacent to a car park, where cars will need to reverse out of their spaces. The proposed children's play area would also be used a place of congregation for 'problem' youths, a problem which would be exacerbated if it is not locked at night.

There will be an increase in noise and pollution from vehicular movements around the buildings to parking areas. This will be detrimental to residential amenities.

There is no provision of a communal amenity area for the residents of Blocks A and B whom would be without garden areas.

It is considered that the tree in the south-western corner of the site and several smaller trees along the southern edge should be preserved.

The development will be likely to result in increased criminal activity with the fencing in of the pedestrian path.

In terms of the density of development per hectare the proposal is close to twice the minimum standard of 40 dwellings per hectare and therefore the scheme represents an over-development of the site.

Concerns are raised in relation to the proposal to erect the high fencing/brick wall along the edge of the new development next to the track/path which runs from Rouen Way to the access road to the Mill. This will lead to a loss of natural light, will make the back lane too private, will impact negatively on security by making the back lane too enclosed, introduce the possibility of graffiti and would hinder visibility both on the approach to, and at the point of exit out of, the back lane. This section of track would also be exceedingly dark at night and make it dangerous for people using it to walk into the town centre.

The existing infrastructure in the town is inadequate to the cope with the proposed development. Ashby de la Zouch does not need any more houses to drain the already existing resources

The scheme would result in a loss of habitat for bats, which have been seen on the site, and other wildlife. The affect of any development upon habitats for wild creatures should be investigated.

Concern is expressed in relation to the adequacy of the gravity sewer and drains to serve the proposed development.

The re-development proposed for this site will jeopardise the continued trading of a business which benefits local residents. Customers will no longer be able to walk to the business if Mill Garage relocated to an edge or out of town location and therefore results in less convenience. The proposal would result in the loss of an important amenity for the town.

The proposed dwellings close to the western boundary will not receive the best of natural light.

There are no natural resources to disperse water which will lead to flooding concerns.

Noise and dust would be generated during the building work to the detriment of local residents.

There are no secondary fire escapes to serve the development.

There would a devaluation of existing surrounding dwellings.

The scheme would impact on the outlook from existing properties.

The current housing market may reduce investments in the build and the site will languish. If constructed properties could remain empty.

The proposals seem to be driven by pecuniary interests rather than producing a development that is sympathetic to its surroundings

There is a conflict of interest with the developer being a District Councillor and it is contended that had any one else put in this proposal it would have been dismissed without thought, but being a District Councillor allows unfair consideration.

The access road to the Mill is of unknown ownership and there is a need to clarify ownership.

There are trees to the north of the application site which are not controlled by the applicants and these should not be altered.

It is pointed out that the residents of properties on Burton Road have rights to vehicular access to the rear of their properties from the access road serving the Mill. Further, it is stated that residents have parking rights along the access as the lane has been used as resident parking for the residents of Burton road and Holywell Cottages uninterrupted for at least 25-30 years and continues to be used as such. Any imposition of enforceable parking restrictions (as opposed to the current restrictions threatened with questionable legality by the developer) on this lane would lead to a massive shortage in available parking in the locality.

A number of the letters of representation indicate that some development may be appropriate on the site in particular schemes that provide for the retention of the Mill but amendments need to be made to make the scheme more acceptable; for example that a more varied design be used, that the scheme is single storey and that the proposals be of a reduced density.

It is also pointed out that prior to the submission of the application, but in response to the necessary notification given by the applicant under 'Certificate D' in the local press of the applicants intention to submit the application (given that the applicant was unable to identify all the owners of land within the application site), the Council received a total of 15 No. letters from local residents raising objections to the development. The objections raised reflected those subsequently raised by local residents in relation to the formal consultation process undertaken by the District Council and which are summarised above.

Revised Submissions

Upon the receipt of the revised plans for the link structure and the Foul Flow Assessment, the Town Council, Civic Society, Environment Agency, Natural England and the local residents were reconsulted. The responses received in relation to the amended submissions are summarised below as follows :-

Ashby de la Zouch Town Council raises no objections but comments that access issues should be resolved prior to the commencement of development and the children's play areas should be re-sited further from Burton Road.

Ashby de la Zouch Civic Society comments that it wishes to maintain its objection to this application.

The Civic Society re-iterates that it has no objection in principle to the development of this site for housing and are pleased to see the retention of the main building. However, the Society are concerned that:

Adjacent new buildings should have sympathetic mass and positioning. The current proposal for additional new buildings is overbearing and represents over intensification of the site.

The Society would prefer to see a further extension to the main mill building to accommodate further flats than the new blocks on the edge of the site.

The re-design of the link building is inappropriate especially the flat roof and is unsympathetic with the main building architecture.

The assumptions made in the new water engineering report (i.e. Foul Flow Assessment) are erroneous. The Society consider this application will be detrimental to the River Mease SAC (Special Area of Conservation) due to increases in foul water connected to Packington STW (Sewerage Treatment Works). The run off of surface water is irrelevant as this is directed to the Gilwhiskaw Brook and does not impact the phosphorus loading which is the key concern of the Environment Agency. The new buildings represent 44 residences with 86 bedrooms. Assuming occupancy of 1.5 people per bedroom, this represents a residency of 129 people on site. The report quotes a current site usage of 20 permanent employees plus 10 visitors at any one time. This represents an increase of 9,900 litres a day of foul sewage, (assuming 100l/day/person foul water). The report quotes the following foul water generators and the proposed equipment is calculated from the planning application.

The Civic Society conclude that there will be a significant increase in foul water and phosphorus loading to Packington STW (Sewerage Treatment Works) which will be detrimental to the River Mease SAC

Natural England advises that it has no objection to the proposal because it is considered that, either alone or in combination with other plans or projects, it would not be likely to 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. With regard to the foul sewage calculation Natural England comments that it supports the conclusions of the submitted Foul Flow Assessment, a peak discharge from the 44 dwellings would be 2.01l/s, this represents a 50% reduction that the sewerage treatment works will receive post development. This is due to the relationship between the current commercial use, and the proposed

residential use. Natural England supports the use of SUDS and a coherent drainage plan that will reduce wet weather flows by 92%.

Natural England also advised the Local Planning Authority to seek assurances from the Environmental Agency and Severn Trent Water that the proposed flows can be accepted at Packington Sewerage Treatment works before determination. Furthermore Natural England recommended that the Environmental Agency advise as to whether the surface water would have an adverse impact on the interest features of the River Mease SAC/SSSI.

Natural England also re-iterates that the bat survey is satisfactory and that it would have no objections in regard to bats.

Environment Agency commented in the light of the response of Natural England that in respect of surface water flows it does not anticipate any adverse effects on the River Mease SAC/SSSI as a result of altering the surface water drainage system at the site.

In respect of foul water flows the Environment Agency advises that its objection to this proposal will remain until the Agency have received confirmation from the sewerage undertaker (Severn Trent Water Ltd) that they have been consulted on the foul flow assessment, and that they can confirm the following:-

- Confirmation of which Waste Water Treatment Works will receive the sewerage from the proposed development.
- Confirmation that there is sufficient capacity within the current discharge consent (DWF) for that Waste Water Treatment Works to accept the expected load from the development.
- Confirmation that the effluent can be discharged within the limits of the determinants set by the current discharge consent.
- Confirmation that the existing sewerage infrastructure is capable of receiving the drainage from the development without causing a pollution risk.

Severn Trent Water Ltd comments that having regard to the objection of the Environment Agency that the position in terms of waste water strategy is that "Severn Trent can confirm that this development will drain to Packington sewage treatment works. Currently there is spare headroom with the current discharge consent to accommodate additional flows from up to 700 new dwellings and can confirm that effluent from (the development) can be accommodated within the limits of the determinants set out by the current discharge consent. With regard to the sewerage infrastructure the proposed development will not have an adverse impact on the sewerage system, indeed the proposal to use SUDS to reduce wet weather flows by 92% and the 50% post development reduction in peak foul discharge will provide a slight improvement in performance. Severn Trent Water therefore has no objection to this development."

A total of 6 No further letters of representation were received in respect of the application as revised. The letters re-iterate a number of the previously stated objections (which are summarised above) along with the additional objections summarised below :-

The Packington Sewerage Treatment Works are unable to cope with existing demands and the Agency responsible has indicated that there should be no further development until the problem is solved.

The amended plans show that the access stair block between Blocks A and B has been raised and this now looks totally disjointed. It is considered that it would aesthetically pleasing if the roof of the access tower was at the same angles as Blocks A and B and not stick out like a 'sore thumb' as proposed.

The proposed materials for the access stair block are not in keeping with either the existing Block A or the new Block B. The scheme currently looks more like an office block than a housing development.

The development could reduce water pressures to the water supply serving existing properties.

A copy letter has also been sent to the District Council in relation to a submission to the County Highway Authority by a local resident raising objections to the highway safety aspects of the proposed development, in particular the access to serve the proposed development.

A further letter of representation has been received from an Ashby Town Councillor for the Holywell Ward, following completion of the Committee report, in which he re-iterates the concerns raised on highway safety grounds in an earlier letter to the County Highway Authority (which is referred to the officer report to the Committee). The Town Councillor again points out that the existing highway access is "wrong"; that a residential development which perpetuates - and arguably exacerbates - that "wrong" can never make it a "right", and therefore should not be allowed. The Town Councillor also comments that whilst it is understood that the Developer has acquired land adjoining the existing roadway, he is not aware of any planning proposal from the Developer which addresses the access problems.

Further Representations Received Following 6th April 2010 Planning Committee

Since deferral of the application from Planning Committee on 6th April 2010, five further separate representations have been received from **Ashby de la Zouch Civic Society** which are outlined below:

1. We maintain our objection to this application.

- This application was deferred at the April planning meeting for further reports on the impact on the River Mease SAC.
- The officer's report made no mention of the building for life assessment which is now a requirement of policy adopted by the Council in December 2008.
- We request that this obligation is discharged and an assessment made and presented to the planning committee.
- We consider that this proposal falls far short of the design standards required by this policy.
- We attach our own assessment which scores the scheme at 8.5 suggesting poor design.
- If the Council's assessment agrees this score then the adopted policy requires that the Urban Designer should recommend the application for refusal.

2. We would add to our objections to this application as the scheme is in contravention to design Bulletin 32 criteria for residential roads and footpaths.

- The entrance road must be adopted by the County Council due to the size of the development. The ownership of this road is unknown. If the Council adopt the road without the previous ownership being determined the Authority leave themselves open for future legal challenges. The Council should insist on the ownership issues being resolved before granting permission.
- The design of the entrance road is unacceptable. The recommended minimum road width is 5.5m, but this scheme is only 4.8m. The minimum pavement width is 1.8m. This scheme is only 1.0m.
- The proposed footpath is not only to be used by residents of the development but is used by residents of the nearby large housing estate as a main route to the nearby

primary school. A footpath of only 1m wide is therefore clearly inadequate in a morning when mothers and children will be using the path at the same time as residents leaving to work by car.

- As the pavement is on the west side of the road only pedestrians will be forced to cross the entrance carriageway in front of cars at the junction as they are trying to emerge from the site.
- The whole entrance design is therefore considered to be unsafe. We would insist that the Highways Authority undertake a safety assessment of this scheme.

3. Further to my previous attached comments (see above), we would ask you to consider the additional comments that:

- The proposed road serves the new development of 44 dwellings and an existing row of 6 cottages. However you should be aware that the residents on the north of Burton Road use the proposed access road to gain access to their garages at the rear of their properties. This access road then is proposed to service a total of 71 properties. Access roads servicing above 50 properties require a road width of 5.5m (Manual for Streets LCC)
- The Pavement proposed will be required to service the same 71 properties. In addition it services a footway from the adjacent large estate of Rouen way and Roedean Close etc. Parents and children from this estate to use this path to access the local school to avoid a 1/2 mile walk around the alternative route to the school. Pavements with this level of usage should be 2m wide. (Manual for Streets LCC)

4. We maintain our objection to this application.

- This application was deferred at the April planning meeting for further reports on the impact on the River Mease SAC.
- We are now in receipt of Mr Stewart's submission of further evidence of 10th May and would comment as follows:
- We disagree that the reduced foul flow would have a substantial benefit to Packington STW or the River Mease. Although reducing the load on the works in terms of flow, this small reduction would have insignificant impact on capacity of the works and no change to the River Mease SAC. Measured down stream of the STW the flow rate and P levels will be the same whether the sewage/surface flow is combined or split.
- We accept that the current use is different from the proposed domestic use.
- We do not accept that this factor cannot be taken account of in the calculation nor that the two scenarios cannot be compared by the same method.
- We attach two calculations for your information. One using the BS EN 12056 proposed by the applicant and a daily flow rate calculation using appliances and usage rates adjusted by the employment and visitor information supplied.
- Despite increasing the submitted current flow calculation by a generous 66% to account for the dog parlour and gym the calculation clearly shows more foul water generated by the development.
- The daily flow rate calculation again shows a generous allowance in the present usage. This is far outweighed by the future usage calculated for the proposed dwellings.
- We therefore conclude that the development will generate significant more foul sewage flow to the Packington STW and will therefore be detrimental to the River Mease SAC and as such The LPA must reject this application.

5. We would like to add to our previous objection to this application.

- The west elevation of the buildings on the edge of the site rely on obscure bedroom windows to afford privacy to existing residents. We have previously commented that this reduction of amenity for occupants was unacceptable. We would refer you to the

Inspectors recent report of the appeal on 09/01213/FUL which supports this view and rejected the appeal.

- Attached below is his comment:
"The Inspector considered the appellant's suggestion that they would accept a condition to ensure that the 2 bedroom windows in the dormer would be obscure glazed. However, as they would be the only windows to the proposed bedrooms, the Inspector deemed that it would compromise the living conditions in the appeal property and represent an unacceptable solution to overcome a problem that would result from the poor design of the proposed development."
- We ask you to note this decision and apply the same decision to this application.

In light of the comments received by the Ashby Civic Society in relation to the access (see 2 and 3 above), the **County Highway Authority** has responded as follows:

"Regarding the letter from Ashby de la Zouch Civic Society dated 21/4/10, there is no current requirement as part of the development for the Highway Authority to adopt as public highway the proposed access to the site, which falls below the normal standards for adoption contained in "The 6Cs Design Guide - Highways, transportation and development".

The presence of third party land on both sides is such that the existing access drive from Burton Road is restricted in its width, radii and visibility splays. Although the proposed format of the access road does not comply with Leicestershire County Council standards, on the basis of the Transport Assessment by Capita Symonds, dated June 2007 submitted in support of proposals for development at the site, taking into consideration the existing lawful uses at the site in planning terms and the existing potential for traffic, the proposals will not lead to a significant increase in traffic. Therefore it is not considered that it would be possible for the Highway Authority to sustain a reason for refusal on the grounds of an increase in traffic using the access. Similarly, it is considered that the proposal would not lead to a significant increase in the potential for conflict between pedestrians and motor vehicles at the junction of the proposed access with Burton Road over and above that associated with the existing uses at the site. The proposal will lead to a decrease in the number of turning manoeuvres by slow-moving, cumbersome, heavy goods vehicles at the junction of the site access with Burton Road, leading to a highway gain.

In the circumstances it is considered that it would be too onerous for the Highway Authority to require that the Developer should carry out a safety audit of the whole entrance design.

Design Bulletin 32 has been superseded by the Government's 'Manual for Streets'.

The Highway Authority has also commented further:

- The proposed access is not required to be adopted.
- Although the proposed format of the access road does not comply with Leicestershire County Council standards, it is considered that the proposals will not lead to any increase in traffic when considering existing uses and so the Highway Authority is not in a position to recommend that the proposal should be refused.
- The proposed format of the access road does not comply with Leicestershire County Council standards but, on the basis that, in this instance, there will be no increase in traffic, the proposal is acceptable to the Highway Authority.

- It is likely that the Highway Authority will serve APCs on the Developer in respect of all new plots served by the private roads within the development in accordance with Section 219 of the Highways Act 1980. APCs would not be served on residents of the existing properties served by the site access.

In light of the revised foul flow submissions, **Natural England** have indicated it would have **no objection** to the proposal because it is considered that, either alone or in combination with other plans or projects; it would not be likely to 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.

The reasons for this view are stated below as follows::

NWLDC and Natural England received Further Information on 1 April 2010 from Darren Stewart, Senior Engineer at BWB Consulting Limited that clarified some areas of concern regarding the BWB Drainage Assessment submitted as part of the application.

Foul Water

Natural England is satisfied that the proposed development does not constitute significant adverse effect upon the SAC.

The concerns regarding occupancy have been better explained in the Further Information, details of permanent staff and visitors have been provided. Although the existing permanent occupancy is lower than proposed occupancy on site, the existing commercial uses have both high visitor numbers and commercial uses that are conducting high water usage operations.

Furthermore Natural England notes that the commercial properties currently on site, namely Virginia Birch Dog Parlour, Quaver Catering Ltd, Dan Harrison Judo Club and Active8. These commercial activities are likely to produce more water volume and a higher load of P through sources such as toilets, increase shower use frequency and higher detergent use than the replacement residential use is likely to discharge.

The concerns highlighted by Ashby Civic Society regarding the differences in calculating methods between the existing and proposed figures have been explained in the Further Information. It states 'Given the eclectic nature of the development the foul flow rates have therefore been calculated in accordance with BS EN 12056. In doing this we are treating all drainage fittings equally – we have made no allowance for the canine beautician or the car valeters which would be expected to be high users of water and high dischargers of detergents. Diurnal flow patterns in dwellings are better understood and the widely accepted 4000 l/dwelling/day figure from Sewers for Adoption have been used to assess the proposed development discharge rate.' Natural England supports the use of the assessing methods as explained in the Further Information, and accepts the rationale as to why these methods have been used.

Natural England considers that foul water discharge of the proposed development does not constitute a significant adverse effect upon the integrity of the River Mease SAC. It is unlikely that there will be a significant increase in foul water arising from the site if the development were to be granted permission.

Surface Water

The proposed development will vastly reduce the volume of surface water entering Packington STW, the further information indicated that the existing surface water arising from the site has been assess as 22.2l/s, whilst the proposed volume would be 0l/s, this is due to the SUDS system discharging to the nearby watercourse, not Packington STW.

Reducing discharge to the River Mease SAC is not a priority for Natural England as high flows are not an issue in relation to the sites Conservation Objectives or site condition. However the lowering of flooding risk as explained in the Further Information is beneficial, as it reduces risk and the impacts of flooding events to the SAC.

Due to total surface water volume entering the River Mease SAC not increasing, Natural England considers that this does not constitute adverse effects upon the SAC. The use of SUDS will remove surface water from entering the STW, and in doing so create less risk of flooding in times of storm events. A more detailed assessment, should it be needed, should be sought from the Environment Agency.

Environment Agency: Any further comments received will be reported on the Update Sheet.

5. Relevant Planning Policy

The following development policies are considered relevant to this application.

East Midlands Regional Plan (March 2009)

The Regional Plan applies the general principles for sustainable development in national guidance. Most new development should be directed to locations in and adjoining existing urban areas and the fullest use should be made of vacant and underused (brown) urban land in preference to greenfield sites. Sites well served by public transport should be a priority. The following specific policies are relevant :-

Policy 1 sets out the Regional Core Objectives to secure the delivery of sustainable development in the East Midlands. This policy includes aspirations regarding several issues including the need to ensure that the existing and future housing stock meets the needs of all communities in the Region, the protection and enhancement of the environmental quality of urban and rural settlements by the enhancement of the urban fringe, the encouragement of patterns of new development that reduce the need to travel especially by car, and the protection and enhancement of the environment through protection, enhancement, sensitive use and management of the Region's natural resources, giving particular attention to designated sites of European importance.

Policy 2 (Promoting Better Design) seeks to encourage designs and layouts that reduce CO2 emissions and provide resilience to future climate change.

Policy 3 (Concentrating Development in Urban Areas) deals with the distribution of development and economic activity with new development concentrated primarily in and adjacent to the regions five Principle Urban Areas; significant development should also be located in the three growth towns of Corby, Kettering and Wellingborough; appropriate development of a lesser scale in the Sub Regional Centres and finally development needs of other settlements should also be provided for. In line with Policy 3, Coalville is the only identified Sub Regional Centre in the district. As such development in Ashby de la Zouch is to be considered under the criteria in sub section (d) of this policy whereby new development should contribute to-

- maintaining the distinctive character and vitality of rural communities;
- respecting the quality of tranquillity, where that is recognised in planning documents;
- strengthening rural enterprise and linkages between settlements and their hinterlands; and
- shortening journeys and facilitating access to jobs and services.

Policy 12 relates to Development in the Three Cities Sub Area and provides that development should support the continued growth and regeneration of Derby, Leicester and Nottingham, and maintain and strengthen the economic, commercial and cultural roles of all three cities..... Outside the Derby, Leicester and Nottingham, employment and housing development should be located within and adjoining settlements. Such development should be in scale with the size of these settlements, in locations which respect environmental constraints, in particular the River Mease Special Area of Conservation...'

Policy 13a (Regional Housing Provision) sets out a Total Housing Provision for the period 2006-2026 for North West Leicestershire of 10,200; with an annual apportionment of 510 from 2006.

Policy Three Cities SRS3 indicates inter alia that within the context of Policy 13a provision for new housing will be made in North West Leicestershire over 2006-2026: at a level of "510 dpa (dwellings per annum) located mainly at Coalville, including sustainable urban extensions as necessary."

North West Leicestershire Local Plan

Policy S2 indicates that development will be permitted on allocated sites and other land within Limits to Development, provided it complies with other policies of the Plan.

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 others, 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 housing mix, accessibility to centres, design etc. Within Coalville and Ashby-de-la-Zouch town centres, local centres and other locations well served by public transport and accessible to services a minimum of 40 dwellings per ha will be sought and a minimum of 30 dwellings per ha elsewhere.

Policy H7 seeks good quality design in all new housing developments

Policy H8 provides that where there is a demonstrable need for affordable housing the District Council will negotiate with applicants/developers to secure the provision of an element of affordable housing as part of any development proposal.

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 E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the Black Brook, and Gilwiskaw Brook or the River Mease, Soar or River Trent.

Policy T3 states that development will be permitted only where adequate provision is made for vehicular access, circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development.

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest

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.

The Council's adopted revised Supplementary Planning Document (SPD) of October 2007 in relation to Affordable Housing provision indicates that the provision of affordable housing will be sought on all sites of 15 or more dwellings and upon those sites to secure a minimum of 40% affordable units.

Detailed National Forest planting guidelines are contained within the National Forest Strategy 2004 - 2014. For residential development on sites of more than 0.5 hectares (as this site is), 20% of the development site area should be provided as woodland planting and landscaping, either on-site or near to the development. The Strategy also provides that, in exceptional circumstances, if the planting guidelines cannot be met, a commuted sum should be paid, at a guideline rate of £10,000 per hectare of the gross development area.

The District Council's Development Control Guidelines indicate in inter alia in relation to the 'Layout of housing areas' that

Rear gardens to residential development should normally have a minimum length of 11 metres, Where a site abuts existing rear gardens the back to back distance between houses should not be less than 22 metres;

Where a principal window of a habitable room faces the blank wall of an adjacent dwelling, the distance between the dwellings should be at least 14 metres. Where both dwellings are single-storey buildings, however, 11 metres will normally be acceptable

All dwellings should normally be provided with a private garden area in accordance with the following requirements :-

House Size.....Private garden area

- 1 bedroom 1-2 persons....70 sq metres
- 2 bedroom 3-4 persons....80 sq metres
- 3 bedroom 4-5 persons....100 sq metres
- 4 bedroom 5-6 persons....115 sq metres
- Larger.....150 sq metres

Private gardens should be screened from public areas by the erection of walls or close boarded fences at least 1.8 metres high;

All parts of the private garden areas should normally be accessible from the public circulation area of an estate without the need to pass through the habitable room of a dwelling;

Proposals should also take into account the need to accommodate changes in levels when checking distances between buildings/boundaries, etc.

Five-year Supply of Deliverable Land for Housing

Since 1 April 2007, and in line with the requirements of government guidance in PPS3, there has been an obligation on Local Planning Authorities to assess and demonstrate the extent to which existing plans already fulfill the requirement to identify and maintain a rolling five-year supply of deliverable land for housing. Having regard to this government advice and other factors, including the Council's knowledge of sites and historic building rates, an assessment has been undertaken and published in the Council's Annual Monitoring Report.

The sites included in the five year housing land supply fall into one of the following categories:

- An Allocated site in the adopted Local where there is evidence of deliverability within the 5 years following discussions or correspondence with the landowner or developer.
- An extant planning permission with likelihood that this would be implemented within the five year period. Only those sites which have been granted detailed planning permission after March 2006 have been included on the basis that if permission had been granted before then with over a year of favourable market conditions with no start, then it would not be realistic to assume that the permission will be implemented within the next 5 years when market conditions are much less favourable.
- Other brownfield sites available for development. Sites included are specific identified sites of 10 or more dwellings that are subject to a planning application and be in a location where there would be no objection in principle to granting permission. As a result many of the sites included in the Council's completed Housing Land Availability Assessment (2007) and which were assessed as likely to come forward during the next five years are excluded where they are not the subject of a planning application.

With the recent adoption of the Regional Plan (March 2009), the District Council has calculated that the present position in relation to the five-year supply of deliverable land for housing for the period between 2009 -14 is that there is a shortfall of 935 dwellings.

6. Assessment

The main issues in the consideration of this scheme relates to the Development Plan policies, highway safety implications, the impact on residential amenities, the effect on the visual amenities and the natural environs, the impact on services and facilities and the impact on the River Mease Special Area of Conservation (SAC). In addressing these issues due consideration has been given to the submissions of the Ashby de la Zouch Town Council, the Civic Society and local residents.

Development Plan Policies

The site does not benefit from any protection for employment use and therefore it is not considered that the Council would have any basis to refuse the application on the loss of land/building for employment purposes, particularly given that having regard to the most up to date evidence there appears to be an oversupply of light industrial land in the district. In relation to the criteria set out in Policy H4/1 of the adopted Local Plan, as previously developed land and

buildings close to the central core of Ashby de la Zouch the residential use of the site 'scores highly' within the sustainability aims of the policy. Further, given that the scheme exceeds 40 dwellings per hectare, the development would exceed the minimum density levels set out in Policy H6 of the Local Plan (the impact of the proposed density on visual and residential amenities is considered below).

Highway Safety Implications

Members will see from the report that local residents raise objections in relation to the suitability (or otherwise) of the vehicular access provisions to serve the development and in relation to the level of off-street car parking provision within the site. In addition, the Ashby Civic Society has raised considerable concerns about the proposed highway layout which they do not consider conforms to current standards and about adoption of the access. However, County Highway Authority essentially raise no objections to the scheme in principle. In relation to off-street car parking provision, the County Highway Authority specifically comment that "there has been extensive discussions with regard to parking allocation on this site which revealed inter alia that unallocated parking provision cannot be controlled under the planning system. Accordingly, it is considered there is a slight under provision of parking. However the site is served by a private road system and is some way from the public highway (Burton Road) which itself is subject to a Traffic Regulation Order which prohibits parking. As such the County Highway Authority does not believe that an objection due to the shortfall in provision could be sustained on appeal in this instance. The County Highway Authority has maintained this stance following consideration of the Civic Society's objections in accordance with their additional comments reported above. In addition, the County Highway Authority has confirmed that the proposed access is not required to be adopted and they continue to raise no objections to the proposals subject to conditions.

In the light of the stated position of the County Highway Authority it is not considered the District Council would be able substantiate any refusal of planning permission on highway safety grounds.

It is also considered that the provision of the footway along the western side of the access drive off Burton Road would benefit both the proposed residents of the development and existing users.

Impact on residential amenities

The converted Mill building is situated some 24 metres from the western boundary of the site, with the glazed link being sited further away given that it is inset between the original Mill and its proposed extension. The proposed extension to the Mill building is situated a minimum distance of 18 metres from the nearest adjoining properties to the north of the site with window to window distances being some 22 metres. As such, it is considered that the elements of the scheme comprising Blocks A and B would not have a significant overbearing, overshadowing or overlooking impact given their relationships with existing dwellings. This is similarly considered to be the case with regard to Block D; the rear elevations and garden areas to which adjoin the private access track running to the rear of dwellings fronting onto Burton Road.

With regard to the siting of the proposed Block C, it is noted that the western elevation of the structure would be situated between 11.0 - 15.0 metres from the rear elevations of the existing dwellings on Rouen Way. As such it is recognised that these distances would be below those indicated by the Council's normal Development Control standards; whereby the back to back distance between houses should not be less than 22 metres; and where a principal window of a habitable room faces the blank wall of an adjacent dwelling, the distance between the dwellings

should be at least 14 metres. However, given the fact that the dwellings on Rouen Way are situated at a higher level, it is considered that the proposed Block C would not have a sufficiently overbearing or overshadowing impact to warrant a refusal of planning permission on these grounds. A further contributing factor in coming to this conclusion is that the proposals to install obscure glazing to those first floor window units to the rear elevation of Block C which would adjoin the boundaries of gardens to dwellings on Rouen Way would mitigate overlooking impacts. Nevertheless, it would be necessary to require that conditions of any grant of planning permission require that the obscure glazing be retained to the first floor window units at all times following installation, that the cill level of any opening lights - which shall only be top hung - be a minimum of 1.8 metres above the internal floor levels and that permitted development rights are withdrawn to prevent the future installation of any new windows or openings.

The comments of the Civic Society regarding the use of obscure glazed windows bedroom windows in the western facing elevation of the new build units have been taken into account as has the reference to an Inspectors appeal decision for an extension to a dwelling in Long Whatton. In that appeal, the Inspector considered the appellant's suggestion that they would accept a condition to ensure that the 2 bedroom windows in the dormer would be obscure glazed. However, as they would be the only windows to the proposed bedrooms, the Inspector deemed that it would compromise the living conditions in the appeal property and represent an unacceptable solution to overcome a problem that would result from the poor design of the proposed development.

However, the windows on the first floor western facing elevation of the new build units serve secondary living room/kitchen areas, bathrooms and toilets and staircases and **not** bedrooms. Therefore, in this instance it is not considered that the obscure glazing of these windows would compromise the living conditions of future residents and it would not be unreasonable to impose conditions requiring these windows to be permanently obscure glazed.

Insofar as other residential amenity issues are concerned, it is not considered that either the use of the parking and children's play facilities nor the use of the residential units themselves would be significantly detrimental to surrounding residents in terms of noise and disturbance. Further, it is considered that proposed boundary treatments would not give rise to any significant overbearing or overshadowing impacts.

With regard to the amenities of the future residents of the proposed dwellings themselves, it is considered that the layout as proposed would ensure adequate living conditions. Further, the fact that the occupants of Blocks A and B would not have access to either private amenity space or a communal garden area is not considered unusual in such an urban location. The necessary bin stores and cycle parking facilities will be provided at the site to serve the residents concerned.

In overall terms, therefore, having due regard to residential amenities issues, along with the highway safety implications, it is also considered that the proposals would not represent an overdevelopment of the site.

Effect on the visual amenities and the natural environs

The principal Mill building, whilst not having listed status, is nevertheless considered to be an important building within the townscape of Ashby de la Zouch. Accordingly, its retention and refurbishment as part of the scheme is considered in principle to be to the benefit of the amenities of the locality. Furthermore, the design and scale of the proposed extension to the Mill, including the revised link structure, is generally considered sympathetic having regard to

the relationship with the principal building. With regard to the two storey blocks, whilst these adopt a more functional design approach it is nevertheless considered that the proposals would not detract from the overall visual amenities of the locality.

However, as the scheme stands the potential Building for Life score of this development is 13/20 (subject to satisfactory discharge of conditions and Section 106). This equates to an 'average' score; which whilst not considered 'poor'; it is considered a missed opportunity. The scheme therefore does fall short of the standard of design with Building for Life 14+ used by the Council as the design quality indicator for the determination of schemes. However, it is not considered on balance that a reason for refusal on this ground could be successfully defended at appeal, given that the area of weakness for this scheme is centred around the new built elements located around the perimeter of the site, which are not prominent or greatly visible in the public realm.

Insofar as the impact of the proposed boundary treatments are concerned, the objections of local residents are noted in relation to the visual and potential crime impacts of the timber slat fencing be provided to the southern boundary of the site and thus alongside the access to the rear of the properties fronting onto Burton Road. However, and notwithstanding the fact that the pedestrian route in question is not a public right of way, it is considered that these concerns are outweighed by the need to provide the necessary levels of privacy to the future residents of the dwellings in Block D. The first floor windows to the rear of the dwellings in Block D would also provide a degree of surveillance over the accessway in question to the benefit of users. With regard to the northern and eastern boundaries of the site where they adjoin the public footpath, it is considered that the introduction of the galvanised steel fencing, along with the provision of the lighting bollards, in lieu of the existing vertical timber boarded fencing would to be benefit of the visual amenities of the area and to security. The footpath would also benefit from the additional surveillance provided by the conversion and extension of the Mill building into residential use.

The concerns raised in relation to the loss of trees from the site are also noted, however, it is not considered that the trees in question are worthy of protection under a Tree Preservation Order. The application nevertheless does provide for the retention of a number of trees in the south-western area of the site and further detailed landscaping would be secured by a condition of any approval. Furthermore, whilst concerns have been raised in relation to the loss of bat roosts, the bat surveys (including a nocturnal survey) concluded that there was no evidence of bat usage observed in association with the structures on the site, although a small number of common pipistrelle bats were noted using the site curtilage as a commuting and foraging area. Consequently, Natural England has indicated that the bat survey is satisfactory and that it would have no objections in principle in regard to bats.

In relation to potential land contamination, both the Environment Agency and the Council's Environment Services Division consider that this matter can be dealt with by means of condition(s) attached to any grant of planning permission.

The Impact on Services and Facilities and Impact on the River Mease Special Area of Conservation

Services

Severn Trent Water Ltd raises no objections in principle to the scheme and the Environment Agency considers the scheme to be acceptable subject to the mitigation measures outlined in the Flood Risk Assessment submission being secured by a condition(s) of any planning

permission. It is also noted that notwithstanding the concerns raised by local residents, that the statutory consultees raise no concerns in relation to the capacity of the existing sewerage system to serve the proposed development.

River Mease

With regard to determining the likely effect of the development on the River Mease Special Area of Conservation - given that the Gilwiskaw Brook is a tributary of the River Mease - it has been necessary for the Council to undertake a Habitations Regulations Assessment (HRA) and in doing so to full regard to the consultation responses received from Natural England, the Environment Agency, Severn Trent Water and the Ashby de la Zouch Civic Society which are set out in this report. Members will see from the representation section reported above that while there are no objections to the proposals from the Environment Agency or Natural England, the Ashby Civic society maintains its strong objection to the proposals. In addition, the Council has commissioned expert consultants (David Tyldesley Associates (DTA)) to undertake the HRA, the conclusions of which are outlined below as follows:

- "The manner in which the project would be carried out is described in detail in the application documents. Relevant to this assessment, it should be noted that there are no conditions or restrictions that would be effective in reducing the P load arising from typical domestic dwellings. The options for removing adverse effect on integrity as a result of P contribution to the River Mease therefore appear to be limited.
- Having said this, as the recorded conclusion for Packington WWTW within the Environment Agency's Review of Consents was so central to the provisional conclusion, it is appropriate for this assessment to be informed by the outputs of the Review and the implications in relation to the Packington WWTW and the River Mease SAC.
- On the basis of the conclusions of their appropriate assessment, the EA have initiated modifications to the nine waste water treatment works consents which discharge into the River Mease SAC. As a result of these modifications, a P limit of 1mg/l will be imposed on the discharge consent by 2015. Once this limit is in place and the effluent is treated to discharge at a concentration not exceeding 1mg/l, the potential impacts associated with the proposed development, in terms of P contribution to the River Mease SAC, will become more a matter of overall volume (relative to the volume associated with the current use).
- Information submitted as part of the application has demonstrated that the overall volume of foul flow will be reduced as a result of the proposed development, when compared to current use, by virtue of the removal of surface water from the system through the implementation of a sustainable urban drainage system (SUDS).
- With regard to the implications of the proposed modifications for the current appropriate assessment, once the consent is modified and the P limit is imposed, the reduced volume of foul flow from the proposed development (when compared to current use) will represent a reduction in volume being treated and subsequently discharged by Packington WWTW, which will effectively reduce the P load to the River Mease. In other words, the reduced flow with P stripping in place will assist rather than undermine the achievement of the conservation objectives.
- It is proposed therefore that, subject to a condition which prevents the occupancy of the dwellings until the implementation by STW of the P reduction measures and the coming

into force of the modification of the discharge consent at Packington WWTW, NWLDC could ascertain that there would be no adverse effect on the integrity of the River Mease SAC, and grant permission for the current application.

- It therefore falls to be considered whether such a condition would be reasonable and comply with the legal and policy tests for the imposition of conditions on planning permissions. It is a matter for the local planning authority to judge whether allowing the development to start within the statutory three year period, but prohibiting the occupation of any of the dwellings, or such number of the dwellings as would not lead to an increase in P load in the SAC, would be a lawful condition."

In addition the consultants DTA have stated:

"This is a summary record of the assessment of planning application 09/00082/FULM under Part 6 of the Conservation of Habitats and Species Regulations 2010.

The proposal subject to the application is a project within the meaning of the Habitats Regulations.

The competent authority to undertake the assessment before granting planning permission is the North West Leicestershire District Council (NWLDC).

The River Mease SAC is potentially affected by the proposed development.

The project is not directly connected with or necessary to the management of the site for nature conservation.

It cannot be excluded, on the basis of objective information, that the proposed development would be likely to have a significant effect on the River Mease SAC in combination with other plans or projects. In accordance with the requirements of regulation 61(1), as the competent authority, NWLDC must make an appropriate assessment of the implications for the site in view of the site's conservation objectives.

An appropriate assessment has been undertaken of the effects of the planning application for the River Mease SAC in view of the site's conservation objectives. It is not possible to ascertain that this planning application, as submitted, alone or in combination with other plans or projects, would not have an adverse effect on the integrity of the River Mease, in the absence of any restrictions or conditions.

The manner in which it is proposed to carry out the project and the conditions and restrictions which any planning permission could be made subject to have been considered, in accordance with the Habitats Regulations.

Subject to a condition which prevents the occupancy of the dwellings until the implementation, by Severn Trent Water, of the P reduction measures and the coming into force of the modification of the discharge consent at Packington WWTW, the Council could ascertain that there would be no adverse effect on the integrity of the River Mease SAC, and grant permission for the current application.

Consequently, if the Council determines, on legal advice, that a condition prohibiting the occupation of any or any more than a small proportion of the proposed dwellings would be unreasonable or otherwise unlawful, it would not be possible for the Council to ascertain that

there would not be an adverse effect on the integrity of the River Mease SAC. There being alternative solutions and no imperative reasons of overriding public interest, planning permission for the current application must be refused in accordance with the Habitats Regulations 2010."

The full contents of the DTA consultants report is available for members to inspect on the case file.

The conclusions of the report state that the development would currently have an adverse impact on the integrity of the River Mease SAC in the absence of any restrictions or conditions. However, the advice is clear that once the modifications to the Packington Waste Water Treatment Works (WWTW) are carried out to secure a reduction in phosphate levels, the Council could ascertain that there would be no adverse effect on the integrity of the River Mease SAC, and grant permission for the current application subject to the imposition of a condition to restrict occupancy of the units until the works have been carried out.

Legal advice has been sought to determine whether the imposition of such a condition is reasonable and lawful. The advice has confirmed that there is no legal reason why a planning condition should not be used to this effect.

However, the legal advice states that it would be advisable to modify the approach suggested by DTA slightly. The development of the Packington WWTW improvements works is beyond the control of the developer and the developer cannot ensure that it is delivered. A condition restricting occupation of the residential units prior to the completion of the Packington WWTW works would comply with the Conservation (Habitats) Regulations but it does not deal with a scenario where the improvement works do not get carried out. If this occurred the residential units would never be capable of occupation and there would be development which would simply have to remain unused. This would be unacceptable and therefore the condition should be amended to prevent commencement of development until the completion of the works which effect the reduction of the level of phosphates from Packington WWTW. It is also clear from case law that a Grampian condition may only be lawfully used where the pre-commencement condition has a reasonable prospect of being fulfilled within the life time of the planning permission. Given that the works are not scheduled until 2015, albeit Severn Trent Water have indicated the works could take place as early as 2012, the standard 3 year life of a planning permission would be too short. That is, there is no reasonable prospect that the condition would be satisfied within the life time of the permission. The Council does have powers, under S.91 of the 1990 Act, to extend the life of a planning permission where this is in accordance with the development plan and any material considerations. The delivery of the improvements to Packington WWTW is a relevant material consideration and if the Council are certain that they will be delivered by 2015, then a five year period would be appropriate.

In testing the proposed condition against the tests in circular 11/95 officers are satisfied that it would accord with policy in the circular, the summary to this conclusion is set out below.

- 1) Necessary - without the use of the planning condition the planning permission could not be approved as the development would adversely effect the River Mease SAC.
- 2) Relevant to planning - the River Mease issue has occurred because of the Review of Consents process being carried out by the Environment Agency (EA) but the EA cannot control development coming forward as the Council is the relevant authority for this. The regulation of development to ensure that levels of discharge of phosphate into the Packington STW does not increase is a matter for the planning system and officers consider that it is appropriate for this to be a material consideration in any planning decision.
- 3) Relevant to the development being permitted - it is clear that any net increase in the amount

of phosphates being discharged into the River Mease SAC will have an adverse effect given that the SAC is already at saturation point. The HRA carried out by DTA indicates that the development would see an increase in the amount of phosphate being discharged from the site. The legal advice does not comment on the methodology of how this assessment has been made, but this being the case the condition is clearly relevant to the development.

4) Enforceable - monitoring the site to see if development is commenced is straight forward.

5) Precise - the condition is sufficiently precise - see condition 3 of recommendation.

6) Reasonable in all other regards - there are no other reasons that would make the condition unreasonable. In addition, Severn Trent Water has confirmed that the currently agreed date with the Environment Agency and OFWAT, for their new P consent obligation at Packington STW is 31st March 2012. Beyond this date they will be obligated to ensure our discharge from the works does not exceed 1mg/l of P. Therefore there is a reasonable prospect of the development commencing within the extended time period suggested.

In light of the above advice from the Council's SAC consultant and legal advisor, officers are satisfied that, subject to a condition preventing the commencement of development until the modification works to Packington STW have taken place, the Council could ascertain that there would be no adverse effect on the integrity of the River Mease SAC, and grant permission for the current application.

Facilities

With regard to formal play area provision, the proposed on-site facilities are in line with the requirements of Policy L21 of the Local Plan and the District Council's supplementary planning guidance. Further, and notwithstanding the concerns raised by local residents and the Town Council, it is considered that the play area is appropriately positioned within the site having regard to need to provide adequate levels of surveillance. In addition, the County Highway Authority does not raise any safety concerns in relation to the proposed siting.

In relation to commuted sums, as outlined earlier in this report the developers have submitted a draft Section 106 Agreement providing for the payment of commuted sums in respect of leisure provision, health care provision, education facilities, library facilities and civic amenity site infrastructure. The sums meet the requirements of the Council's Head of Leisure Services, the Primary Health Care Trust and Leicestershire County Council. Further, the proposed affordable housing provision meets the stated requirements of the Council's Housing Division and the commuted sum in relation to National Forest planting is in line with the Council's adopted guidelines. The County Highway Authority requests for public transport contributions in respect of a travel pack per unit, two adult travel passes per unit and bus stop infrastructure would also be met, as would the necessary provisions for the payment of monitoring fees.

Other Matters

With regard to other matters raised, it is pointed out that noise and dust mitigation would fall under Environmental Health legislation and that the provision of secondary fire escapes to serve the development would be a matter considered under the Building Regulations. The issue of the potential devaluation of existing surrounding dwellings, the loss of views/outlook, the degree of financial benefit that will be derived from the scheme by the developer should it proceed and the state of the current housing market are not relevant planning considerations. Furthermore, it is pointed out that any rights of access of residents of dwellings fronting onto Burton Road and of Holywell Cottages over the access road are a private legal matter. Further, with regard to the concerns as to the ownership of the access road, by serving a Certificate D and undertaking the necessary publication of the notice in the local press prior to the application

submission, it is pointed out that the applicant has complied with the legal requirements of the Planning Acts. As such any dispute in relation to ownership matters would also now be a private legal matter.

It is also contended that there is a conflict of interest with the developer being a District Councillor and it is noted that a number of suggested alternative proposals have been put forward by local residents for the development of the site. Nevertheless, this application falls to be determined solely on its own planning merits and for the reasons outlined above the scheme is recommended for approval subject to a Section 106 Agreement and the conditions set out below.

Summary Reasons for Granting Planning Permission

The site lies within limits to development where the principle of this form of development is acceptable. The proposed development would not be detrimental to the visual amenities of the locality in terms of the design, appearance and scale of the scheme and would not give rise to sufficient overbearing, overshadowing or overlooking impacts having regard to the relationship between the proposed development and the existing adjoining properties so as to warrant a refusal of planning permission. The proposed development would not represent an over-development of the application site, would not be significantly detrimental to the natural environment and subject to a condition preventing the commencement of development until the modification works to Packington WWTW have taken place, the Council could ascertain that there would be no adverse effect on the integrity of the River Mease SAC, and grant permission for the current application.. The proposed scheme would not be detrimental to highway safety and the levels of parking provision to serve the development are not considered to be sufficiently deficient to warrant a refusal of planning permission.

RECOMMENDATIONS – PERMIT, subject to a Section 106 Agreement and subject to the following conditions;

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

Reason- to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

- 2 The development, including finished floor levels and finished ground levels, shall be undertaken in accordance with the details shown on the Drawing Nos. listed below unless otherwise required by another condition of this permission.

ARP_00_00 Rev P3
ARP_00_90(02) Rev P1
ARP_00_90(01) Rev P2
ARP_01_74 Rev P2
ARE_08_20 Rev P2
ARE_09_20 Rev P2
ARE_06_20 Rev P3
ARP_00_20_01 Rev P1
ARS_20_01 Rev P1
ARE_07_20 Rev P3
ARS_01_20 Rev P1

ARS_02_20 Rev P1
ARP_40_20 Rev P1
ARP_41_20 Rev P1
ARP_42_20 Rev P1
ARP_44_20 Rev P1
ARP_45_20 Rev P1

Reason- for the avoidance of doubt; the original scheme having been considered to be unacceptable.

- 3 No development hereby permitted shall commence until:
- (i) works to the Packington Waste Water Treatment Works have been completed and the works secure a reduction in phosphate levels in the discharge at the works to 1mg per litre
 - (ii) the developer submits to the local planning authority written confirmation from Severn Trent Water that the improvement works to Packington Waste Water Treatment Works have been completed and evidence of any necessary written consent issued by the Environment Agency or its successor, which limits phosphate levels in the discharge to a maximum 1 mg per litre.

Reason- To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution and ensure that there is no adverse impact on the River Mease SAC in accordance with Policies 26 and 32 of the East Midlands Regional Plan.

- 4 Subject to the requirements of Condition No. 3 of this planning permission, the foul sewerage of the development hereby permitted shall be connected to the Packington Waste Water Treatment Works only.

Reason- To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution and ensure that there is no adverse impact on the River Mease SAC in accordance with Policies 26 and 32 of the East Midlands Regional Plan.

- 5 No development shall commence on the site until representative samples of the materials to be used in all external surfaces of built structures and boundary treatments (including all surfaces finishes) have been submitted to and agreed in writing with the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason- to enable the Local Planning Authority to retain control over the external appearance as no details have been submitted: to ensure a satisfactory development.

- 6 No development shall commence on the site until precise details of the proposed bonding to the brickwork to be used in the construction works have been submitted to and agreed in writing with the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason- to enable the Local Planning Authority to retain control over the external appearance as no details have been submitted: to ensure a satisfactory development.

- 7 No development shall commence on the site until detailed drawings (including cross-

sections) of the proposed door units, window units and the glazed link roof (including any openings) to a scale of 1:1/1:2/1:5/1:10 have been submitted to and agreed in writing with the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason- to enable the Local Planning Authority to retain control over the external appearance as no details have been submitted: to ensure a satisfactory development.

- 8 No development shall commence on the site until a sample panel(s) (of at least one square metre in area) of the proposed pointing/re-pointing method has been provided on the site and the specification approved in writing by the Local Planning Authority before the commencement of works. The pointing works shall be carried out in accordance with the approved scheme and the sample panel(s) shall be retained until the work is completed.

Reason- to enable the Local Planning Authority to retain control over the external appearance as no details have been submitted; to ensure a satisfactory development.

- 9 Notwithstanding the details shown on the approved drawings, no development shall commence on the site until a detailed landscaping scheme has first been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following either the first occupation or the bringing into use of the development 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; to provide a reasonable period for the replacement of any trees.

- 10 The obscured glazed window units to be installed to Block C as shown on Drawing No. ARE_06_20 Rev P3 shall be glazed with obscure glass to Pilkington Standard 3 (or its equivalent) prior to the relevant residential unit being first brought into use and shall thereafter be retained at all times unless planning permission has first been granted by the Local Planning Authority.

Reason - To avoid the possibility of overlooking in the interests of preserving the amenities of residents.

- 11 No development shall commence on the site until details of any opening lights to be provided to the obscured glazed window units to be installed to Block C as shown on Drawing No. ARE_06_20 Rev P3 have been submitted to and approved in writing by the Local Planning Authority. Any scheme, which shall provide for top opening lights only and for the cills of the opening lights to be a minimum height of 1.8 metres above the internal floor level, shall be implemented in accordance with the approved scheme and shall thereafter be retained at all times unless planning permission has first been granted by the Local Planning Authority.

Reason - To avoid the possibility of overlooking in the interests of preserving the amenities of

residents.

- 12 Unless otherwise provided for under condition 10 above no opening lights shall be installed to the obscured glazed window units to be installed to Block C as shown on Drawing No. ARE_06_20 Rev P3 at any time unless planning permission has first been granted by the Local Planning Authority.

Reason - To avoid the possibility of overlooking in the interests of preserving the amenities of residents.

- 13 Notwithstanding the provisions of Part 1 (Class A-E) and Part 2 (Class A) 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 dwelling hereby permitted shall 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; in the interests of existing and future residential amenities

- 14 Notwithstanding the details shown on the approved drawings no development shall commence on the site until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason- To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

- 15 No Development shall commence on any part of the site until a risk based land contamination assessment relevant to either the whole development or that part of the development has been submitted to and approved in writing by the Local Planning Authority in order to ensure the land is fit for use as the proposed development. The assessment should be carried out in accordance with BS10175 Year 2001 Investigation Of Potentially Contaminated Sites Code of Practice, BS8485 year 2007 Code of Practice for the Characterization and Remediation from Ground Gas in Affected Developments, and CLR 11 Model Procedures For The Management Of Land Contamination, issued by The Environment Agency. Should any unacceptable risks be identified in the land contamination assessment a remedial scheme must be drafted and submitted for agreement. Should any previously unidentified contamination be identified during the course of development an assessment of the risk of this contamination and any alterations/implementation of remedial works should be submitted to and agreed by the Local planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained in perpetuity, unless otherwise agreed in writing by the Local Planning Authority

Reason- to provide mitigation of any contamination of land.

- 16 Before occupation of any part of the completed development, a verification report for any

works outlined in the remedial scheme relevant to either the whole development or that part of the development shall be submitted to, and approved by, the Local Planning Authority. The verification report shall:

- (i) Contain a full description of the works undertaken in accordance with the agreed remedial scheme.
- (ii) Contain results of any additional monitoring or testing carried out between the submission of the Remediation Proposals and the completion of remediation works.
- (iii) Contain Movement permits of all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required
- (iv) Contain test certificates of imported material to show that it is suitable for its proposed use
- (v) Demonstrate the effectiveness of the approved remedial scheme
- (vi) Include a statement signed by the developer or the approved agent, confirming that all the works specified in the Remediation Proposals have been completed.

Reason- to provide mitigation of any contamination of land.

- 17 The development shall be carried out strictly in accordance with the approved Flood Risk Assessment (FRA) dated December 2008, undertaken by Capita Symonds, and shall thus provide for the implementation of the mitigation measures detailed therein including the limiting of the surface water run-off generated by all events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed 43l/s and not increase the risk of flooding off-site and providing for the provision of a minimum of 178m³ of underground surface water run-off attenuation.

Reason- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; to reduce the impact of flooding on the proposed development and future occupants.

- 18 No development shall commence on the site (or on any such other date or stage in development as may be agreed in writing with the Local Planning Authority), until the following components of a scheme to deal with the risks associated with contamination of the site have each be submitted to and approved, in writing, by the local planning authority:
 - (i). A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - (ii). A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - (iii). The site investigation results and the detailed risk assessment (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - (iv). A verification plan providing details of the data that will be collected in order to

demonstrate that the works set out in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason- To protect controlled waters.

- 19 No works on the construction/conversion of the dwellings hereby permitted shall commence until a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

Reason- To protect controlled waters.

- 20 Where, during works in relation to the development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with. The works shall then be undertaken in accordance with the amended remediation strategy.

Reason- To protect controlled waters.

- 21 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason- To protect controlled waters.

- 22 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason- To protect controlled waters.

- 23 No gates/bollards/barriers shall be erected to the vehicular access to the site.

Reason- To enable all vehicles (inc service and emergency vehicles) to access the site and enter and leave the site in a forward direction in the interests of road safety.

- 24 For the period of the construction of the development within the site, vehicle wheel cleansing facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned, as may be necessary, before entering the Highway.

Reason- To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users.

- 25 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.

Reason- To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction.

- 26 The car parking (including that shown for Holywell Cottages) and the turning/manoeuvring facilities shown within the curtilage of the site on the approved plans shall be provided before any dwelling is first occupied and shall thereafter permanently remain available for such use.

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

- 27 No development shall commence on the site until details of suitable signing to be located at the access to the application site, such that drivers can more readily locate the properties, has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be provided prior to any residential unit being first occupied and thereafter be so maintained at all times.

Reason- In the general interests of Highway safety.

- 28 Notwithstanding the details shown on the approved plans no development shall commence on the site until precise details of secure cycle parking provision has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be provided prior to any residential unit being first occupied and thereafter be so maintained at all times.

Reason- In the interests of the sustainability of the development and to encourage alternative transport choice.

- 29 The access drive (including pedestrian access link) and circulatory route shall be provided and completed as shown on the approved plans prior to any residential unit being first occupied.

Reason- To provide and maintain a satisfactory form of access for both vehicular and pedestrian traffic generated by the proposal and to allow all vehicles (including service and emergency vehicles) to enter and leave the site in a forward direction.

- 30 No development shall commence on the site until details of the provision of roosting sites for bats within the site have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be provided prior to any residential

unit being first occupied and thereafter be so maintained at all times.

Reason- In the interests of the habitats of protected species.

- 31 The boundary treatment and lighting scheme shown on Drawing No. ARP_00_90(01) Rev P2 shall be implemented in accordance with the approved details before any residential unit is first occupied. Once provided the boundary treatments and lighting scheme shall thereafter be retained in situ at all time unless planning permission has first been granted by the Local Planning Authority.

Reason- to preserve the amenities of the locality; in the interests of residential amenities.

- 32 Should the development not commence on the site by 1 July 2010 a further survey for the presence of bat roosts on the site shall be undertaken in accordance with a survey scheme that shall have been first agreed in writing by the Local Planning Authority. Should any bat roosts be found at the site a mitigation scheme shall be first be agreed in writing by the Local Planning Authority. Any mitigation scheme shall then be implemented in accordance with the agreed scheme.

Reason- To provide protection for protected species.

Summary Reasons for Granting Planning Permission

North West Leicestershire District Council's decision to grant planning permission in this instance arose following careful consideration of all representations, the relevant provisions of the Council's adopted Development Plan and all other relevant material considerations. Of particular relevance to this decision were the following policies :-

East Midlands Regional Plan (March 2009)

Policy 1 which sets out the Regional Core Objectives to secure the delivery of sustainable development in the East Midlands..

Policy 2 (Promoting Better Design) which seeks to encourage designs and layouts that reduce CO2 emissions and provide resilience to future climate change.

Policy 3 (Concentrating Development in Urban Areas) which deals with the distribution of development and economic activity with new development.

Policy 12 which relates to Development in the Three Cities Sub Area and provides inter alia that development should be in scale with the size of settlements and in locations which respect environmental constraints, in particular the River Mease Special Area of Conservation...'

Policy 13a (Regional Housing Provision) which sets out a Total Housing Provision for the period 2006-2026 for North West Leicestershire of 10,200; with an annual apportionment of 510 from 2006.

Policy Three Cities SRS3 which indicates inter alia that within the context of Policy 13a provision for new housing will be made in North West Leicestershire over 2006-2026: at a level of "510 dpa (dwellings per annum) located mainly at Coalville, including sustainable urban extensions as necessary."

North West Leicestershire Local Plan

Policy S2 which sets out the circumstances in which development will be permitted within Limits to Development.

Policy H4/1 which 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 others, public transport and services.

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

Policy H7 which seeks good quality design in all new housing developments

Policy H8 which provides that where there is a demonstrable need for affordable housing the District Council will negotiate with applicants/developers to secure the provision of an element of affordable housing as part of any development proposal.

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

Policy E4 which seeks to achieve good design in new development.

Policy E30 which seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the Black Brook, and Gilwiskaw Brook or the River Mease, Soar or River Trent.

Policy T3 which states that development will be permitted only where adequate provision is made for vehicular access, circulation and servicing arrangements.

Policy T8 which sets out the criteria for the provision of parking associated with development.

Policy F1 which seeks appropriate provision for landscaping and tree planting in association with development in the National Forest

Policy L21 which indicates that new housing development will be required to incorporate the provision of children's play areas.

Reasons

The site lies within limits to development where the principle of this form of development is acceptable. The proposed development would not be detrimental to the visual amenities of the locality in terms of the design, appearance and scale of the scheme and would not give rise to sufficient overbearing, overshadowing or overlooking impacts having regard to the relationship between the proposed development and the existing adjoining properties so as to warrant a refusal of planning permission. The proposed development would not represent an over-development of the application site, would not be significantly detrimental to the natural environment and subject to a condition preventing the commencement of development until the modification works to Packington WWTW have taken place, the Council could ascertain that there would be no

adverse effect on the integrity of the River Mease SAC, and grant permission for the current application.. The proposed scheme would not be detrimental to highway safety and the levels of parking provision to serve the development are not considered to be sufficiently deficient to warrant a refusal of planning permission.

Notes to applicant

- 1 Your attention is drawn to the comments set out in the attached consultation response received from the Environment Agency dated 7 April 2009.
- 2 The proposal is situated in excess of 45 metres from the Highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 3 A public footpath abuts the site and this must not be obstructed or diverted without obtaining separate written consent from Leicestershire County Council.
- 4 This permission is also subject to a section 106 Agreement comprising:
 - Leisure – £48,400
 - Health care - £583 (1-2 bed), £1,167 (3-4 bed), £1,750 (5+bed)
 - Education - £74,244
 - Library 2,060
 - Civic amenities - £4,097
 - Affordable housing – 13 no. units in total, 9 as social rented and 4 no. low cost home ownership
 - National Forest planting - £6,000 in lieu of on site provision
 - Travel pack 1 no. per unit
 - Two adult passes per unit
 - Bus stop infrastructure
 - Monitoring fees

You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site Highway works (bus stop improvements/passes/packs) before development commences.
- 5 The proposed roads do not conform to an acceptable standard for adoption and therefore they will not be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by all the private roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see www.leics.gov.uk/htd or phone 0116 3056782.
- 6 The existing access to the development site is not adopted highway, nor is it shown as a public right of way on the definitive map. However there may be highway rights over it that Leicestershire County Council is not aware of.
- 7 Severn Trent Water Ltd point out that there is a public sewer which crosses the site. No building shall be erected or trees planted within 3 metres of this sewer of this sewer. The applicant may wish to apply to Severn Trent Water Ltd to divert the sewer in accordance with Section 185 of the Water Industry Act 1991 or for a Building Over or Close to a Public Sewer Agreement.
- 8 You are advised that should any bat(s) be found during works on the development, all works must cease on site forthwith and Natural England contacted for further advice.

- 9 You are advised that the District Council will be seeking a paint finish to the galvanised fencing to boundaries.
- 10 With regard to Condition No 3 of this planning permission, the applicant /developer is advised that while Severn Trent Water have indicated that the modification works to Packington Waste Water Treatment Works are likely to be completed by March 2012, this cannot be guaranteed and therefore the applicant/developer should contact Severn Trent Water and the Environment Agency for confirmation of completion of the required works prior to commencement of development.

Appendix B

AGENDA ITEM – A5

Application - 09/00082/FULM

Insert Address – Holywell Mill, Burton Road, Ashby De La Zouch

A further detailed letter has been received from the Ashby Civic Society which challenges the Habitats Regulations Assessment of Planning Application Ref 09/00082/FULM undertaken for the Council by their consultants David Tyldesley Associates (DTA). The letter from the Civic Society concludes:

“We conclude that after installation of P stripping at Packington STW the proposed development will cause adverse impact on the River Mease SAC due to increased Phosphate Load and therefore this application must be refused.”

The letter then goes on to state that while the Civic Society agree with a large part of the DTA report, there are a number of statements that are incorrect and they consider that the adverse effect of this development will still be adverse even when the P reduction is in place.

The full letter from the Civic Society is available for Members to inspect on the application case file.

This letter has been assessed by the Council’s consultants DTA and in response they state:

“Circular 6/2005 para 20 defines the integrity of a site in the context of the Regulations as “The integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables to sustain the habitat, complex of habitats and/or the levels of populations of species for which it was classified.”

Even if the Civic Society’s figures are shown to be correct after analysis, by imposing a condition delaying start until P stripping is in place, and because only this permission will be granted, and no other applications with which this application was combined (in the likely significance test) will be granted, it is safe for the Council to ascertain that the improved treated discharges from this one permission would not adversely affect the coherence of the ecological structure and function of the River Mease, across the whole, or any part, of its area, that enables it to sustain the habitat, and the levels of populations of species for which it was designated.”

Furthermore DTA has indicated that the Council could not ascertain that lots of permissions would not have such an effect in combination. However, because Holywell Mill is being treated differently to new green field proposals as it results in the redevelopment of a brown field site currently occupied by a range of uses which generate phosphate, it alone, after P stripping, will not have such an effect. Therefore, DTA remain comfortable with their report and recommendation to the Council.

RECOMMENDATION – NO CHANGE TO RECOMMENDATION