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**Demolition of two existing buildings and the erection of four detached dwellings and garaging (including two self build units) and creation of paddock for equestrian or agricultural use (Outline - part access included)**

**Report Item No  
A9**

**Land At Measham Road Appleby Magna Swadlincote Derby**

**Application Reference  
14/00595/OUT**

**Applicant:  
Mr David Jones**

**Date Registered  
1 July 2014**

**Case Officer:  
Jenny Davies**

**Target Decision Date  
26 August 2014**

**Recommendation:  
PERMIT Subject to a Section 106 Agreement**

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



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

### **Proposal**

Outline planning permission (with access included for determination) is sought for the demolition of two existing buildings and the erection of four detached dwellings and garaging (including two self build units) and the creation of a paddock for equestrian or agricultural use on land at Measham Road, Appleby. The site lies on the eastern side of Measham Road and is currently occupied by two buildings adjacent to its southern boundary with the remainder of the site comprising a grassed/overgrown field. The site is adjoined by residential properties and open fields. Access to the site would be via a new site entrance onto Measham Road.

### **Consultations**

Members will see from the main report below that two letters of objection from members of the public have been received, along with one objection from Appleby Environment. The objections largely relate to the level of development within the village, highway safety and impact on residential amenities, the character of the area and the public footpath. No comments have been received from Appleby Magna Parish Council. An objection from the Environment Agency in respect of potential pollution of controlled waters has been withdrawn following the submission of additional information. There are no objections from any other statutory consultees.

### **Planning Policy**

The application site lies outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also of relevance is the National Planning Policy Framework (NPPF).

### **Conclusion**

As set out in the main report below, the site lies outside the Limits to Development in the adopted Local Plan and predominantly constitutes greenfield land. Policies S3 and H4/1 which restrain the supply of housing are now considered to be up-to-date given the Council can demonstrate a five-year supply of deliverable housing land. The proposal would increase the level of housing within the village above the District-wide levels suggested under the former Core Strategy and the SHMA. However the increase above these levels would not be significant and given the scale of the development, that the site is well located in relation to the settlement and its proximity to local services and facilities, whilst it would be contrary to Policy S3 of the Local Plan in this case it is considered that a reason for refusal on this basis could not be justified in this case.

The proposed development would be acceptable in terms of density, highway safety, flood risk and drainage and it is considered that four dwellings could be accommodated on the site with an appropriate layout/design and retention of the public footpath and without significantly detrimental impacts on trees and residential amenities. Issues relating to contaminated land and potential contamination of controlled waters could be addressed via conditions. It can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the character of this locality and the countryside.

The less than substantial harm to the heritage assets is in this case considered on balance to be outweighed by the site's contribution to the District's housing land supply, a contribution under the River Mease DCS which will improve the quality of the River Mease SAC and improvements to the village's drainage system.

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

**RECOMMENDATION: THAT PLANNING PERMISSION BE PERMITTED SUBJECT TO THE SIGNING OF A SECTION 106 AGREEMENT**

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

## MAIN REPORT

### 1. Proposals and Background

The application falls to be determined by the Planning Committee as one of the applicants is related to Councillors Richard Blunt, Caroline Large and Charles Meynell.

Outline planning permission (with access included for determination) is sought for the demolition of two existing buildings and the erection of four detached dwellings and garaging (including two self build units) and the creation of a paddock for equestrian or agricultural use on land at Measham Road, Appleby Magna. The site lies on the eastern side of Measham Road and is currently occupied by two outbuildings adjoining its southern boundary with the remainder of the site comprising a grassed/overgrown field. The outbuildings, which are to be demolished, are no longer in use and in a state of disrepair; the application states they were previously in use as a joiner's workshop and associated storage. The site is adjoined by residential properties and open fields. Land levels decrease by approximately 4.1 metres from west to east, with the site being around one metre higher than Measham Road.

A layout plan shows the four dwellings located on the western/central part of the site and the paddock on the eastern area. However this layout is indicative only and if approved the final site layout would be need to be submitted as part of a reserved matters application.

There is currently no vehicular access to the site and so a new access would be created in the site's western boundary onto Measham Road. A public footpath (Q17) crosses the site from west to east, linking Measham Road with Old End, which is shown to be retained, although the indicative layout shows its route altered by up to two metres in the centre of the site and by up to seven metres at the site's western boundary so that it would follow the footway to the new access drive.

The site is adjoined by the Appleby Magna Conservation Area along part of its southern boundary, with Nos. 11, 15, 17 and 19 Old End being identified as unlisted buildings of interest in the Appleby Magna Conservation Area Appraisal. The site also lies within the catchment area of the River Mease Special Area of Conservation. An ash tree located within the garden to No. 21 Old End is protected by virtue of being within the Conservation Area.

The planning history for the site relates solely to six applications to retain a joinery workshop/store (75/2012 refers).

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 10(b) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts, both on its own and cumulatively with other developments in Appleby Magna, are considered to not be significant and can be considered as part of the planning application.

### 2. Publicity

13 no. Neighbours have been notified (Date of last notification 14 July 2014)

Press Notice published 13 August 2014

Site Notice displayed 8 August 2014

### 3. Consultations

Appleby Magna Parish Council consulted 9 July 2014  
County Highway Authority  
Environment Agency  
Development Plans  
English Heritage- major dev in CA  
County Archaeologist  
NWLDC Tree Officer  
DEFRA  
Severn Trent Water Limited  
Head of Environmental Protection  
Natural England  
LCC ecology  
NWLDC Conservation Officer  
LCC/Footpaths  
NWLDC Footpaths Officer

### 4. Summary of Representations Received

#### Statutory Consultees

**The County Highway Authority** has no objections subject to conditions.

**The County Footpaths Officer** advises that the route of public footpath Q17 on the site plan is not entirely consistent with the legal line of this right of way and sets out the procedures to follow to apply for a Diversion Order.

**The District Footpaths Officer** advises that there are no footpath diversion considerations required for this application.

**The County Archaeologist** recommends the imposition of conditions.

**English Heritage** recommends that the Authority's archaeological advisor is consulted in relation to potential impacts on archaeological remains to ensure there is an adequate scheme of recording and that the Authority determines the application in accordance with national and local policy guidance and on the basis of its specialist conservation advice.

**The Environment Agency** initially objected to the application on grounds that there was insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable. Following the submission of a Preliminary Ground Investigation Report, the Environment Agency has no objection subject to conditions.

**Natural England** has no objections in relation to the River Mease SAC/SSSI, refers to its Standing Advice relating to protected species and advises that impacts on biodiversity and landscape enhancements and impact on local sites should be considered.

**The County Ecologist** has no objections subject to a condition.

**The Council's Tree Officer** initially advised that a tree survey was required but following further consideration concluded that impact on trees could be addressed at reserved matters stage.

**The Council's Environmental Protection Team** recommends the imposition of conditions relating to contaminated land and has no other environmental observations.

No responses received from Appleby Magna Parish Council, DEFRA or Severn Trent Water by the date of this report.

### **Third Party Representations**

Two letters of representation have been received which object on the following grounds:

- loss of green space between houses;
- three storey dwellings would be out of keeping with the character of the area;
- loss of privacy;
- overshadowing;
- three storey dwellings would impact on residential amenities;
- impact on existing sewerage system;
- current problems with surface water runoff discharging to Old End and the brook will be exacerbated;
- Measham Road will be made dangerous for pedestrians and vehicles;
- Measham Road already overloaded due to on-street parking;
- more traffic using the road and parking will make it more difficult for existing residents, in particular to use their driveways;
- there is already an increase in traffic along Measham Road;
- no kissing gate on the public footpath;
- public footpath is an ancient and traditional feature of the village and should be kept;
- public footpath is used most days although the western part is not currently accessible as the site owner is not maintaining the grass;
- concerns related to public footpath running through the site to the access junction;
- outbuildings are used by bats;
- impact on wildlife, e.g. foxes, snakes, rabbits, and their habitats;
- impact on facilities within the village, e.g. the school;
- more people travelling out of the village, e.g. to the GP surgery;
- lack of bus routes to other areas.

One letter of representation has been received from Appleby Environment, which is a formally constituted community group, and which objects on the following grounds:

- officers' reports relating to the 68 houses approved at April Planning Committee argued that this level of growth was appropriate for the village and in line with the required housing growth for the village as a whole;
- Councillors have also stated that those applications were "in line with the desired level of growth for the district" and that those permissions would be the last for the village in this planning cycle;
- current application is another attempt to push agreed boundaries to development and change the character of the village;
- criteria of proportionate growth across the District is the wrong test for assessing sustainable development, which is shown by the sustainability appraisal of the now withdrawn Core Strategy;
- reduction in services within the village through closure of GP surgery and reduced bus service;
- 'small scale development' within the village has been exceeded;
- application therefore does not meet requirement for sustainable development and there is no basis for permitting development on greenfield sites;
- site lies outside the Limits to Development;
- guidelines in the Appleby Magna Village Design Statement would be broken;
- clear evidence that the public footpath across the site is being used;

- impact of development on a public footpath is a material consideration;
- national guidance advises that alternative alignment of public footpaths should avoid the use of estate roads;
- site is higher than adjacent development and the site is at the same height as the upstairs windows of properties on opposite side of Measham Road;

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

## **5. Relevant Planning Policy**

### **National Planning Policy Framework (NPPF) - March 2012**

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

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

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

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

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

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

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

quality land in preference to that of a higher quality.

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

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
  - proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest; ...
- ...- opportunities to incorporate biodiversity in and around developments should be encouraged..."

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

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

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

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

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

"131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

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

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

benefits that outweigh the harm or loss or all of four other criteria apply."

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

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

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

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

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

"204. Planning obligations should only be sought where they meet all of the following tests:

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

**North West Leicestershire Local Plan:**

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development plan. The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

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

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

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

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

Policy E4 seeks to achieve good design in new development.

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

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

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

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

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

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

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

### **Other Guidance**

#### *Submission Core Strategy*

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

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

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

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

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

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

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

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

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

*Rights of Way Circular 01/09 (DEFRA)* gives advice to local authorities on recording, managing and maintaining, protecting and changing public rights of way.

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

*Appleby Magna Conservation Area Appraisal and Study SPG* identifies individual factors considered to have a positive impact on the character of the Conservation Area. These factors include principal listed buildings and unlisted buildings of interest in the vicinity of the site.

## **6. Assessment**

The main issues for consideration in the determination of this application relate to the principle and sustainability of the proposal, impact on the character of the area and the historic environment and its impact on trees, residential amenities, highway safety, the public footpath, drainage and flood risk, protected species/ecology and on the River Mease Special Area of Conservation.

### **Principle of Development**

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

In terms of the Local Plan, the site lies outside the Limits to Development. Policy S3 of the Local Plan sets out the circumstances in which development will be permitted outside Limits to Development; whilst the paddock for agricultural/equestrian use would fall within the provisions of Policy S3, the dwellings would not meet the criteria for development in the countryside and would therefore be contrary to the provisions of Policy S3.

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

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

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

Whether or not this site would be considered "appropriate" is a matter of judgement. Insofar as the site's location is concerned it is located adjacent to existing built development and a site which has permission for eight dwellings (13/00829/OUT refers) on which development has

commenced, and therefore would not result in isolated development in the countryside. The site is in part previously developed due to the two outbuildings which it is understood were used as a joinery and associated storage. However these buildings occupy a small area of the site and on historic maps there does not appear to be a significant area of land in associated use with these buildings. Therefore the majority of the site is considered to be greenfield. In terms of the site's largely greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to maintain a five year housing land supply in the District. It is therefore considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

### *Housing Land Supply*

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

As reported to Committee on 8th July 2014, however, a recently completed County-wide Strategic Housing Market Assessment (SHMA) has provided the Council with an up-to-date objectively assessed annual housing requirement. Further to the recalculated housing land supply figure reported on the Update Sheet to the Planning Committee meeting of 8 July 2014, the District Council has now published a revised housing supply trajectory. The latest housing supply trajectory indicates that, as matters currently stand, using the approach of an annualised requirement with a 20% buffer, the District is able to demonstrate a supply of 6.65 years.

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

In addition, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

### *Sustainability*

In terms of the sustainability of the site, Appleby Magna provides a good range of day to day

facilities, i.e. a primary school, shop/Post Office, church, church hall, two public houses, play area/recreation ground and some small-scale employment sites. It should be noted that public consultation was undertaken at the end of 2013 to close the GP surgery and that the surgery has since closed, so patients would have to attend the surgery in Measham (3.05km away).

There is also a limited public transport service; the No. 7 service currently provides a service Monday to Saturday (approximately every 1.5-2 hours) from 8.10am to 5.48pm which serves Measham, Ashby de la Zouch, Atherstone and Nuneaton with a total of 11 buses running per day. Public consultation was also undertaken at the end of 2013 to reduce the No. 7 service so it operates every four hours, with a total of six buses running per day. At the County Council's Cabinet meeting in May 2014 it was agreed that the existing No. 7 service would be replaced with a community bus partnership and the contract for the revised service is due to go out to tender at the end of 2014, with a service start date towards the end of March 2015, from when the No. 7 will continue to serve the village with a two hourly frequency.

In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the preferred maximum walking distance to a town centre with 400 metres acceptable and 200 metres being desirable. The Inspector in the Moira Road appeal referred to the DoT statistics which detail that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1Km (0.62 miles), cycling about 4.5Km (2.8 miles) and by bus about 8Km (4.97 miles). Below are the approximate distances from the centre of the site to local facilities and services via the existing footway network:

Bus Stop - 245 metres  
Primary School - 1.3 km  
Shops/Post Office - 500 metres  
Play Area/Open Space - 750 metres  
Village Hall - 440 metres  
Public House - 520 metres

The application site is well related to most of the key services/facilities within the village, being within 800 metres (preferred maximum walking distance) of the majority of the services listed above, apart from the school, which is located outside the main village and is unlikely to be a practical walking option for many existing village residents. The level of services available is considered to be good for a rural village although the public transport connectivity is considered to be poor. Whilst there is no footway along this side of Measham Road, there is a footway on the western side opposite the site access, from which Measham Road has to be crossed to continue into the village. Residents of existing dwellings further along Measham Road would have to cross the road to use the footway into the village and already use the existing footway network within the village. The public footpath running through the site also provides access onto Old End which provides an alternative route into the village. There is also a variety of pedestrian routes through the village that could be used to reach existing services. Although there already appears to be a high level of car use within the village (based on 2011 Census data) there are some services/facilities within the village and some opportunities to access them other than by car.

Given the scale of the development it is considered that the proposal would not result in unsustainable demands on local services and facilities. Taking all of these matters into account, it is considered that Appleby Magna is a sustainable location for the level of development proposed for this site on an individual basis.

*Scale of Development and Cumulative Impacts*

It is appropriate to consider the scale of the proposed development compared to Appleby Magna so as to understand its potential impact upon the scale and character of the village.

In terms of likely future needs the GL Hearn Leicester and Leicestershire Housing Requirements Study which was used to inform the housing requirement in the now withdrawn Core Strategy includes information regarding future natural change across the district. This Study projected a 23.4% increase in housing was required across the District from 2006-2031, which was reflected in the now withdrawn Core Strategy. This assessment is provided to be consistent with the assessments of the other recent large proposals for new housing in the village.

It is estimated that there are 433 properties in the village of Appleby Magna within its main built up area and 485 properties in the Parish of Appleby Magna. This proposal for four dwellings would represent a 0.92% increase in the number of dwellings within the village and a 0.82% increase within the Parish. Therefore, the proposed development on its own would represent a lower level of growth than that for North West Leicestershire as a whole.

There are outstanding commitments for 86 dwellings in the village, which includes several small sites as well as the schemes for 8 and 39 dwellings on Measham Road and 29 dwellings on Top Street. The four dwellings on the site alongside the outstanding commitments for 86 dwellings would equate to a 20.79% growth in the village from 2011. The four dwellings on the site alongside the 13 new dwellings built since 2006 and the outstanding commitments for 86 dwellings (a total of 103 dwellings) would equate to a 24.45% growth in the village since 2006. Whilst the level of cumulative growth would be higher for the village than for the District overall, the difference of 1.05% is not considered to be significant.

However since consideration of the previous large housing applications in the village, the Strategic Housing Market Assessment (SHMA) has been published which suggests a 17.3% increase in new housing across the District from 2011-2031. The site alongside existing commitments (which includes the new housing for the village that has recently been approved), would exceed the District-wide level of growth suggested in the SHMA from 2011, i.e. 20.79% compared to 17.3%, but again this is not considered to be significant with a difference of 3.49%.

It should also be noted that the level of housing proposed across these this site and those recently considered at Planning Committee would be built over a number of years and works would not start immediately due to the need for legal agreements to be completed and for a reserved matters application to be submitted (and approved) on this and the Top Street sites.

*Loss of Agricultural Land*

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. The site is currently grassland and does not appear to be in active agricultural use. The development of the site would result in an irreversible loss to non-agricultural use on part of the site. DEFRA has been consulted on this issue, but no response has been received.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it would seem inevitable that greenfield land (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The application site may fall within Grade 2 of the ALC.

However, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively). The site is approximately 0.53 hectares in size. It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process, which in this case would be relatively small in scale with retention of approximately 0.24ha in agricultural or equestrian use and the remaining approximate 0.29ha highly likely to be irreversible. The cumulative loss of farmland across this and other recently approved sites would be 4.22ha which is also considered to be low.

Nevertheless it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, it is considered that the agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the loss.

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

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

The site is outside the Limits to Development in the adopted Local Plan and is mostly a greenfield site. Whilst the paddock element would accord with Policy S3 of the Local Plan, the residential element would be contrary to Policy S3, which along with Policy H4/1 is now considered to be up to date. The site's small scale and general suitability for housing (given its location in terms of distances to most services/facilities) is also material, together with the need for the District to release land for housing to ensure the maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF).

The proposal on its own would not significantly increase housing numbers within the village. Although the level of cumulative development proposed across the site alongside existing commitments in the village would exceed growth for the District as a whole based on the former Core Strategy figures, the difference of 1.05% is not considered to be significant. The difference when compared to the growth for the District suggested by the SHMA is also considered to not be significant at 3.49%. Furthermore given the small scale of the development, that the site is well located in relation to the settlement and its proximity to local services and facilities, whilst the proposal would be contrary to Policy S3 of the Local Plan it is considered that a reason for refusal on this basis could not be justified in this case.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in maintaining housing land supply and its proximity to services/facilities would ensure that the scheme would have some economic and social benefits. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of a predominantly greenfield site, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural or historic environment. There would be some harm to the character of the area and public footpath but not at a sufficient level to justify a reason for refusal. In the overall balance it

is considered that the proposal would be a sustainable form of development.

### **Density**

The proposal results in a density of 7.55 dwellings per hectare for the whole site, which is well below that sought under Policy H6 of the Local Plan (a minimum of 30 dwellings per hectare). However this density relates to the site as whole, including the paddock. When taking the developed area of the site (approximately 0.29ha) the density increases to 13.8 dwellings per hectare. The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate having regard to the location of the site on the edge of a village and the character of the area.

### **Impact on Character of the Area**

In terms of the character of the site and locality and the guidelines in the adopted Village Design Statement (VDS), the site forms an open space and is part of the semi-rural feel to the approach into the village along Measham Road and the public footpath that runs through the site, as well as forming part of the edge to the village's main built up area.

The Village Character section of the VDS indicates that the character of Appleby is essentially rural, there is a strong sense of being in the countryside and natural features contribute to its rural ambience. However the site is well related to the existing settlement with dwellings to the west and in part to the east and south, a site with planning permission for eight dwellings to the south and a row of housing on Measham Road to the north. Therefore the site is reasonably well related to the existing settlement and the new dwellings would be located on the part immediately adjoining existing and proposed housing.

The site and its boundary treatments are important elements of the setting and approach to the village as identified in the VDS and create a strong sense of enclosure to the site. Hedgerows/trees form strong boundaries around the whole of the site and the northern, eastern and southern boundaries would be retained, which would assist with screening the development and meeting the guidelines of the VDS. However it appears that at least half of the frontage hedgerow/trees would be lost to provide the new access and visibility splays. The loss of part of this hedgerow/trees would affect the character of this stretch of Measham Road and although replacement hedge planting would be provided this would take some time to mature. However part of this hedgerow/trees at its northern end are likely to be retained and it appears that the majority of the frontage embankment could be retained save where the access would be formed. The majority of the frontage hedgerow to the adjacent development site has been retained and mature hedgerows are present to the frontage to the adjacent field to the north and to the field to the north west on the opposite side of Measham Road (with most of this hedgerow being retained under the proposed scheme for 39 dwellings on this site - 13/00797/FULM refers). As such whilst the loss of part of the frontage hedgerow/trees would affect the character of the area it is considered that it would not be so significant to justify a reason for refusal.

The site is not particularly prominent in immediate or longer views from Measham Road due to the extent of mature trees and hedgerow along the frontage boundary and other boundaries or from most of Old End due to screening by existing dwellings and vegetation. Therefore the character of the area in longer views would not be significantly affected.

The site is currently not significantly visible from Measham Road or Old End and therefore in itself makes a limited contribution to their streetscenes. As some of the hedgerow/trees along the site's frontage would be lost, views into the site would be opened up, making development prominent in immediate views from Measham Road as the site is approximately one metre higher than the road. Although the layout is indicative it shows that dwellings could be set back

from the Measham Road frontage, which would reduce their prominence within the streetscene and prevent a harsh edge or a solid block of development being formed within the site, in particular as the eastern part of the site would not be developed.

The site density is very low and the indicative layout shows that four dwellings could be accommodated on the site with space between each dwelling and areas of landscaping provided, in particular close to the site's frontage. Therefore the residential element should not result in a cramped form of development and a development could be achieved on the site that reflects the character of this part of the village where housing is less dense to reflect the edge of settlement location.

However the site does make a contribution to the character and visual amenities of the area when viewed from the public footpath, although it is in itself not considered to have any particularly special characteristics as it is a largely overgrown field. The site does form part of the semi-rural edge to the village and although views outside the site from the western part are more limited due to boundary hedgerows, there are views across the eastern part of the site towards the countryside beyond due to the changes in land levels.

Although the development would be visible from the eastern stretch of the footpath, views of the southern part of the site are screened by vegetation along the boundaries with No. 21 Old End and appropriate boundary treatments could be provided along the eastern boundary between the dwellings and paddock. Given the scale of the proposal views from this part of the footpath would also be of a low density development.

It is the character of the area and visual amenities when viewed from the western stretch of the public footpath that would be most affected. However the site is largely overgrown and does not have any particular special characteristics as noted above. Views through to the eastern part of the site and the countryside beyond would still be available and although the openness of the site's western part would be lost, a low density scheme is proposed which would allow for areas of landscaping to be provided and for a semi-rural, edge of village character to be retained.

Both existing buildings within the site are proposed to be demolished. The larger building visible from the public footpath but is of limited visual quality and makes a limited contribution to the character of the area being derelict and largely of tin and timber construction with an asbestos roof and not being visible from the road. The building adjoining the road appears to be in a better state of repair, being constructed from brick, although it also has an asbestos roof. It is not immediately visible from the footpath due to the overgrown nature of the vegetation but it does immediately abut Measham Road and therefore makes a contribution to the character of the streetscene. As the site layout has not been fixed, there may be an opportunity for this building to be retained in some form, but if not, whilst its loss would be regrettable, it would not be significantly harmful to the streetscene.

Whilst the site contributes to the form and setting of the village and its semi-rural character in this location, in long and immediate range views the sensitivity of the site is limited, as it is effectively a large open field with no particularly distinctive characteristics. Part of the site would remain un-developed and impact on views from the eastern part of the footpath would not be significant. Whilst greater impact would result on views from the western stretch of the footpath, the scheme would be low density and a semi-rural feel would be retained.

Therefore having regard to all of the above considerations, whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an

adverse impact on the character of this locality and the countryside.

### **Historic Environment**

The boundary of the Appleby Magna Conservation Area adjoins the site along part of its southern boundary. Nos. 11, 15, 17 and 19 Old End are identified as unlisted buildings of interest in the Appleby Magna Conservation Area Appraisal. The Church of St Michael is a Grade 2\* listed building and is visible in views along Measham Road. There are also other listed buildings located within the village, with the nearest being the almshouses which are 300 metres to the south, along with the moated site of the former medieval manor house which is a Scheduled Ancient Monument. The Conservation Area and listed buildings are designated heritage assets as defined in the NPPF, with the properties on Old End being undesignated heritage assets. The site also lies on the edge of the medieval and post-medieval historic settlement core of the village and buried archaeological evidence can be expected within the site, which would also form a heritage asset.

Appleby Magna is thought to have Saxon origins and it is considered likely that the original settlement may have been in the vicinity of the later St Michael's Church. However evidence of Romano-British activity indicates that the area around the shallow stream valley was farmed and settled much earlier.

The nearest part of the Conservation Area is a residential area with dwellings located on the western side of Old End. The willow trees on the eastern side of Old End are protected by a Tree Preservation Order and the ash tree within the garden to No. 21 Old End is protected by virtue of being within the Conservation Area. The Conservation Area Appraisal states that 'The buildings in the Black Horse Hill/Old End area superficially largely appear to be of a late eighteenth/early nineteenth century date and many are in the local vernacular building tradition. The location of many properties on Old End at right angles to the road suggests that they may be of even earlier origin. Buildings are largely constructed of local red brickwork with blue clay plain tile roofs. The properties on Old End that are undesignated heritage assets are those that are positioned at right angles to the road.

Therefore the listed and unlisted buildings, the Conservation Area and Scheduled Ancient Monument form an important part of the history of this part of the village and are considered to be heritage assets of some significance which have value for this and future generations.

The contribution made by this site to the setting of the Conservation Area and listed buildings/Scheduled Monument within derives from its landscape character, which helps reinforce the strong contrast of the rural landscape with the historic village settlement. The survival of the development site in both land use and visual terms helps define the direct historic relationship between the settlement and its agricultural setting. It is accepted that existing 20th century development has impacted on the setting of the medieval village and the setting of the Conservation Area and the continued development of surrounding land is considered harmful to the significance of the designated heritage assets. However the site and the proposed development are small in scale and is not considered to be significantly detrimental to the semi-rural character of the area (as discussed earlier in the report).

The church spire is visible in longer views of the site's frontage from Measham Road to the north although it is seen alongside and screened by existing trees. However it is considered unlikely that the new dwellings would be seen in the foreground to the church. Although at a higher land level the site does not form a prominent backdrop to Old End due to screening by existing dwellings and vegetation and although partly visible from the northern end of this lane (where it meets the public footpath) due to the low density and screening of parts of the site, it is

considered that the development would not be prominent or significantly harmful in this view. Some of the dwellings on Old End are visible from the site but form the backdrop as they are at a lower land level and are screened by vegetation. As such the site does not form a significant backdrop or foreground to the Conservation Area. The indicative layout shows that some separation could be achieved between the proposed development and the dwellings on Old End due to existing and proposed gardens and the existing boundary. The proposal will therefore have a limited visual impact on the Conservation Area and the unlisted buildings.

In this case the loss of part of the rural landscape is not considered to be significantly detrimental to the semi-rural character of the area or the village (as discussed earlier in the report). Furthermore the proposal, both on its own and cumulatively with the proposal to the south and on the opposite side of Measham Road and on Top Street, would not result in a significant separation of the historic village core from the village's agricultural setting due to the scale of the proposal, the retention of the eastern part of the site, the distance between the site and the historic centre, that the built form of the village would not significantly extend into the countryside, and as the relationship in terms of rural landscape and the historic village settlement has been diminished by other modern development that has already taken place.

Both the supporting information and English Heritage make reference to the presence of ridge and furrow within the site. The County Planning Archaeologist notes that buried archaeological evidence can be expected within the development area and recommends that conditions can be imposed to allow for the investigation and recording of any archaeological remains that may be found. Neither the Conservation Officer nor English Heritage have any objections. It is therefore considered that the proposal would be harmful to the significance of the heritage assets but that this would not involve substantial harm or total loss of significance for the reasons set out above. Therefore the proposals amount to less than substantial harm to the significance of the heritage assets and would not result in significant detriment to the special architectural or historic interest, character or setting of the ancient monument, the listed church and other listed and unlisted buildings in the village and would not adversely affect the character and appearance of the Conservation Area, thereby sustaining the significance of these heritage assets. Furthermore any archaeological remains can be investigated.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal, including securing its optimum viable use. The VDS requires the historic environment to be conserved, enhanced and respected. The harm to the heritage assets is in this case considered on balance to be outweighed by the provision of four new homes to contribute to the District's housing land, a contribution under the River Mease DCS which will improve the quality of the River Mease SAC and improvements to the village's drainage system (with the latter two being discussed below in more detail).

### **Trees**

The Tree Officer initially advised that a tree survey and arboricultural implications report were required due to the ash tree in No. 21 Old End's garden which is close to the site boundary and the trees/hedgerow that lie along the site's southern boundary, as these trees/hedgerow could be affected by the proposed dwellings and/or result in incompatibility problems. However the agent requested that a tree survey was not required at this stage, as the layout plan is indicative only and demonstrates that four dwellings could be accommodated whilst being moved further away from the trees. Consideration of the loss of part of the frontage trees/hedgerow is considered earlier in the report. On this basis it is therefore considered that impact on the trees/hedgerow could be dealt with at the reserved matters stage.

### **Residential Amenities**

The outlook from the dwellings on the opposite side of Measham Road towards and across the site would be affected. The private garden spaces to Nos. 23-29 Measham Road are located to their rear. Whilst the garden space to Nos. 31 and 33 runs parallel with Measham Road the indicative layout plan shows that dwellings could be accommodated at least 18 metres from these gardens and any dwellings directly facing these gardens could be positioned further away. It would also be possible for the new dwellings to be positioned an appropriate distance from the existing dwellings. It is also not an unusual arrangement for dwellings to face each other across the street, even at different land levels, as is the case elsewhere in the village.

The boundary to No. 21 Old End adjoins the residential element; however No. 21 itself is 18 metres from this boundary and No. 21 also has a large private garden area, with a mature hedgerow along the boundary along with a mature ash tree in the eastern part of the garden which provide some screening. It is noted that No. 21 is at a lower land level than the site. However it is considered that four dwellings could be accommodated on the site without resulting in significant detriment to the residential amenities of occupiers of No. 21. Although concerns have been raised about three storey dwellings resulting in loss of privacy and loss of light, the impact of the height, scale and design of the dwellings would be considered at reserved matters stage.

The indicative layout plan also shows that four dwellings could be accommodated on the site at an appropriate distance from the dwellings that benefit from planning permission on the adjoining site to the south.

### **Highway Safety**

The County Highway Authority has no objections in relation to highway safety matters. Whilst there is no footway on this side of the road, one is available on the western side which runs into the village, from which Measham Road has to be crossed to continue into the village. Furthermore occupiers of existing dwellings further along Measham Road currently have to cross the road to use the footway into the village. A new access to the site would be created and the Highway Authority's requirements for visibility splays and other technical requirements can be met. At least two parking spaces could be provided per dwelling, with three to four spaces in some cases, all of which can be secured by condition. As the site is served by a new access drive, there is likely to be space for any off-street parking to take place within the site. The Highway Authority raises no concerns in relation to the proposal on its own or cumulatively with other recent approved schemes adversely affecting the capacity of the village road network. Based on the above it is considered that the proposal would not result in a severe impact on highway safety and as such it is considered that a highway safety reason for refusal could not be sustained in this case.

### **Public Footpath**

The route of the eastern part of the footpath is likely to remain unchanged as it would extend through and adjacent to the paddock on the eastern part of the site. The western part of the footpath would run through the developed part of the site and the indicative layout plan shows the footpath being diverted along this stretch by between two and seven metres to follow the route of the proposed access drive. However as the layout is indicative only this altered route has not been fixed.

The character of the western part of the route would change and this is discussed in more detail in the earlier section of this report relating to impact on the character of the area. It is noted that the Rights of Way Circular 01/09 advises that *"In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are*

*acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic."* Whilst the plan shows the revised footpath route following the access drive into the site, as noted above this route has not been fixed at this stage and the detailed matters relating to the route of the public footpath would be considered at reserved matters stage.

If the applicant did wish to divert the footpath from its legal route, then an application would need to be made to the District Council for a Diversion Order.

### **Drainage and Flood Risk**

The site lies within Flood Zone 1 and as it is also under one hectare in size, a Flood Risk Assessment is not required and therefore the Environment Agency has not commented in respect of drainage or flood risk as the application is covered by the Agency's Standing Advice. No comments have been received from Severn Trent Water. Consideration of the capacity of Severn Trent Water's treatment works is set out below in the section relating to impact on the River Mease SAC.

Concerns have been raised in relation to surface water (once the site is developed) affecting the street and properties on Old End which are at a lower land level and exacerbating existing surface water runoff problems.

The Environment Agency's guidance in relation to surface water drainage states that '...the main flood risk issue to consider is usually the management of surface water run-off. Drainage from new development must not increase flood risk either on-site or elsewhere. Government policy strongly encourages a sustainable drainage system (SuDS) approach to achieve these objectives.' Best practice is for developments of greenfield sites to ensure surface water runoff discharges at greenfield runoff rates (i.e. the rate at which surface water currently discharges from the site when undeveloped), which is usually set at 5l/sec/ha, and this is required by the Environment Agency in respect of developments of larger greenfield sites and can be secured by condition.

The submitted information advises that the development would be designed so that surface water would be attenuated to greenfield run off rates and take account of the 1 in 100 year event plus climate change. There is ample space within the site to place soakaways and other attenuation, although the report advises that surface water would discharge to mains sewer as the site is unlikely to be suitable for infiltration methods. The Environment Agency has requested a condition preventing infiltration methods unless it has been demonstrated it would not harm controlled waters. A condition can be imposed to secure surface water discharge, either to a sustainable drainage system or potentially as an alternative to the mains sewer if it can be demonstrated that the site is not suitable for such a system.

Severn Trent Water has previously advised that it is aware of current issues with the sewerage system which is being looked into by its sewer modelling team and it intends to promote a project into its capital programme within the coming months. Severn Trent Water advises that it will not object to new developments and that a phasing condition should be imposed, which can be drafted as a Grampian condition to prevent occupation of the proposed dwellings until the works to the sewer/drainage system have taken place. Such an approach has been adopted on other recent proposals for new dwellings in the village at Measham Road and Top Street.

### **Protected Species/Ecology**

The site is grassland and scrub with trees/hedgerows along its boundaries and two vacant

buildings located adjacent to its southern boundary. The site is also adjoined by grassland along with other trees and hedgerows nearby. Some of these are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions. The habitats could also be used by national protected species.

An ecological appraisal has been submitted with the application which concludes that the two buildings have low potential for use by bats and the County Ecologist advises that further surveys are not required. No evidence of breeding birds was found within the buildings. The trees/hedgerows located along the site's boundaries are shown to be retained and almost half of the site would be retained as paddock, with other small areas of landscaping provided within the site. A condition relating to breeding birds could be imposed. The survey also found that the site has potential to be used as habitat by reptiles such as grass snake and recommends that further surveys are undertaken to confirm the presence/absence of this species, which can be secured by condition.

The County Ecologist advises that she has concern regarding the potential for ponds within 100 metres of the site for use by great crested newts (GCN). She advises that although there is a known population of GCN in the village it is to the south of the site (on land close to the village hall) and recent surveys and assessments of ponds close to the site have not revealed the presence of GCN, save for one pond within 100 metres to the south which could not be accessed for surveying. However the County Ecologist advises that given the good level of knowledge of GCN within the village it is considered GCN presence in that pond is unlikely and she does not feel that this pond poses a threat to the proposal.

As such it is considered that protected species would not be adversely affected by the proposals.

The survey advises that the majority of the site is designated as a Parish Level Wildlife Site containing 'old grassland' but does not meet the criteria for designation as a Local Wildlife Site. The County Ecologist also advises that whilst the site used to be species-rich grassland, it has declined, probably due to lack of management, and does not object to its partial loss. As some valued grassland is still present and the management of the proposed paddock may improve the quality of the grassland she recommends the imposition of a condition relating to this matter. However it is considered that such a condition would not be reasonable nor enforceable and therefore could not be imposed.

#### **Impact on the River Mease Special Area of Conservation/SSSI**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. A tributary to the River Mease lies approximately 15 metres to the east of the site. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The 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.

The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS. The exact contribution cannot be agreed at this time (although the maximum amount would be £1,416) as the exact number of bedrooms per dwelling has not been agreed at this stage. Natural England's Standing Advice sets out that foul water mains drainage development proposals in the River Mease catchment that fully adhere to the now adopted DCS will not sustain an objection from Natural England, providing that the proposal does not result in any other potential impacts on the River Mease SAC either alone or in-combination with other plans or projects and providing that there are no other significant matters of nature conservation concern.

Consideration needs to be given to the capacity of Severn Trent Water's receiving treatment works at Snarestone. The flows from the new dwellings will need to be taken into account against the existing headroom at Snarestone. At March 2014 capacity was available for 129 dwellings but this is reduced by the number of dwellings that have already got consent or are under construction at March 2014 (27) plus any other schemes that have been approved or have a resolution to permit since March 2014 (equivalent to approximately 75 dwellings). Taking these into account capacity is currently available at the treatment works.

A condition requiring that only a mains connection is used at the site would also be required as the use of other means for foul drainage discharge could adversely affect the SAC and conditions imposed to secure the details of foul drainage and surface water discharge. Therefore based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

### **Other Matters**

The Environmental Protection team has requested the imposition of conditions relating to contaminated land due to the unknown history of the use of the two buildings.

The Environment Agency initially objected to the application as there was insufficient information to demonstrate that the risk of pollution to controlled water is acceptable and there is a risk that the proposal would cause pollution to controlled waters receptors (principal and secondary aquifers) in the local area from the use of the site as a joinery, associated storage and agriculture. Following submission of a Preliminary Ground Investigation Report, the Environment Agency advises that it concurs with the conclusions of this report that due to the previous joinery use an intrusive investigation is required to assess potential contamination. Therefore the Agency recommends the imposition of conditions to address this matter.

The site lies 700 metres to the west of the proposed route of HS2. Any potential adverse effects on future residents would be expected to be limited due to mitigation measures to be included in the HS2 design having regard to the need to protect other nearby dwellings. Putting the potential for noise nuisance to future residents to one side, however, it is considered that only

limited weight can be attributed to HS2 as a material planning consideration at this stage in HS2's development. The Government is currently consulting on the proposed Phase 2 (i.e. West Midlands to Manchester and Leeds) connections, and the route is not fixed at this time; Phase 2 is not currently subject to the safeguarding mechanism which applies to the Phase 1 (London to West Midlands) section.

### **Conclusion**

As set out in the main report above, the site lies outside the Limits to Development in the adopted Local Plan and predominantly constitutes greenfield land. Policies S3 and H4/1 which restrain the supply of housing are now considered to be up-to-date given the Council can demonstrate a five-year supply of deliverable housing land. The proposal would increase the level of housing within the village above the District-wide levels suggested under the former Core Strategy and the SHMA. However the increase above these levels would not be significant and given the scale of the development, that the site is well located in relation to the settlement and its proximity to local services and facilities, whilst it would be contrary to Policy S3 of the Local Plan in this case it is considered that a reason for refusal on this basis could not be justified in this case.

The proposed development would be acceptable in terms of density, highway safety, flood risk and drainage and it is considered that four dwellings could be accommodated on the site with an appropriate layout/design and retention of the public footpath and without significantly detrimental impacts on trees and residential amenities. Issues relating to contaminated land and potential contamination of controlled waters could be addressed via conditions. It can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the character of this locality and the countryside.

The less than substantial harm to the heritage assets is in this case considered on balance to be outweighed by the site's contribution to the District's housing land supply, a contribution under the River Mease DCS which will improve the quality of the River Mease SAC and improvements to the village's drainage system.

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

### **RECOMMENDATION, PERMIT subject to a Section 106 Agreement and the following conditions(s):**

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

1990 (as amended).

- 2 Approval of the details of access within the site, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

*Reason- this permission is in outline only.*

- 3 The development shall be carried out strictly in accordance with the following schedule of plans unless otherwise required by a condition of this permission:

- Drawing No. 2990-02 (Location Plan) received by the Authority on 1 July 2014;
- Drawing No. 2990-02 Rev A (Site Sections) received by the Authority on 20 October 2014;
- Drawing No. 2990-01 Revision A (Proposed Site Plan - details of the site access only) received by the Authority on 1 July 2014.

*Reason- To determine the scope of this permission.*

- 4 The area coloured light green and annotated as 'Pony Paddock' on Drawing No. 2990-01 Revision A (Proposed Site Plan) shall be used solely as a paddock for agricultural use or the keeping of horses only and no part of the four dwellings or their associated development shall be erected within this area.

*Reason: in the interests of the character and visual amenities of the area.*

- 5 The paddock shall not be used in connection with a riding school, livery stables or any other equestrian business or commercial use.

*Reason - other uses may raise different impacts in terms of residential amenities, highway safety and impact on the River Mease SAC.*

- 6 None of the dwellings hereby approved shall be occupied until a scheme of measures to ensure the sewer/drainage network has capacity to serve the development has been provided in full in accordance with a scheme that has first been submitted to and agreed in writing with the Local Planning Authority (in consultation with Severn Trent Water).

*Reason- to ensure sufficient capacity is available within the local drainage network.*

- 7 No development shall commence on site until such time as details of the means of disposal of foul drainage from the site have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details which shall thereafter be so retained.

*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.*

- 8 No development shall commence on site until such time as details of:

- (i) the means of disposal of surface water from the site to soakaways or other sustainable drainage system where it has been demonstrated that there is no unacceptable risk to controlled waters; or

(ii) evidence to demonstrate that these means of drainage are not suitable for the site and alternative details of surface water discharge to mains sewer;

have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details which shall thereafter be so retained.

*Reason- to prevent an adverse impact on the River Mease Special Area of Conservation; to prevent pollution of controlled waters receptors.*

- 9 The reserved matter application(s) shall include precise details of the finished floor levels to each dwelling and the finished ground levels across the site in relation to an existing datum point.

*Reason - in the interests of visual and residential amenities.*

- 10 A tree survey and arboricultural impacts survey of all trees and hedgerows within and on the boundaries of the site to be developed for the four dwellings and of the mature ash tree within the garden to No. 21 Old End shall be submitted as part of the reserved matter application(s).

*Reason - in the interest of health and safety and the amenity value of the trees/hedgerows and to assess the impact of the development on the trees/hedgerows.*

- 11 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

*Reason: to reduce the impact of the proposal on nesting birds, which are a protected species.*

- 12 No development shall commence on site until details of the design and location of bird nesting boxes and bat boxes have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details, and the measures incorporated shall thereafter be so retained.

*Reason - In the interests of providing potential bird nesting and bat roosting sites, to mitigate the loss of those resulting from the loss of trees/vegetation.*

- 13 No development shall commence on site nor shall any removal of scrub or grassland take place until such time as a survey of the site for reptiles in accordance with the methodology set out at paragraphs 4.26 to 4.30 of the Ecological Appraisal (June 2014) undertaken by FPCR and details of any mitigation measures (including a timescale for their implementation) if any reptiles are found has been undertaken and submitted to and agreed in writing by the Local Planning Authority. The mitigation measures shall be undertaken in accordance with the agreed details and timescale.

*Reason- to prevent an adverse impact on species of reptiles which are a protected species.*

- 14 No demolition/development shall commence on site until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation which has first been submitted to and approved in

writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:

- o The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)
- o The programme for post-investigation assessment
- o Provision to be made for analysis of the site investigation and recording
- o Provision to be made for publication and dissemination of the analysis and records of the site investigation
- o Provision to be made for archive deposition of the analysis and records of the site investigation
- o Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

he development shall be undertaken in accordance with the approved Written Scheme of Investigation unless a variation is agreed in writing with the Local Planning Authority.

*Reason: To ensure satisfactory archaeological investigation and recording.*

- 15 None of the dwellings hereby approved shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 14 and provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason: To ensure satisfactory archaeological investigation and recording.*

- 16 No development shall commence on site in relation to the construction of any part of the dwellings hereby approved until the two existing buildings shown on Drawing No. 2990-02 (Location Plan) have been demolished in full, unless an alternative timescale for their demolition has first agreed in writing by the Local Planning Authority.

*Reason - To avoid the possibility of the coexistence of two unrelated developments which would be visually unsatisfactory and to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.*

- 17 No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall identify all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors and potentially unacceptable risks arising from contamination at the site and information for a detailed assessment of the risk to all receptors that may be affected, and shall be carried out in accordance with:
- o BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
  - o BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
  - o BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and

o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

The Verification Plan shall be prepared in accordance with the requirements of:

o Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;

o CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

The development shall be carried out in accordance with the agreed Remedial Scheme and Verification Plan.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:- To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF; to ensure that the development does not cause pollution of the controlled waters receptors below the site.*

18 Prior to occupation of any of the dwellings hereby approved, a Verification Investigation shall be undertaken in line with the agreed Verification Plans for the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

o Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;

o Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;

o Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;

o Contain Test Certificates of imported material to show that it is suitable for its proposed use;

o Demonstrate the effectiveness of the approved Remedial Scheme; and

o Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

*Reason: To ensure that the land is fit for purpose and to accord with the aims and objectives of*

*paragraph 120 of the NPPF; To prevent pollution of the controlled waters receptors below the site.*

- 19 Before first occupation of any dwelling hereby approved, the vehicular access to the site shall be provided in accordance with the details shown on Drawing No. 2990.01 Revision A (Proposed Site Plan), surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the Highway boundary and once provided shall thereafter be so maintained in perpetuity.

*Reason: to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway; to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.).*

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

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

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

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

- 22 Before the first occupation of any dwelling hereby approved, visibility splays shall be provided at the junction of the access with Measham Road in accordance with the details shown on Drawing No. 2990.01 Revision A (Proposed Site Plan). Nothing shall be allowed to grow above a height of 0.9 metres, or overhang lower than 2.0 metres, above ground level within the visibility splays. These shall be provided in accordance with the standards contained in the current County Council design guide and shall thereafter be so maintained in perpetuity.

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

- 23 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as to open inwards only.

*Reason: To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway.*

- 24 The gradient of the access drive shall not exceed 1:12 for the first 7 metres behind the

highway boundary.

*Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety.*

### Notes to applicant

- 1 Planning permission/or approval of reserved matters (delete as appropriate) has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 This decision is subject to a Section 106 Obligation regarding the following matters:  
- Contribution under the River Mease Developer Contribution Scheme.
- 3 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk)
- 4 This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from either the Adoptions team (for 'major' accesses) or the Highways Manager. For further information, including contact details, you are advised to visit the County Council website as follows: -  
- For 'major' accesses - see Part 6 of the "6Cs Design Guide" at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg)  
- For other minor, domestic accesses, contact the Service Centre Tel: 0116 3050001.
- 5 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.
- 6 In respect of condition 14 the Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
- 7 The reserved matters application(s) should include car parking provision on the basis of two spaces for a dwelling with up to three bedrooms and three spaces for a dwelling with four or more bedrooms. Please note that the minimum dimensions for a parking space are 2.4 metres by 5.5 metres and for a garage to be considered as a parking space the minimum internal dimensions are 3 metres by 6 metres.
- 8 An application would need to be made to the District Council to divert the public footpath that runs through the site. The grant of planning permission does not guarantee that such a diversion would be agreed. The public footpath must not be blocked or diverted without consent.
- 9 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority

on 01530 454666 for further details.