

Erection of 605 dwellings, construction of car park and internal access roads and formation of public open spaces (reserved matters to outline planning permission ref. 15/00512/OUTM)

Report Item No
A1

Money Hill Site North Of Nottingham Road And South Of A511
Ashby De La Zouch Leicestershire

Application Reference
20/01662/REMM

Grid Reference (E) 435839
Grid Reference (N) 317826

Date Registered:
3 December 2020
Consultation Expiry:
15 June 2022
8 Week Date:
4 March 2021
Extension of Time:
15 July 2022

Applicant:
Messrs L Padimore & P MacCarthy

Case Officer:
James Knightley

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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RECOMMENDATION- PERMIT, subject to the following condition(s):

- 1 Compliance with outline planning permission
- 2 Approved plans
- 3 Landscaping (including future maintenance and management)
- 4 Hard surfacing (including provision of transition strips to proposed roads)
- 5 Materials
- 6 Boundary treatment
- 7 Tree / hedgerow protection
- 8 Levels
- 9 Retaining walls / structures
- 10 Pedestrian and cycle connections (including any works to public rights of way and other routes)
- 11 Signage of public rights of way
- 12 Provision of signage in respect of unadopted roads / drives intended for public use
- 13 Car parking and turning facilities
- 14 Bus gate (including mechanisms for future maintenance)
- 15 Measures to prevent drainage of surface water into the public highway
- 16 External lighting
- 17 Windows, doors, rainwater goods, utility boxes, chimneys, eaves and verges
- 18 Windows to car parking areas
- 19 Bin / recycling storage and collection points
- 20 Street name plates
- 21 Compliance with details approved pursuant to outline planning permission conditions and forming part of the reserved matters submission (including ecology / biodiversity and archaeology)
- 22 Affordable housing

MAIN REPORT

1. Proposals and Background

This is a reserved matters application for the erection of 605 dwellings on a site of approximately 42 hectares to the north / north east of Ashby de la Zouch.

The original outline planning permission (ref. 15/00512/OUTM) was determined at the Planning Committee in August 2016, and issued in November 2017 following completion of a Section 106 agreement securing obligations including in respect of the River Mease, policing, healthcare, libraries, affordable housing, education, construction traffic routeing, travel plans, travel packs, bus passes, public transport, connectivity, public rights of way, traffic regulation orders, provision of a public car park, public open space and provision of a community facility. That outline planning permission was issued further to an earlier outline permission granted on appeal by the Secretary of State in February 2016 (ref. 13/00335/OUTM / APP/G2435/A/14/2228806). Further outline permissions have also been issued subsequently (in the form of Section 73 permissions, approving variations to 15/00512/OUTM (and variations thereof) (refs. 21/02089/VCUM and 22/00526/VCUM).

All matters were reserved for subsequent approval at the outline stage (save for the means of vehicular access from Nottingham Road and the A511), and all five reserved matters for the phases to which this application relates (i.e. access, appearance, landscaping, layout and scale) are included for consideration as part of this reserved matters submission. However, in accordance with the requirements of the outline planning permission, a site-wide masterplan and Design Code have previously been submitted and approved under conditions attached to the outline permission.

The approved masterplan identifies four phases; the current application in effect relates to the residential development elements of the scheme within all four phases, together with areas of public open space and a proposed public car park (the delivery and operation of which is the subject of the Section 106 agreement referred to above).

2. Publicity

164 neighbours notified.

Site Notice displayed 11 December 2020.

Press Notice published Leicester Mercury 16 December 2020.

3. Summary of Consultations and Representations Received

Ashby de la Zouch Town Council objects on the basis that the proposed 3m wide footpath / cycleway would not continue from the site through to North Street

Coal Authority has no objections

Leicestershire County Council Lead Local Flood Authority has no comments

Leicestershire County Council Highway Authority has no objections subject to conditions

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

National Forest Company recommends that additional screening be provided on the eastern boundary to help screen the site from existing employment units

North West Leicestershire District Council Strategic Housing team has no objections

Third Party Representations

23 representations have been received, objecting on the following grounds:

- Increased use of existing public right of way across private drive leading from Wood Street
- No vehicular traffic accessing the development should be allowed to use the private drive leading from Wood Street
- No vehicular access should be allowed to Nottingham Road which is already severely congested
- Impact of construction traffic
- Flooding
- Loss of agricultural land
- Impact on wildlife / ecology
- Over-development of Ashby de la Zouch detracting from its character and heritage
- Sufficient new housing in Ashby de la Zouch
- Previously-developed sites should be used instead
- Impact on infrastructure (including healthcare, drainage and education)
- Properties should incorporate sufficient insulation
- Water mains are affected by asbestos
- Insufficient employment opportunities in Ashby de la Zouch
- Overlooking / loss of privacy
- Pollution
- Query over funding of proposed extra care facility on the site
- Potential for noise / disturbance to new properties from nearby employment uses

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

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2021)

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

Paragraphs 8, 11 and 12 (Achieving sustainable development)

Paragraphs 47, 55 and 56 (Decision-making)

Paragraphs 108, 110, 111, and 112 (Promoting sustainable transport)

Paragraph 124 (Making effective use of land)

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

Paragraph 169 (Meeting the challenge of climate change, flooding and coastal change)

Paragraph 180 (Conserving and enhancing the natural environment)

Paragraphs 197, 199 and 200 (Conserving and enhancing the historic environment)

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

Adopted North West Leicestershire Local Plan (2021)

The majority of the application site as a whole lies within Limits to Development as defined in the Local Plan (with areas outside Limits to Development being limited to a small area to the north east of the A511 associated with the site access, but unaffected by this reserved matters application). The application site is also identified as a site with planning permission for housing under Policy H1 (site H1b); some sections of the wider site fall within areas identified as a housing allocation under Policy H3 (site H3a). The following adopted Local Plan policies are considered relevant to the determination of this application:

Policy D1 - Design of new development
Policy D2 - Amenity
Policy H6 - House types and mix
Policy IF1 - Development and Infrastructure
Policy IF3 - Open Space, Sport and Recreation Facilities
Policy IF4 - Transport Infrastructure and new development
Policy IF7 - Parking provision and new development
Policy En1 - Nature conservation
Policy En3 - The National Forest
Policy He1 - Conservation and enhancement of North West Leicestershire's historic environment

Ashby de la Zouch Neighbourhood Plan (2018)

The majority of the application site as a whole lies within Limits to Development as defined in the Neighbourhood Plan (with areas outside Limits to Development being limited to a small area to the north east of the A511 associated with the site access, but unaffected by this reserved matters application). The following adopted Local Plan policies are considered relevant to the determination of this application:

Policy S1- Presumption in Favour of Sustainable Development
Policy S2 - Limits to Development
Policy S4 - Design Principles
Policy H1 - Sustainable Housing Growth
Policy H2 - Requirement for Masterplan
Policy H4 - Housing Mix
Policy H5 - Affordable Housing
Policy T4 - Walking and Cycling
Policy NE2 - Open Space, Sport and Recreation Provision in New Housing Development
Policy NE5 - Trees and Hedgerows

Other Policies

Good Design for North West Leicestershire SPD

Leicestershire Highway Design Guide (Leicestershire County Council)

5. Assessment

Principle of Development

The principle of development on this site for residential purposes was established by the grant of the original outline planning permissions in 2016 and 2017 and, as a submission for reserved matters approval, the present application essentially seeks agreement of details in respect of the access, appearance, landscaping, layout and scale for the parts of the wider development to which the reserved matters submission relates. Assessment of this application should therefore relate to the implications of the particular scheme proposed under this reserved matters application; issues relating to the principle of the development and associated matters are not relevant to this application.

Other Matters Relating to the Outline Planning Permission

In addition to a range of conditions requiring submission and approval of details in respect of various matters prior to trigger points such as commencement / occupation etc., the outline planning permission also requires certain matters to be included as part of the reserved matters application(s) (either for the site as a whole or the relevant phase). These conditions include requirements in respect of: provision of a masterplan (Condition 5), ecological / biodiversity enhancement management (Condition 21), and archaeological mitigation (Condition 24). However, whilst these conditions generally require these matters to be submitted with the first reserved matters application for the relevant phase, the consortium has already sought to address Condition 5 on a site-wide basis under a separate (approved) discharge of condition application (submitted alongside an associated application for approval of a site-wide Design Code, required separately prior to commencement under Condition 8), and the submission requirements under this condition have, in effect, already been complied with. In terms of the remaining conditions referred to above, the following conclusions are reached:

Condition 21: The application is accompanied by an ecology briefing note reviewing ecological survey work already undertaken as part of the outline application and associated discharge of conditions, and setting out proposed measures forming part of the scheme intended to secure the ecological and biodiversity value of the scheme. No objections are raised in respect of the scheme by the County Ecologist.

Condition 24: The application is accompanied by archaeological evaluation and excavation reports, supplementing the information provided at the outline stage. The additional information has been assessed by the County Archaeologist, who advises that the submissions are acceptable, and that no further archaeological work is required.

Design and Site Layout

The proposed development would provide for a gross density of approximately 14 dwellings per hectare. However, this figure would include the associated strategic landscaping and open space, as well as the principal roads and other parts of the site identified for future non-residential development, and net figure for the residential elements would equate to approximately 31 dwellings per hectare. Paragraph 124 of the NPPF requires development to make efficient use of land; the density of the proposed development would, when having regard to the location of the development and the implications of meeting the District Council's design policies, be considered reasonable in this location.

The scheme is intended to be a landscape-led development in accordance with the principles set out in the agreed Design Code for the site as a whole, and including both strategic planting around the perimeter of the built development area, and on-street / on-plot landscaping in accordance with the street typologies approved under the Code. The scheme also identifies a

range of non-vehicular connections throughout the site in accordance with the approved Code and masterplan, and is proposed to form different character areas (in terms of style of dwelling detailing and materials). The scheme also proposes the provision of four focal spaces.

During the course of the application, the scheme has been the subject of discussions between officers and the applicant, intended to address a number of concerns raised by officers (including the District Council's Urban Designer) in respect of the originally submitted scheme, and including the need to comply with the scheme's approved masterplan and Design Code. Issues have arisen in respect of some of the street typologies, and how they comply with the Local Highway Authority's separate requirements in respect of road adoptions. In particular, the County Highway Authority had indicated that it would not wish to adopt routes where unadopted drives connected to the adopted network at both ends (given concerns that residents may petition the County Council in the future to adopt them). In terms of this issue, and as per the approach taken elsewhere in the District, the applicants intend that the routes will be conveyed to a management company (with public access over the routes allowed), and that an undertaking would be entered into so as to preclude any future adoption petitioning of the affected routes. Extensive discussions have also taken place with officers over a wide range of design issues relating to both layout and elevational detailing of the proposed dwellings.

In terms of the proposed focal spaces, these are as follows:

Lamp Green

This would be an area of public open space of approximately 64m by 20m located within the north western section of the site, and incorporating a balancing pond, adjacent to proposed streets on two sides, further green space, to the third side, and with detached dwellings to the fourth. The applicants confirm that the profile of the SuDS feature would be of a gradient where safety fencing would not be required (i.e. not exceeding 1:3).

Money Hill Square

This area would be located on the principal route through the site, and would incorporate a future local centre and three storey flats to the western side, and a school to the east (the local centre and school do not form part of the current reserved matters application).

Orchard Gardens

This would be an area of formal public open space of approximately 53m by 23m located towards the southern end of the site, enclosed by the adjacent streets and with the fourth side overlooked by two rows of terraced dwellings.

Bakers Green

This would be an area of formal public open space of approximately 62m by 20m located within the north eastern section of the site, adjacent to proposed streets on two sides, and with detached dwellings to the others.

As set out, extensive dialogue has taken place in respect of design issues. In response to the changes made to the scheme arising from these discussions, the District Council's Urban Designer acknowledges that the developer design team has worked constructively and collaboratively over a period of time to address the issues, and welcomes these efforts. He takes the view that most of the issues are now resolved where possible, and the result has been a positive scheme. In terms of remaining issues, he highlights the use of forecourt parking to both sides of the street in one area of the site, and which has been the subject of previous discussions; whilst the preferred solution would, he considers, clearly be that this is only provided on one side, he notes that it has not been possible to achieve that here. The District

Council's Urban Designer therefore advises that particular care needs to be taken in relation to the soft landscaping and the tree positioning / future protection so as to ensure that this feels like an attractive street that is not dominated by car parking. On-plot landscaping would need to be secured by way of condition.

Insofar as wider open space and strategic landscaping is concerned, this is the subject of Section 106 obligations entered into at the outline stage. However, in accordance with the approved site-wide masterplan, the scheme shows substantial areas of buffer planting and public open space (including children's play) to the perimeters of the site, and in the form of a centrally-located linear space running through the scheme.

In terms of housing mix issues, Local Plan Policy H6 requires a mix of housing types, size and tenure to meet the identified needs of the community; Neighbourhood Plan Policy H4 requires at least 60% of new market housing to comprise two or three bed units. Whilst tenure is in effect addressed by the existing Section 106 obligations securing affordable housing (with a minimum 30% required) as part of the development, Local Plan Policy H6 refers to the need to have regard to the most up-to-date Housing and Economic Development Needs Assessment (HEDNA), and sets out the range of dwelling size (in terms of numbers of bedrooms) identified as appropriate in the HEDNA as follows:

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

Following amendment, the submitted scheme proposes the following (%):

<i>Tenure</i>	<i>No. of Bedrooms</i>			
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4+</i>
Market	0	2.4	37.1	60.5
Affordable	33.5	45.1	17.0	4.4

Insofar as the market housing is concerned, it is noted that the scheme would be more weighted towards larger units than as suggested in the HEDNA; furthermore, the proportion of two or three bed units would also not meet the 60% threshold set out in the Neighbourhood Plan. It is however noted that Policy H6 indicates that the HEDNA mix is one of a number of criteria to be considered when applying the policy and, furthermore, it is accepted that Inspectors' decisions elsewhere in respect of housing mix have indicated that reserved matters applications cannot normally be used to secure a specific mix of house types (i.e. as housing mix is not, in itself, a reserved matter)). As per advice provided to members previously in respect of sites elsewhere in the District, it would not normally be appropriate to seek to refuse a reserved matters application in respect of housing mix issues.

Local Plan Policy H6 also requires a proportion of dwellings suitable for occupation by the elderly (including bungalows) for developments of 50 or more dwellings; Neighbourhood Plan Policy H4 requires new housing development to provide a "balance of accommodation, including bungalows, which meets the needs of people of all ages, including older people". Eight single storey dwellings (plus flats providing single level accommodation) are included within the proposed development. Local Plan Policy H6 also requires a proportion of dwellings suitable for occupation or easily adapted for people with disabilities in accordance with Part M4(2) of the Building Regulations; the applicant advises all 182 affordable units would meet HQI standards,

and that 274 of the proposed market units would meet M4(2) of the Building Regulations internally (with the exception of the ground floor WC, which would be in accordance with Part M).

In terms of affordable housing generally, as set out above, the Section 106 agreement requires the provision of 30% of the proposed dwellings to be affordable and, in this case, the Section 106 agreement cross-references to the relevant reserved matters application(s) (and the need for the detailed affordable housing scheme to be agreed as part of the reserved matters process). It is proposed that 182 of the proposed units would be provided as affordable, thus ensuring that the development would meet the requirements of the Section 106 agreement in terms of the minimum 30% provision.

Insofar as the mix of affordable units is concerned (in terms of dwelling size and tenure type), this has been the subject of extensive dialogue between the applicants and the District Council's Strategic Housing Team (including in respect of the details of the affordable housing contribution and the units offered). The split between affordable tenures would equate to 70% affordable rented and 30% affordable home ownership, in accordance with the provisions of the Section 106 agreement. Insofar as the proportions of each tenure type (in terms of numbers of bedrooms are concerned), the scheme indicates similar overall proportions to those set out in the Section 106 agreement (with variances of no greater than 5.5% compared to the agreement figures); the Strategic Housing Team considers the proposals to comply overall with the provisions of the agreement and confirms that the team considers the scheme to be acceptable. It is recommended that a condition be attached to any approval issued so as to ensure that a detailed scheme in accordance with the requirements of the Section 106 agreement be agreed, given the cross-referencing in the agreement to reserved matters approvals.

Insofar as the sustainability credentials of the development are concerned, the agent advises that both developers apply a "fabric-first" approach. The agent notes that Part F, L and O changes to Building Regulations will affect the site from June 2023, and that there would be a 31% reduction in carbon dioxide emissions for new dwellings, compared to the current standards.

As set out above, the Section 106 obligation entered into at the outline stage secures a significant contribution to green infrastructure (including public open space, children's play and National Forest planting), and the landscaping details submitted with the current reserved matters scheme would, overall, reflect this requirement, as well as the approved masterplan. Whilst the National Forest Company has suggested including additional landscaping to assist in providing further screening to the employment units to the east (and whilst areas of additional planting are shown indicatively), it is acknowledged that this would involve land to the west of the application site (i.e. within the adjacent employment allocation), and so would, more reasonably, be expected to be delivered in association with that scheme in due course (if required at that time).

Insofar as existing trees and hedgerows are concerned, there are no protected trees within the site. The application is accompanied by an Arboricultural Assessment and Arboricultural Method Statement. These identify that the site includes only includes a limited number of high (Category A) and moderate (Category B) quality trees, with the remaining tree cover comprising low quality individual trees, groups and hedgerows. The District Council's Tree Officer advises that this is generally to be expected when considering the previous agricultural land use of the site, and confirms that he is satisfied that the report provides an accurate assessment of the site's existing tree cover.

As a result of the above, the number of trees or hedgerows within Categories A and B proposed to be removed to accommodate the development would be very limited and, accordingly, the Tree Officer raises no objections to the scheme. Further information was sought by the Council's Tree Officer in respect of two retained Category trees on the western side of the site; following the submission of a supplementary Arboricultural Method Statement in respect of these trees, the Tree Officer is content that the scheme would be compatible with their retention.

Overall in terms of design and layout, therefore, the scheme represents a good standard of design as required by the relevant policies, including the District Council's Good Design for North West Leicestershire SPD.

Highway Safety, Transportation and Access Issues

The principal means of vehicular access into and through the site were established at the outline stage (15/00512/OUTM) and include provision for a north-south link through the site, connecting the Ashby bypass (A511) with Nottingham Road. The approved accesses include a new roundabout to the A511 and a new priority junction to Nottingham Road (following demolition of Nos. 3 and 5 Nottingham Road). The north-south connection through the site is required to be implemented prior to the occupation of 100 dwellings within the scheme.

The number of dwellings accessed from Nottingham Road is limited to a maximum of 100, and the current proposals include measures to ensure this limitation is complied with. At the time that the outline application was considered, the applicants' intention was that a one-way bus gate be implemented (i.e. allowing all traffic to travel northbound through it, but limiting southbound through traffic to buses and emergency vehicles); it was proposed that this would be positioned so as to ensure that 100 of the scheme's dwellings (plus the proposed public car park) would only be accessible via Nottingham Road (albeit, given the unrestricted northbound link, these properties could still be exited via the A511). As a result, the remaining parts of the development could have been accessed from both directions, but only egressed via the A511, thus limiting traffic joining Nottingham Road.

Following discussions with the County Highway Authority and Town Council, however, the proposals have been amended during the course of the current reserved matters application, and it is now proposed that the bus gate restrict traffic in both directions such that (with the exception of buses and emergency vehicles) all properties located to either side of the gate would need to access and egress via one direction only (i.e. either via Nottingham Road or the A511). On the basis of the scheme as now submitted (showing a bus gate with automated rise and fall bollards), 98 dwellings plus the public car park (and the future extra care centre site (not part of this reserved matters application)) would be accessed / egressed via Nottingham Road; the remaining dwellings (plus the future school and local centre (also not part of this reserved matters application)) would be accessed / egressed via the A511.

Following amendments to the configuration of the proposed bus gate, the County Highway Authority now confirms that the proposals are acceptable in this regard. In response to County Highway Authority queries regarding the mechanism for maintaining the unadopted feature, further information has been provided in respect of this matter, and confirming that the bus gate would be maintained by the residents' management company along with other management company responsibilities (i.e. public open space etc.); the County Highway Authority is content with this arrangement in principle, subject to imposition of conditions. It is noted that the conditions requested by the County Highway Authority include one in respect of making a landowner statement every 20 years under Section 31(6) of the Highways Act 1980. Whilst it is not considered that it would be appropriate to apply such a condition in this form (i.e. as it seeks to secure compliance with other legislation), it is considered that a commitment to comply with

such measures could reasonably form part of a range of measures within a wider strategy for ongoing maintenance of the bus gate. Given the change in approach from that previously assumed (i.e. all in / out access to areas north and south of the bus gate via the A511 and Nottingham Road respectively), additional information in respect of modelling has been provided which, the County Highway Authority advises, confirms that the principle of the revised bus gate arrangement would remain in line with the modelling previously undertaken and, as such, no concerns in respect of a changed wider pattern of vehicular movements into and out of the site on the wider network are raised.

In terms of other issues relating to the internal layout (and in addition to the issues discussed under Design and Site Layout above with respect to adoption of routes connected by management company maintained lanes etc.), the County Highway Authority now confirms that the proposals fundamentally accord with the Leicestershire Highway Design Guide and are suitable for adoption, subject to Section 38 technical approval.

Non-Vehicular Connections

The site is crossed by existing public right of way O89 which, via the south western section, connects the site to the town centre at North Street and, to the east / north east, provides pedestrian connections to existing areas of residential development, along with employment areas / retail development (including the nearby Tesco store), and the wider countryside. The south western route would provide the most direct connection between the site and the town centre.

The section of right of way O89 connecting to North Street is unsuitable for cycling being, at present, narrow and / or unsurfaced in places, and passing through a yard forming part of an employment use (all of which are also considered to diminish its attractiveness as a pedestrian route). Extensive discussions took place between the Local Planning Authority and the applicants at the time of the original outline application (13/00335/OUTM) with a view to enhancing this link but, having regard to the extent of land within the applicants' control, no firm proposals for upgrading the connection were made and, as an alternative, a range of financial contributions were offered. In May 2014, Planning Committee resolved to refuse the outline application on, amongst others, the scheme's lack of proposals to improve this link. An appeal was subsequently lodged in response to the refusal but, in January 2015, following the receipt of legal advice, the Committee resolved to withdraw that reason for refusal and to not contest it at the forthcoming inquiry. As such, whilst the approved masterplan for the wider site identifies the connection as a cycle link, the outline planning permission granted on appeal (and, as a result, carried through to the subsequent outline permissions) nevertheless does not specifically require the upgrading of this connection. However, as set out above, the applicants offered a range of financial contributions, and these are included within the Section 106 agreement. These include various contributions to Leicestershire County Council in respect of improvements to existing public rights of way (totalling £111,749, of which £39,744 would be for surface improvements to this section of right of way O89). The Section 106 agreement also secures an Enhanced Connectivity Contribution of £400,000 intended to be directed by Leicestershire County Council towards a range of measures (including assessment of existing public transport, cycle and pedestrian connectivity within the town, and implementation of measures identified as a result of that assessment in order to enhance the site's connectivity with the town). Potentially, therefore, Leicestershire County Council would be able to direct funds from this Enhanced Connectivity Contribution towards this link if it considered that would be appropriate, in addition to those specifically identified for the right of way.

It is noted that Ashby de la Zouch Town Council objects to the current application on the basis

that the reserved matters scheme does not include a 3m wide cycle link to this route and, having regard to the existing condition of the right of way, this concern is fully appreciated. However, the position is, in effect, unchanged from the time that the original outline planning application was considered and, whilst the concerns over the form of development would remain, it is nevertheless the case that this situation (and its proposed mitigation by way of financial contributions) was (notwithstanding the Local Planning Authority's concerns) not a matter that was considered to have warranted refusal of the application and, furthermore, is not now considered directly relevant to the determination of this reserved matters application.

For their part, the applicants understand the concerns raised locally and, whilst they advise they are unable to commit to providing an enhanced link (for the same reasons as set out at the time of the outline application), they have offered to pay the Section 106 contributions to Leicestershire County Council at an earlier stage (with the £39,744 O89 surfacing contribution being paid on commencement, rather than upon occupation of 200 dwellings (as part of an overall two tranche rights of way contribution), and the first £50,000 of the £400,000 Enhanced Connectivity Contribution also being paid on commencement (currently required in two £200,000 payments upon 200 and 400 occupations)). For its part, the County Council's Rights of Way team advises that it has had no specific discussions with adjacent landowners regarding the widening of the path, albeit this is not something it would normally engage with until such time as the monies had been received, and it is therefore acknowledged that earlier payment of the contribution would enable Leicestershire County Council to commence any such discussions at an earlier point in time. The Rights of Way team advises however that, to increase the width of the path, additional land would have to be acquired, but that it considers it is unlikely that the adjacent owners would be willing to agree to such works.

Whilst the scheme would not provide for enhancement of the right of way beyond the south western corner of the site, the sections of right of way O89 that run through and alongside the southern edge of the site would be re-routed within the site so as to allow for full pedestrian and cycle use. In addition to the issues relating to right of way O89, the application has been amended following dialogue between the applicants, the County Council Rights of Way team and local residents regarding the means of connection with right of way O90. At present, O90 runs for a short distance between Wood Street and the application site, with the existing route of O89 crossing at its northern end. In response to resident concerns over potential increased use of O90, the applicants propose to apply to extinguish this route. Whilst this would remove an existing connection to Wood Street, it is acknowledged that the new pedestrian / cycle access that would become available alongside the new Nottingham Road vehicular connection would serve to mitigate for this loss to a reasonable degree. Whilst extinguishment would need to be pursued separately (and outside the scope of this reserved matters application), it is understood that residents and the County Council are generally supportive of this proposal at this stage.

A range of other non-vehicular links are proposed (and which comply generally with the site-wide masterplan). These include a link to the Ivanhoe College site on the western boundary, along with links connecting to existing residential areas and rights of way to the east / south east, and to Money Hill Farm / Smisby Road to the north west. Insofar as the college link is concerned, the applicants would propose to make the connection up to the site boundary and, in effect, whether or not it could then be used to access the college would depend on whether or not the college then provided a means of crossing the college grounds to connect the route to the main buildings. Appropriate conditions would need to be imposed in order to ensure that these links were secured, and so as to enable they connect fully in accordance with the details indicated on the masterplan.

Overall in respect of highway safety, transportation and access issues, therefore, it is noted that

the County Highway Authority has no objections to the proposals subject to the inclusion of conditions. On this basis the scheme is considered acceptable. Whilst there are unresolved Town Council concerns in respect to whether there would be any future enhancement of the section of right of way O89 between the south western part of the site and North Street (and whilst officers continue to take the view that the connectivity of the scheme would clearly benefit from an enhancement of this route), it is nevertheless acknowledged that (as accepted at the time of the original appeal), this would not be a matter that would warrant a refusal of the scheme and, furthermore, has in effect already been addressed as far as practicable at the outline stage by way of the financial contributions secured.

Residential Amenity

There are limited numbers of existing neighbours considered to be materially affected by the proposals, given separation between existing and properties afforded by proposed landscape buffers and areas of public open space etc. As a result, all separation distances between existing and proposed dwellings would exceed the minimum standards set out in the Council's Good Design for North West Leicestershire SPD.

Whilst no material impacts from the proposed dwellings themselves on existing residents would be anticipated, it is noted that the proposed development would result in increased activity (and, in particular, vehicular activity) adjacent to existing dwellings and their curtilages. In terms of the likely impacts of the proposed vehicular access to Nottingham Road, the issue of the potential increased disturbance to the side and rear of nos. 1 and 7 Nottingham was considered at the outline application stage when that means of access was approved and it was accepted that, in principle, any impacts could be mitigated by provision of suitable screening. The submitted scheme proposes the erection of a 2m high screen wall to either side of the Nottingham Road access, set behind landscaped strips of approximate width 2m which, it is considered, would be appropriate. In terms of the proposed car park, the northern (rear) boundaries of existing properties closest to the car park area (approx. 7.5m away from the nearest proposed parking spaces) are robust (2m approx. high brick walls), and it is considered that material loss of amenity would not be likely to result.

Insofar as future residents of the proposed development are concerned, the proposed layout is, for the most part, considered to include appropriate relationships between the new dwellings, providing for an acceptable level of amenity, and complying with the relevant policies. It is noted, however, that there are some instances where the minimum garden sizes as required under the SPD would not be fully complied with. Similarly, gardens shorter than the usual requirements would result in reduced back-to-back separation distances. In order to address the amenity impacts of these shortfalls, the applicants propose to provide for more substantial boundary treatment (including 2.4m high fences / green screens) which, when coupled with the proposed fenestration arrangements would, it is considered, enable an acceptable relationship (including in respect of mutual overlooking of dwellings, and overlooking of private amenity space) to be provided in this instance.

It is noted that concerns have been raised that occupiers of new properties on the site could be subject to noise associated with existing employment uses to the east of the site. In particular, attention is drawn to the findings of the original Environmental Statement which recommended that noise mitigation measures be provided in respect of the United Biscuits (UB) site, suggesting that it be in the form of an extension to an existing screen (or, if such could not be agreed with the operators, a standalone screen overlapping the end of the UB screen). The implementation of a scheme of mitigation is secured under a condition (Condition 7) attached to the outline planning permission, and a discharge of condition application to agree mitigation details under that condition will be required to be made prior to commencement of development.

Representations have been made to the effect that, in the absence of any noise screen detail submitted alongside the current reserved matters application, there can be no guarantee that a suitable form of mitigation may ultimately be possible. Whilst this position is appreciated, it remains the case that Condition 7 needs to be discharged prior to works commencing and if, for whatever reason, the developers were unable to mitigate for any noise emanating from the employment site whilst implementing the scheme as shown in the currently proposed layout, they would potentially need to revisit the scheme in order to ensure that appropriate details could be submitted and approved under the condition. Nevertheless, in response to this concern, the applicants have submitted updated noise information which, they advise, is intended to be submitted in respect of Condition 7 in due course. This indicates that alternative mitigation measures in the form of enhanced glazing and the provision of localised screening to some gardens could be implemented instead of the screen options. Whilst this would need to be assessed by the District Council's Environmental Protection team at the appropriate time, this would suggest that an alternative to screening may be possible but, as set out above, the consideration of the discharge of condition application would be the appropriate time to assess and reach a decision on this point.

Other Matters

Flood Risk and Drainage

In terms of flood risk and drainage issues, these are dealt with under the outline planning permission and the conditions attached thereto. Insofar as the proposed SuDS are concerned, whilst the precise details would be a matter for discharge of condition, the general form (including gradient and, as a result, likely requirement for fencing etc.) would, in principle, be capable of meeting the design requirements for such features as set out in the District Council's Good Design for North West Leicestershire SPD. No objections to the reserved matters scheme are raised by the Lead Local Flood Authority.

Designated Heritage Assets

There are a number of Grade II listed buildings in the vicinity of the site, and the Ashby de la Zouch Conservation Area abuts its southern edge. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting. Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. In this case, particularly when having regard to the relationship and inter-visibility between the site and the nearest designated heritage assets (and including the substantial boundary treatment marking the northern edge of the Conservation Area), it is considered that no material harm to any of those assets or their setting would result from the development.

Conclusions

As set out above, the principle of the development has already been established by way of the outline planning permission, and assessment is therefore limited to those issues falling within the reserved matters.

The reserved matters scheme the subject of this application is considered to be acceptable, and previously raised design concerns are considered to have been addressed to an acceptable degree. It is therefore recommended that reserved matters approval be granted.

PLANNING APPLICATIONS- SECTION A