

# **UPDATE SHEET**

## **PLANNING COMMITTEE – 04 November 2014**

**To be read in conjunction with the  
Head of Regeneration and Planning's Report (and Agenda)**

**This list sets out: -**

- (a) Additional information received after the preparation of the main reports;**
- (b) Amendments to Conditions;**
- (c) Changes to Recommendations**

### **MAIN REPORT**

#### **Items A4, A5, A6, A7, A9 and A10**

Attention is drawn to the recent appeal decision in respect of a site at Lower Packington Road, Ashby de la Zouch. In dismissing that appeal, the Inspector concluded that the District Council was able to demonstrate that it had a five year supply of housing land. In doing so, however, he expressed concerns regarding the inclusion of an allowance for windfall sites of 43 dwellings per annum. As such, the District Council has now recalculated the current supply having excluded this figure, and the revised figure, when including for the 20% buffer, would be 5.0 years.

The Inspector also considered that, having regard to the fact that the adopted North West Leicestershire Local Plan only included for sufficient housing land to 2006, and the difference in approach between Policy H4/1 and the NPPF, Local Plan Policies H4 and H4/1 are out of date.

This is therefore relevant to the items listed above.

A1 and 14/00104/FULM  
A2 14/00105/LBC

Demolition of side and rear extensions at existing hotel, erection of side /rear extension to existing hotel and associated external works; erection of single storey kiosk building (A3 use), erection of two storey pavilion building (A3 and D2 use), formation of car park and alterations to existing access at Station Road involving removal of part of boundary wall to form visibility splays, associated removal of existing fencing and car park furniture and implementation of landscape works.  
The Royal Hotel, Station Road, Ashby de la Zouch

## Representations

An email from a resident was received 30 October 2014 requesting that the Friends of Bath Grounds flyer be shown to Members and this is attached at the end of the update for these applications.

Friends of Bath Grounds have submitted additional comments which are attached at the end of the update for these applications. Concerns are maintained regarding the principle of development, design and heritage issues, residential amenity issues, highways and ecology issues.

Natural England comments received in relation to the revised Flood Risk Assessment on 21 October 2014. The comments advise that the previous objection is withdrawn and there is no objection in regard of the River Mease SAC and SSSI subject to conditions about sustainable drainage and a construction and demolition management plan.

## Officer Comments

For information, the District Council has been advised by the County Council that the application to register Bath Grounds as a Village Green has been withdrawn.

The Friends of Bath Grounds comments are noted. A concern relating to overlooking from the proposed pavilions west elevation windows to Rawdon Terrace is raised, amongst others. These windows would face towards the site frontage and look directly towards Station Road and the proposed kiosk building, and there would be no significant overlooking of Rawdon Terrace from those windows which would warrant refusal of the proposal. The users of the Bath Grounds would still be able to use the grounds for leisure purposes. No other new issues from those addressed in the main report have been raised.

Highways conditions are set out below, and also the conditions recommended by Natural England and is recommended that these be attached to a permission should the application be approved.

## **RECOMMENDATION: PERMIT AS RECOMMENDED (SUBJECT TO S106 relating to River Mease DCS and highway requirements and SUBJECT TO CONDITIONS AS SET OUT IN THE MAIN REPORT AND THE ADDITIONAL CONDITIONS BELOW:)**

- 19 The access shall be provided in accordance with the details shown on drawing No. EL(90)02; the access shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the

highway boundary before first use of the development and once provided shall be so maintained at all times.

Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of general highway safety, 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 and to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

- 20 Off-street car parking and turning facilities shall be provided within the application site in accordance with the details shown on drawing No. (08) 07; the parking and turning areas shall be surfaced and marked out prior to the development being brought into use, and shall thereafter be so maintained at all times.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 21 Before first use of the development 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.

- 22 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.

### **Conditions in connection with the works in connection with the hotel, kiosk building and pavilion building**

- 23 The access shall be provided in accordance with the details shown on drawing No. (08) 05; the access shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary before first use of the development and once provided shall be so maintained at all times.

Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner in the interests of general highway safety, 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 and to reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

- 24 Off-street car parking and turning facilities shall be provided within the application site in accordance with the details shown on drawing No. (08) 05; the parking and turning areas shall be surfaced and marked out prior to the development being brought into use, and shall thereafter be so maintained at all times.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 25 Before first use of the development 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.

- 26 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 10 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.

- 27 Before the development hereby permitted is first used, cycle parking provision shall be made to the satisfaction of the LPA and once provided shall be maintained and kept available for use in perpetuity.

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

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

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

- 29 No part of the development as approved shall be brought into use until details Planning Authority.

The Plan shall address the travel implications of the use of the whole site as if the development approved were to have been fully completed and occupied.

The Plan shall specify facilities and measures with measurable output and outcome targets designed to:

- Reduce single occupancy vehicle use, reduce vehicular travel at peak traffic times and reduce vehicle emissions for journeys made to and from the developed site,
- Increase the choice and use of alternative transport modes for any journeys likely to be made to and from the developed site and, in particular, to secure increases in the proportion of travel by car sharing, public transport use, cycling and walking modes and the use of IT substitutes for real travel,
- Manage the demand by all users of the developed site for vehicle parking within and in the vicinity of the developed site.

The Plan shall also specify:

- The on-site Plan implementation and management responsibilities, including the identification of a Travel Plan Co-ordinator,
- The arrangements for regular travel behaviour and impact monitoring surveys and Plan reviews covering a period extending to at least one year after the last unit of development is occupied or a minimum of 5 years from first occupation, whichever will be the longer.
- The timescales or phasing programmes for delivery of the Plan's proposals and for the achievement of the specified output and outcome targets, and
- Additional facilities and measures to be implemented if monitoring shows that the Plan's targets are not likely to be met, together with clear trigger dates, events or threshold levels for invoking these measures.

The Plan, once agreed, shall be implemented in accordance with the approved details, and thereafter, the implementation of the proposals and the achievement of targets of the Plan shall be subject to regular monitoring and review reports to the LPA and, if invoked, to the implementation of the specified additional measures.

Reason: To ensure that adequate steps are taken to achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices to and from the site in order to relieve traffic and parking congestion, promote safety, improve air quality or increase accessibility in accord with Section 4: 'Promoting Sustainable Transport' of the NPPF 2012.

- 30 No development shall commence until such a time as details and specifications of a SUDS scheme for the site have been submitted to, and agreed in writing, by the Local Planning Authority. The scheme shall be maintained as such in perpetuity.

Reason: To ensure the integrity of the River Mease SAC.

- 31 No development shall commence until a construction and demolition management plan detailing ground works, demolition and construction works to take place with suitable mitigation measures to ensure no pollution should enter Gilwiskaw Brook and the River Mease shall be submitted to, and agreed in writing, by the Local Planning Authority.

Reason: To ensure the integrity of the River Mease SAC.

### **Notes To Applicant**

- On the basis of the submitted plans, the details of cycle parking are not in accordance with the guidance contained in the '6 C's Design Guide'. Before development commences, an amended plan should be submitted to and approved by the Local Planning Authority.

- 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.



**Is this right for our  
Conservation Area?**



Application reference. 14/00104/FULM



For inclusion in the Update Sheet for Planning Committee 4th November 2014  
These comments are submitted by the Friends of Ashby Bath Grounds and are intended to add to the committee report on application 14/00104/FULM. They should be read in conjunction with our original representations dated 28/3/14.

#### Principle of Development

The report admits that the proposed pavilion development does not meet all the criteria of Policy R1. This policy is concerned with maintaining the vitality and viability of Ashby town centre. This is a crucial issue for the people of Ashby where many of the Town Centre businesses, including cafes and restaurants, are struggling to survive.

The report goes on to state that retail units would not be appropriate but that a restaurant facility would. The only justification for a restaurant facility immediately adjacent to the hotel is that 'it would be closer to the hotel compared to other premises which may be available'. This statement is clearly true but it is not a reason for overriding Policy R1. The report does not contain any demonstration that the proposed development could not be accommodated in the Town Centre or that it would not be detrimental to the vitality and viability of the Town Centre.

The last sentence of this section states that the development would not have an adverse impact on Ashby Town Centre but gives no justification. There have been a considerable number of representations which suggest the opposite would be the case. These have not been addressed in the report.

#### Design and Heritage

The report rightly states that design is a subjective issue. It is quite clear that the overwhelming majority of representations have taken a different subjective view than the report.

Policy E4 states that new development should respect the character of its surroundings. It is clear that the proposed pavilion is completely counter to the character of both the Royal Hotel and Rawdon Terrace. The report is incorrect to state 'the design is in ... character with its surroundings', as illustrated below.

The report states that policies E10 and E16 no longer exist because they have been duplicated by national planning policies but the report does not address the duplicated issues. Such issues as impact on the character of the conservation area or setting of listed buildings and the loss of important views have not been adequately considered.

In particular, the impact on the view from the Bath Grounds has not been considered. The pavilion would dominate the view from the Bath Grounds towards the Hotel and Rawdon Terrace. The Bath Grounds, an important historical area, has a unique character of 'countryside in the town'. The imposition of a large building on a raised bank overlooking the Bath Grounds threatens that character.

We understand that the developer has offered to face the Bath Grounds side of the pavilion in an alternative material more in keeping with the design and heritage of the area. We welcome this recognition that the design is not appropriate for the area but feel that the proposal does not go far enough to rectify the situation. We are disappointed that this limited concession is not reflected in the conditions.

#### Residential Amenity Issues

The report refers to the north elevation of the pavilion facing towards Rawdon Terrace. Even a casual look at the proposed site plan for the commercial zone shows that the north elevation faces the area of the Bath Grounds near the South Street entrance. Rawdon Terrace and its gardens are overlooked by the western elevation of the pavilion which does have significant glazed windows and a balcony at the first floor level. This would appear to be a significant issue that has not been addressed in the report and raises a doubt over whether the pavilion is in accordance with the requirements of Policy E3 as the report suggests.

The report is silent on the amenity issues associated with users of the Bath Grounds. The site plans clearly show that the existing bank at the edge of the car park will be extended to encroach on to the existing tarmac area, reducing its width by a half. The north east corner of the pavilion will be roughly 1.75m above the bottom of the existing bank where the path turns to go up to the car park. The bank is approximately 1.75m high and the pavilion a further 8m above that.

Walking along the much reduced existing path you will be faced with a bank topped by the pavilion, a total of 9.75m. The pavilion will be fully glazed with balconies on this elevation. It is not an exaggeration to say that the pavilion will tower over people walking along the path.

Entering from South Street you will be faced with a much extended bank and pavilion blocking much of the view.

The proposed extension of the bank encroaches on an area that is currently the subject of a lease with the Town Council. No recognition of this or the implications for the viability of the development have been referenced in the report.

#### Highways

The report seems to draw the conclusion that because the submitted traffic figures have left out issues that might mitigate the additional traffic resulting from the development then there would be no increase in traffic at the double mini-roundabout junction. It is clear that the report believes the submitted traffic figures are wrong but there is no quantitative justification given for assuming that the correct traffic figures should be 'no change'. There can be no other conclusion than an adequate traffic assessment has not been carried out.

#### Ecology Issues

We are disappointed that a number of protected trees are to be removed. The report makes no distinction between the car park planned for the existing Hotel garden area and that planned for the Hastings Gardens. It simply refers to 'woodland car park'. The Hastings Gardens has been an area accessible to the public for many years, is an essential route in to the Bath Grounds and contains some important trees, although since the responsibility reverted to the Hotel owners the area is not being maintained. Not making reference to the different nature of the Hotel garden and Hastings Gardens appears to be an omission from the report.

We would like to see much stronger comments making reference to the protection of public access to the Hastings Gardens area and protection of the trees in the area, backed up by conditions if necessary.

Friends of Ashby Bath Grounds



**A3**      **14/00692/FULM**      **Demolition of existing garage for proposed food and non-food retail (A1) development with additional restaurant uses (A3/A4), together with ancillary access, parking and servicing**  
Motors Ltd, Whitwick Road, Coalville

**Additional information received:**

The County Highway Authority has provided updated comments including the following:

- The rewording of conditions to allow for demolition before pre-commencement conditions are discharged is considered to be acceptable.
- Securing bus stop improvements through a suitably worded condition rather than through a financial obligation in a legal agreement is considered to be acceptable.
- If no other incentives, such as interest-free season ticket loans, are proposed to incentivise travel by bus, then bus passes would be required. If the site is expected to employ 200 employees (FTE), then perhaps the number of bus passes can be capped at 50 passes? This then provides the developer with a fixed ceiling cost and still provides an incentive.
- There should be a requirement for the £11,337 for LCC to provide support on the Framework Travel Plan. The requirement for individual Travel Plan contributions is dependent on scale and the proposed size of the individual units would not necessitate this. Therefore, the original request for an iTRACE monitoring fee of £6,000.00 for each Travel Plan is no longer requested.
- Minor alterations are requested in respect of the wording of conditions 10 and 11 in order to allow for a revised Framework Travel Plan

The applicants are unwilling to agree to the financial payment of £11,337 for Leicestershire County Council to provide support on the Framework Travel Plan.

**Officer comment:**

The £11,337 monitoring fee towards providing support for the Framework Travel Plan has not, at the current time, been demonstrated to meet the CIL tests as it is unclear whether this is necessary to make the proposed development acceptable in planning terms. This is on the basis that a suitable travel plan, including the appointment of a travel plan co-ordinator, can be secured through a planning condition/legal agreement and could be enforced against. However, it is recognised that further negotiations may take place between the applicant, Local Planning Authority and the County Highway Authority as to whether the requested contribution meets the tests pursuant to CIL Regulation 122 and this can be negotiated by officers as part of the Section 106 agreement should planning permission be granted on the site.

**RECOMMENDATION: Amend Conditions 10 and 11 and Note to Applicant 8:**

- 10 Notwithstanding the submitted Framework Travel Plan, a revised Framework Travel Plan and a scheme of measures to reduce car travel to/from the site shall be agreed in writing with the Local Planning Authority within three months of the date of first

occupation of any unit, unless an alternative timescale is first agreed in writing with the Local Planning Authority.

*Reason - To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to/from the site.*

- 11 Notwithstanding the submitted Framework Travel Plan, a Travel Plan Statement shall be submitted to and agreed in writing with the Local Planning Authority within three months of the date of first occupation of each of the corresponding units, unless an alternative timescale is first agreed in writing with the Local Planning Authority.

*Reason - To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to/from the site.*

Notes to Applicant:

- 8 A section 106 is required and would need to provide the following:
- A Construction Traffic Routeing Agreement;
  - Appointment of a Framework Travel Plan Co-ordinator from occupation of the first unit for a minimum of five years following the occupation of the last unit.
  - Appointment of a Travel Plan Co-ordinator for each unit/occupier from first occupation for a minimum of five years.
  - One Travel Pack per employee, to be provided from first employment.
  - A maximum of 50 bus passes.
  - National Forest Contribution of £6200 towards forest planting.

**A4**            **14/00614/OUTM**            **Development of up to 180 dwellings, including a retail unit, access and associated infra-structure (outline - all matters reserved apart from part access)**  
Land South of Greenhill Road, Coalville

### **Additional Submissions and Applicant Comments**

A revised drainage strategy plan has been submitted on behalf of the applicants detailing the proposed drainage ditches; the applicants have also provided a copy direct to the Environment Agency.

The applicants confirm that public open space (and including a children's play area, incorporating a "kickabout" area) is to be provided on-site.

In terms of other developer contributions, the applicants consider that the requested library and policing contributions (as sought by Leicestershire County Council and Leicestershire Police respectively) do not meet the CIL tests. In particular, they comment that *"The consultation response dated 22nd July states that Library services are key infrastructure for the proposed development. This is incorrect, this nor police contributions are not necessary for building a property like drainage or access are. The CIL Regulations set out an obligation must meet the CIL tests. The County Council receive contributions from District Councils arising out of the annual Council Tax contributions for library and police services, every property therefore already pays / contributes to the provision of these services. This is evidenced in the Council Tax 2014-15 Report. A contribution to library nor police services is not necessary to make development acceptable in planning terms as this would be a duplicate payment."*

A copy of a letter and briefing note circulated to members of the Planning Committee by the applicants has been received, setting out why, in their view, the application ought to be permitted.

The applicants have e-mailed the Local Planning Authority commenting that they are disappointed with the recommendation to permit, and advising that they are still liaising with the Environment Agency and the County Highway Authority regarding addressing their unresolved objections. They consider that both these technical objections can be resolved and request the application be deferred until the December Planning Committee in order to allow time for this to take place, and referring to the provisions of paragraph 187 of the NPPF.

### **Additional Consultee Responses**

**County Highway Authority** comments that, at this stage, the applicant has failed to demonstrate sufficiently the potential transport impact of the proposed development. In particular, the County Council advises that the principal outstanding issues are as follows:

- *Insufficient information has been submitted about the likely traffic impact of the development, with further junction assessment work required. Potential mitigation measures at some of the junctions already assessed also need to be investigated.*
- *The proposed site access designs submitted to date are unsatisfactory. The applicant has been asked to come up with a more suitable layout in*

*accordance with the levels of anticipated traffic movements to/from the development, which takes account of nearby junctions including the Greenhill Rd North / David Wilson Homes site access and also caters adequately for pedestrian movements across Greenhill Rd.*

- *Further information is required about proposed public transport access for the site, following initial discussions with the applicant about this matter on 29<sup>th</sup> August.”*

**Leicestershire County Council Environment and Property Team Leader** comments that the applicants' assumption that the receipt of contributions from Council Tax in respect of the County Council's services renders the collection of developer contributions as duplication is incorrect, and misses the point with regard to what has to be considered to determine whether the County Council's requests for the particular financial contributions are lawful. This, the County Council considers, *“requires reference to be made to the Community Infrastructure Regulations (CIL) in particular Regulation 122; not local government finance issues around the setting of the Council budget to take into account County precepts in respect of County Council functions such as libraries and civic amenity”*. The County Council refers to the three tests for contributions as set out in the main report and states that *“With regard to each financial contribution sought by the County Council in respect of libraries and civic amenities the justification is clearly in accord with the provisions of Regulation 122, as, but for the development the contributions would not be required and in each case the amount required is shown by reference to a calculation that is supported by the County Council policy contained in the Statement or Requirements for Developer Contributions in Leicestershire document (Necessity). This Policy is clear that contributions are to be assessed on a site by site basis (Directly related). Further, it is submitted that the contributions also accord with the District Council's policy with regard to planning obligations referred to under the Other Policies section of the Report. I also observe that both contributions are extremely modest in amount (Fairly and Reasonably Related in Scale and Kind)....The County Council therefore submits that as a result of the proposed development (assuming permission is granted) pressure will be put on the existing specific library and civic amenity facilities as identified by the County Council. The financial contributions have been calculated in accordance with a specified formula and are reasonable. Without these contributions the development proposed by the applicant would have an unacceptable impact on existing facilities.”*

**Leicestershire County Council Landscape Officer** confirms that his consultation response of “no comments” is made purely in relation to potential Developer Contributions to Leicestershire County Council for landscape works.

### **Additional Third Party Representations**

66 additional representations have been received (and including representations sent directly to Members of the Planning Committee), raising objection on the following additional grounds:

- Transport Assessment and Travel Plan not robust
- Land required to increase highway capacity may not be available to the developer
- Insufficient detail
- Adverse impacts from the proposed (unnecessary) retail unit (including in respect of as litter, out of hours anti-social behaviour, HGV deliveries, additional noise pollution, parking and traffic congestion)
- Disturbance from use of potential pedestrian link
- Errors and omissions in the submitted landscape report
- Wildlife assessment not robust

- Loss of property value
- Soil erosion
- Concern over aggressive developer tactics (including proposed contributions) and literature distributed on their behalf
- Adverse impacts on safety of nearby junctions
- Adverse impact on the woodland forming the setting of Abbots Oak, a listed building and the hamlet of Greenhill
- Site vulnerable to adverse winter weather
- Insufficient waste capacity
- Developers' assessment of housing need is not objective
- Poor access to services / employment
- Unsuitable footway
- Limited screening of site (particularly during winter months)
- Lead Local Flood Authority not consulted by developer when producing its Flood Risk Assessment
- Additional affordable housing not required
- Stagnant water in attenuation pond

A copy of an e-mail from Leicestershire County Council (in its capacity as Lead Local Flood Authority (LLFA)) to Councillor Wyatt has been received from a third party, including a copy of a standard report outlining background information regarding the historic flood information held by the County Council regarding the site. A copy has also, it is understood, been forwarded to the Environment Agency, along with a request that the Agency has regard to its content when formulating its response on the application.

Copies of other representations sent directly to the County Highway Authority and the Environment Agency have also been provided.

### **Officer Comments**

#### *Open Space Contributions:*

Whilst the applicants confirm that the children's play requirements will be accommodated on site, the response that open space is to be provided on site remains unclear in terms of whether this would or would not include provision for formal recreational open space (e.g. sports pitches). The District Council's Play Area Design Guidance Note Supplementary Planning Guidance provides that developments of more than 100 dwellings will normally be expected to make such provision (or, where on-site provision is not feasible, payment of a commuted sum towards upgrading of existing facilities). Whilst the illustrative masterplan has no status per se, were the development to proceed on the basis as shown on that plan, it would appear unlikely that, say, on-site sports pitch provision would be possible given the layout shown.

#### *Library Services and Policing Contributions:*

As set out in the main report, the policing contributions listed within the report remain under consideration as to whether they meet the tests pursuant to CIL Regulation 122.

Insofar as library contributions are concerned, the County Council's original response in respect of the application provided detailed calculations indicating that an additional 260+ users would be likely to be generated by the proposed development, equating to the need for an additional 625 items of lending stock plus reference, audio visual and homework support material. It is considered that the request made would meet the relevant tests as set out in the NPPF and CIL Regulations in that they would be necessary to make the proposed development acceptable in planning terms (i.e. by being infrastructure required to support the increased population), would be directly related to the proposed development (i.e. occupants of the development would be likely to use Coalville Library), and are fairly and

reasonably related in scale and kind to the proposed development. Whilst the applicants suggest that such contributions are, in principle, not CIL compliant because the County Council receives a share of the Council Tax, planning obligations serve a purpose of mitigating the impacts of developments by ensuring that those developments secure the delivery of the additional infrastructure required to accommodate them.

No confirmation has to date been received from the applicants in respect of the requested civic amenity and healthcare contributions.

*Request for Deferral:*

As reported under "Conclusions" on page 106 of the main report, following notification from the applicants that they intended to forward additional information on 7 October 2014, officers contacted the applicants to suggest an extension to the statutory determination date, but this was not agreed by the applicants. Paragraph 187 of the NPPF provides that "*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.*"

In view of the lack of agreement from the applicants to an extension of time, the main report recommends addressing the unresolved technical objections (should members resolve to refuse the application on other grounds) by way of authorising officers to advise the Planning Inspectorate (in the event of any subsequent appeal) where any such issues have subsequently been overcome to the relevant consultees' satisfaction. In view of the fundamental objections to the application regardless of the unresolved transportation and flood risk concerns, the proposed approach to deal with these concerns, and the fact that the proposed development is not considered to constitute sustainable development (as referred to in paragraph 187), it is not accepted that there is any particular merit in deferring the application at this stage.

**NO CHANGE TO RECOMMENDATION**

**A5            14/00520/FULM            Erection of 41 dwellings and associated infrastructure including the provision of play space and combined cycle and footpath.**

**Land Adjoining Wells Road And Willesley Road, Ashby**

**Additional information received:**

The Council's Tree Officer states that:-

1. Ash T1 is in poor condition but shown as retained, other trees shown as retained are un-suitable for retention;
2. Oak T4 a "No-dig" design solution should be specified;
3. The retained frontage hedge will obstruct the visibility splay;
4. Limes T2 and T3 are important frontage trees which merit protection by TPO but are shown to be removed. The pedestrian connection points prevents replacement tree planting along the site frontage, to mitigate the loss of T2 and T3;
5. Other highway tree planting and parking bay planting shown for plots 27, 28 34-41 are unworkable;
6. The proposed focal tree is too close to plot 1;
7. The finished scheme of this layout would not be as green as suggested.

The Council's Urban Design Officer has confirmed that subject to the imposition of the suggested conditions, the scheme would perform positively against Building for Life and therefore would be consistent with the Council's aspirations.

The NHS England financial contribution would equate to £14,972.54.

Ashby de la Zouch Civic Society raises the following objections:-

1. Loss of BMV agricultural land;
2. Two other sites on the agenda are recommended for refusal, yet this site lies further from local facilities than these other sites, giving an in-consistent approach. This application is significantly further from the town's facilities than Packington Nook;
3. Incursion into the most valued countryside around Ashby. The character and appearance of this area is of higher value than Packington Nook.

38 letters of objection have been received raising the following additional/new concerns:-

Location

1. The Council's preferred sites are those to the North of Ashby and there are many other more suitable locations;
2. Not listed within the SHLAA and not earmarked for future development;
3. Eric Pickles has publically stated that he is concerned that local councils are sacrificing green belt land to meet new five year housing targets and once established green belt boundaries should only be altered in exceptional circumstances;
4. Wrong place for development when only 2 miles from the sign reading "The National Forest";

5. Nearest bus stop is over 400 metres away and over the maximum distance recommended by the County Council;
6. Bus stop 10-15 minute walk, town centre 25 minutes walk and Tesco/Aldi 50 minute walk. Un-reasonable to expect a sick person to walk from the site to a relocated doctors Surgery in Burton Road.

### Trees

1. The Tree Officer's comments are not accurately represented in the report, and the report is misleading in this respect;
2. The two lime trees on the frontage of the site are worthy of protection by a Tree Preservation Order;
3. The previously offered mitigation measures are now not possible due to the current pedestrian connection preventing replacement tree planting;
4. The Tree Officer criticises the finished landscaping scheme proposals of the amended layout;
5. An emergency TPO is the appropriate measure to protect the trees pending a decision on the application and the only consideration should be whether the trees merit protection;
6. Loss of ancient trees;
7. What assurances are there for replacement tree planting.

### Highways

1. Site access has not been altered;
2. Failed to show visibility splays on the access point;
3. The Highway Authority are reducing the visibility splays;
4. Further increase in traffic – 80-100 additional cars;
5. Two pedestrian access points to the frontage, makes no sense;
6. Speed bumps have been put in place, but the proposed access to the estate is before the speed bumps;
7. Previous application refused in the interests of highway safety;
8. The proposed cycle/footpath route is hazardous ;
9. Has the surfacing of the remainder of the cycle route been agreed?;
10. The extension of the existing 30mph speed limit and off site highway works should be subject to further consultation;
11. There is an impact upon residents as a result of noise and vibration of traffic slowing down, passing over, and speeding up again, over the junction table.

### Layout and Design

1. Density is far greater;
2. Amended drawings not different, low quality and out of keeping;
3. Only replicated porch design;
4. Does scheme adhere to Building for Life 12 principles?;
5. House types now incorporate a three storey house, which is even more out of keeping, especially with the adjoining bungalows;
6. Five larger two storey detached dwellings and garages on the boundary with six single storey bungalows resulting in overshadowing, loss of privacy and overlooking;
7. Developers are still failing to recognise the stream on the plan, will this be removed and if so what will be put in place to divert the water?;
8. Play area would cause disturbance to peace and enjoyment;
9. Location of play space would be health and safety issue;



10. Where are the measurements taken from when referring to distances between proposed plots and existing dwellings?

#### Other

1. The application should be deferred to reflect the Tree Officers comments and highway issues;
2. Findings on sustainability and landscape within the Inspectors report for Packington Nook are applicable within this application;
3. Proper consultation should allow all information to be made available. The only plans available were the amended internal layout and the indicative cycle path improvement plan;
4. A recommendation has already been made before comments submitted;
5. The Council seems 'pro-active' in accommodating the desires of the developer and leads one to wonder what 'pro-active' actually means and certainly seems on the face of it to warrant an appeal to the Ombudsman should this becomes necessary;
6. A revised assessment of the water course should be undertaken;
7. Disruption during construction;
8. NPPF policies have been ignored or not taken into consideration;
9. No binding and enforceable commitment to the maintenance of the play areas and remaining green infrastructure;
10. Open space and play equipment do not contribute to the National Forest's requirement for 20% green infrastructure;
11. Increased risk of flooding from even more dwellings;
12. Submitted an application to secure a public right of way – 100 people per day use the route. Whilst the application has sought to accommodate the route, the development would destroy the intrinsic character and beauty of the area for all those that use it.

#### **Officer comment:**

#### **Lower Packington Road Appeal Decision**

The application determined at appeal ref: 13/00694/OUTM for the erection of up to 70 dwellings and associated infrastructure at land at Lower Packington Road was dismissed on 28 October 2014.

#### *Sustainability*

The Inspector agreed that the town of Ashby de la Zouch is a sustainable settlement, the second largest in the district and contains a wide range of services. The Inspector stated that the town centre is about 1km from the appeal site, with significant gradients and no dedicated cycle routes close to the appeal site, with a limited and infrequent bus service running past the site and therefore many people would rely heavily on their cars for trips even to buy one or two, small everyday items.

The application site at Willesley/Wells Road is at a similar distance from the town centre boundary at 1,050 metres, however it has a pavement along the southern side of Wells Road which then extends to two wide, and well lit pavements on either side of Tamworth Road into the town centre. In addition, with the exception of a slight rise in gradient between Wells Road and the junction with Tamworth Road the remainder of the route is flat.

The nearest shop to buy one or two, small everyday items would be the 'Jet Garage', located opposite the Royal Hotel. This is sited approximately 1,200 metres from the application site and takes between 11.30 - 12 minutes to walk (at a medium pace). In addition, the nearest

bus stop, approximately 465 metres from the site, takes approximately 4.30 minutes to walk to and provides an hourly service. The No. 1 Macpherson Coaches service runs from 8.35 am to 5.35 pm Monday to Saturday.

There are a number of services and amenities, (including some employment opportunities along Tamworth Road) such as a post box, a dentist, a garage and car wash, care homes and other businesses i.e. Fisher Germans, which are all available within a short walking distance of the site.

As discussed within the main body of the report, the scheme itself also seeks to promote walking and cycling with the provisions of the combined footpath and cycle route within the site, which would continue beyond the site to link with the Hicks Lodge Cycle Centre.

Accordingly it is considered that based on the location of this site, with its easier access to amenities and facilities, without significant gradients that the site is well related to, and not considered to be remote from the urban fabric of the town.

#### *Other Matters*

The Council's five year supply of housing land is reported at the start of the update sheet.

This site is bound by residential development and is considered to form a natural extension, given its close proximity to built development and the settlement boundary. It is not considered that this site, given this siting, constitutes a 'typical' open rural countryside location and would be difficult to sustain an objection based on the impact of the development on the character and appearance of this countryside setting. In addition, the site is not identified as a 'Sensitive Area' to be protected under the provisions of Local Plan Policy E1.

This land was not been 'earmarked' for future housing requirement, however the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements only up until the end of the Plan Period – 2006 and that the Council cannot meet current housing need on the basis of the allocations in the Local Plan.

The NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. The scheme is considered to comply with the core principles - economic, social and environmental and is therefore in principle, considered to be acceptable.

#### **Trees**

The Tree Officer's comments on the amended layout were not reported on in the main report, as they had not been received at the time of writing.

The Tree Officers has raised concerns in respect of the focal tree being located too close to plot 1, and the spaces for parking bay planting. A condition is already recommended which requires the submission of a detailed planting scheme and therefore these concerns can be overcome by re-positioning of planting or appropriate species and density selection.

For the avoidance of doubt a Tree Preservation Order (TPO) will only be made where it is expedient to do so. As the application is being recommended for approval, it would be unreasonable and un-necessary to pursue a TPO at this time. An 'emergency' TPO would still be subject to the same procedures as TPO and therefore the same considerations, as stated above would be applicable.

The Tree Officer has stated that in order to mitigate the loss of T2 and T3 a 3 metre verge north of the existing hedge would be required, and that the proposed pedestrian connection to the sites frontage, prevents this. The applicant has sought to provide appropriate mitigation throughout the scheme, specifically highlighting trees adjacent to plots 1, 25 and 26, in addition to areas to the frontage adjacent to plots 27/28 and 6 as suitable locations for larger specimens. In addition, the tree officer has stated that additional planting could still be accommodated along the hedgerow, with the existing layout.

The Tree Officer considers that the finished scheme of this layout would not be as green as suggested, however the scheme has only sought to provide illustrative planting with a comprehensive planting scheme to be secured by way of condition. A condition is recommended to ensure this, and requires specific mature planting in certain locations.

The scheme has been considered by the National Forest, who have confirmed that as the site provides a link through to the Hicks Lodge Cycle Centre, that no additional planting, other than that proposed (or to be secured by way of condition) is required.

## **Highways**

Objections have been raised regarding the reduced visibility splays and that highway safety issues should be subject to further consultation.

The County Highway Authority (CHA) have been consulted upon throughout the course of the application and their latest response, reflects that of the amended layout, showing the removal of the two lime trees and part of the hedgerow to the sites frontage.

The CHA have specially made requests for conditions for off-site highway works. It is considered that no further consideration is required from the CHA for these off-site highway works, given that requests were made specifically from them.

The applicant has provided drawings showing the required visibility splays and the amount of hedgerow that would be required to be removed, and this has been considered by the CHA, in respect of visibility. The comments raised by the Tree Officer in respect of the hedgerow and the ash tree in respect of visibility have been considered by the CHA, who raise no objections, and as suggested by the Tree Officer the ash tree could be removed, as its quality is poor.

## **Density**

To re-confirm that the actual number of plots on the site has reduced from 37 to 35, but due to the configuration of the eight, 1 bedroomed affordable units, the overall number of individual units has been calculated as 41. The density of the site at 26.6 dwellings per hectare, is lower than the Policy requirement of 40 dwellings per hectare in town centre location and 30 dwellings per hectare in accessible locations.

## **Residential Amenity**

In response to the question raised regarding where the measurements have been taken from when referring to distances between proposed plots and existing dwellings, the measurements are taken from the shortest distances between the rear of the proposed plots and the closest point to the rear of the dwellings on Willesley Gardens, and closet point to the side wall of No. 28 Wells Road.

In respect of the proposed frontage plots, the distance is taken from the closet point from the front of the proposed plots to the side walls of No's 1 and 2 Willesley Close, although it

should be noted that a two storey side extension has been approved, and is being implemented at 1 Willesley Close, Ashby (ref: 14/00399/FUL), accordingly the distances between this property and the site will be reduced, from that previous reported. The scheme proposes a side extension with garage at ground floor and bedroom above, however there are no side habitable windows proposed. In addition, the distance is still considered to be sufficient and combined with the 'over the road' relationship between the existing dwelling and the proposed plots are therefore considered to be acceptable.

The proposed plots along the boundary with the existing bungalows, are all of a maximum of two storeys. The scheme does not propose any 3 storey properties, although there are 2.5 storey proportions (two storey with accommodation in the roofspace) proposed elsewhere in the scheme at plots 12, 13, 17, 18, 21 and 22.

### **Footpaths**

The informal, un-designated footpath will not remain in its current proposed route; instead the scheme proposes a combined footpath/cycle route within the scheme, which would become a formally designated footpath and cycle route.

In response to concerns over safety of the proposed cycle/footpath, at present the existing, informal un-designated route used by walkers is also consistent with that of the route used for agricultural vehicles and machinery. Accordingly the proposed layout will separate the walkers and cyclists from the agricultural vehicles and proposed vehicles, resultant of the development and result in an improvement over the existing arrangement.

In respect of securing the combined footpath/cycle route the land is within the applicant's ownership.

### **Other Matters**

The stream will not be removed or diverted.

Condition 18 is recommended to ensure wheel cleansing facilities during the construction phase is undertaken to reduce the level of material being deposited on the highway.

Re-consultation has been undertaken with all original neighbours, all those who have previously made recommendations, in addition to the Town Council and statutory consultees for a period of 14 days.

The note to applicant which reads "Planning permission has been granted for this proposal..." is a standard note added to committee reports, to give a list of all notes to applicant, that would be added should members be minded to approve the application.

**RECOMMENDATION: PERMIT, subject to conditions and the signing of the Section 106 Agreement.**

**Amend Condition 7** from pre-commencement to prior to first occupation.

**Amend Condition 9** to include the retention of existing trees and hedgerows.

**Amend Condition 11** from pre-commencement to prior to first occupation of the 10<sup>th</sup> dwelling.

**Amend Condition 12** to include the development to be implemented in accordance with the details.

**Amend Condition 28** to include tree protection for all trees and no dig design for trees T4 and T5.

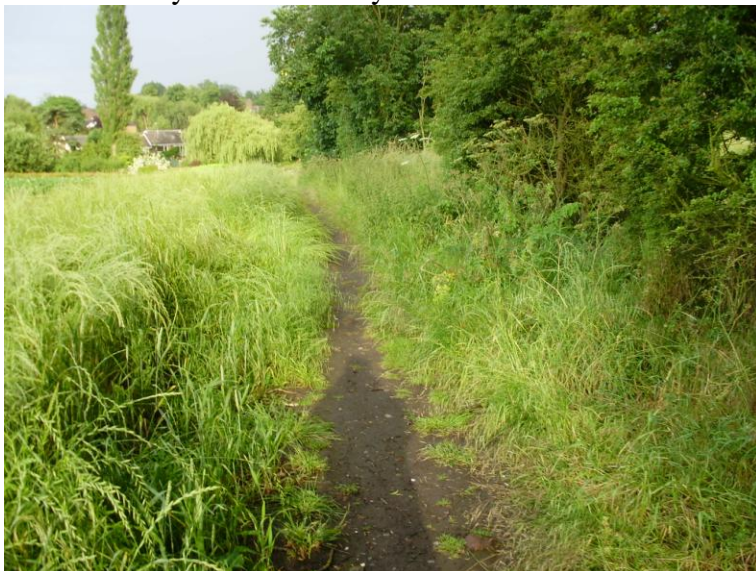
### **Appendix to Item A5**

A request from a neighbour has been made for photographs to be provided for Members of the Planning Committee.

View of the development site from the west



Route used by walkers and cyclists



View of site looking north west





Existing site frontage



Willesley Lane viewed eastwards



**A6**            **14/00082/OUTM**            **Erection of up to 50 dwellings (Outline - all matters other than access reserved)**  
**Land to the North of Top Street, Appleby Magna**

## **Representations**

Appleby Magna Parish Council submitted comments in relation to the application on 21 October 2014 and these are set out in full as follows:

14/00082/OUTM, Land to north of Top Street, residential development – **OBJECT (unanimous)** - comments are:

- This is an E1 Character Area, thus needs protection.
- This is a discreet site and could blend in with the village – however, the water and drainage – flooding problems previously outlined are still a major consideration and barrier to development.
- ACCESS is a major issue for this site – there are x3 junctions within 50 yards on fairly blind bends; Councillors have looked carefully at access issues, but there is no way around this, the proposed access is at the narrowest point of the road.
- Nothing in the plans shows in-depth consideration for the surface water management – this cannot go straight into the brook.
- With other applications approved or in the process of approval will this application be too many houses for a "sustainable village"?

Letter from the agent received on 29 October 2014 requesting that the application be withdrawn from the agenda on the basis there has not been opportunity to address the agricultural land classification issue which features in Reason for Refusal No.1.

Email received from Leicestershire County Council 4 November 2014 confirming that the proposed development would not raise any highway safety concerns, subject to conditions which could be provided if necessary.

## **Officer Comments**

The Parish Council comments are noted and raise no issues from those addressed in the main report. However, for clarification purposes, Members should note that the site does not have Policy E1 character area designation.

The agent letter highlights that an agricultural land classification report has not been requested as part of the application contrary to planning practice guidance (PPG) and pre-application advice did not indicate that such a report would be required. Pre-application advice is informal advice and the applicant did not enter into the formal major pre-application enquiry process at which time the issues relating to the proposal could have been discussed with the applicant in more detail. The application was submitted prior to PPG being brought online, but it is accepted that the information could have been requested during the application process. However, the agricultural land issue forms one part of the first reason for refusal, in addition to development in the countryside and housing land supply. In addition, the heritage concerns have not been overcome as part of the application. As such, it is considered that there are more fundamental 'in principle' issues relevant to the site which would still stand should an agricultural land classification report demonstrate the land not to be best and most versatile land.

The Highway Authority comments are noted.

**RECOMMENDATION: REFUSE AS RECOMMENDED**