

Erection of a road related storage, maintenance and management facility and associated site works (reserved matters to outline planning permission ref. 17/01081/OUTM) (revised scheme)

Flagstaff Island Lountside Ashby De La Zouch Leicestershire LE65 1JP

Report Item No
A1

Application Reference
22/00691/REMM

Grid Reference (E) 437495
Grid Reference (N) 317235

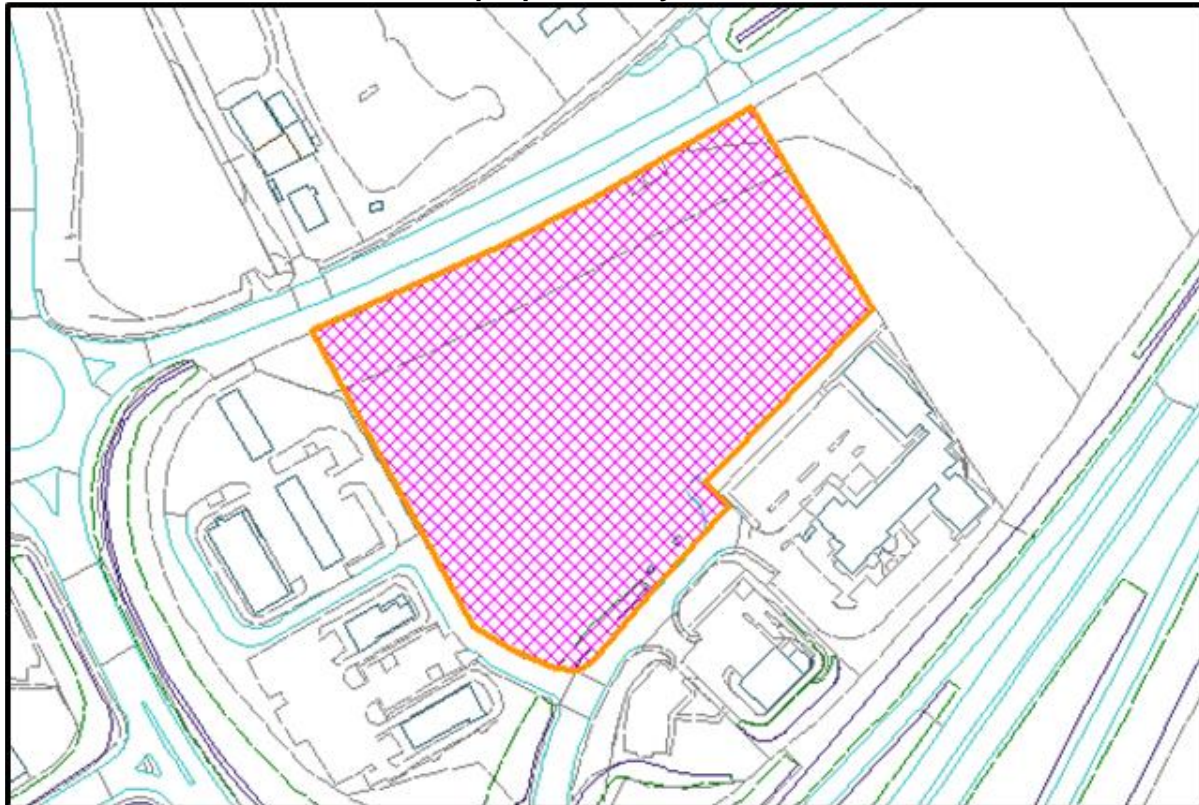
Date Registered:
22 April 2022
Consultation Expiry:
26 October 2022
8 Week Date:
22 July 2022
Extension of Time:
7 October 2022

Applicant:
EG Group

Case Officer:
Donnella Wood

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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RECOMMENDATION- PERMIT, subject to the following conditions

- 1 Compliance with outline planning permission
- 2 Approved plans
- 3 Materials
- 4 Landscaping
- 5 Tree / hedgerow protection
- 6 Hard surfacing
- 7 Levels
- 8 Boundary treatment
- 9 Retaining walls / structures
- 10 Site accesses / visibility splays
- 11 Parking and manoeuvring areas
- 12 Cycle parking
- 13 External lighting
- 14 Environmental performance
- 15 Details of vehicular crossing to drainage ditch

Main Report

Proposals and Background

The application is brought to the Planning Committee as it was called in on design grounds following the refusal by Committee members of the previously submitted scheme 21/00471/REMM and the subsequent loss of appeal by the applicant.

This is a reserved matters application for the erection of a unit on a site of 2.4ha for use as a road related storage, maintenance and management facility and associated site works (reserved matters to outline planning permission ref. 17/01081/OUTM) at Flagstaff Island, Lountside, Ashby De La Zouch.

The application seeks reserved matters approval for the matters of access, appearance, landscaping, layout and scale.

Following the completion of a Section 106 obligation (in respect of a number of matters including employee travel packs and bus passes, bus stop improvements, implementation of waiting restrictions, construction traffic, River Mease contributions and National Forest planting), outline planning permission was granted in August 2019 (ref. 17/01081/OUTM).

This reserved matters application seeks approval for a unit of approximate dimensions 150m length x 40m width with a maximum height of 8.2m above finished floor level (FFL).

The proposed unit would include a service yard to the north eastern part of the site which would incorporate HGV parking. To the south western part of the site a car park is proposed.

Two vehicular accesses are proposed, the service yard would be served from Lountside and the car park would be served from Lountside and the existing estate road accessed via the adjacent completed first phase.

The application site is located outside the defined Limits to Development and is within the River Mease Special area of Conservation.

The previously submitted scheme 21/00471/REMM was refused by the Planning Inspectorate Inspector who raised the following;

The adjacent petrol filling station canopies sit considerably closer to the boundary with Nottingham Road than the unit proposed. There is established tree planting which would help to screen the unit from Nottingham Road. Nonetheless, in comparison to the building proposed, the canopies read as lightweight structures due to their open sided construction and, on the basis of the information before me, the unit would be taller than the canopies. The building would be highly visible from the roads associated with the services. The proposed west elevation would be directly adjacent to the estate road and due to its siting would be particularly prominent when viewed from public vantage points.

The existing buildings within the road-related services area do not read as dominant buildings because of their scale, design, siting and use of materials. In contrast, the scheme would result in a dominant building which would fail to respect the character of the existing development within the services area. This is by virtue of the proposed building's height, scale, massing, siting and design with limited architectural features particularly to the prominent west elevation.

Furthermore, due to the limited gap between the unit and the road, it would not be possible to introduce any meaningful landscape to mitigate the impact of the proposed west elevation. Consequently, the scheme would be out of keeping with the existing development within the road-related services area and would not positively respond to the site's context.

For these reasons, the proposed development would be visually harmful to the character and appearance of the surrounding area.

The full text of the appeal decision can be seen in appendix 1 to this report.

The previous scheme would have resulted in a much taller and more dominant building with a height of 10.3m, an overly large service yard, unsubstantial landscaping and a siting which would have ensured significant prominence when viewed from the public realm.

As a result of the amended scheme, the height of the building has been reduced from 10.3m to 8.2m which is lower than adjacent canopies and the siting of the building has been re-orientated to reduce its prominence from public vantage points. Furthermore, the amended scheme now features a substantially reduced service yard and a significant amount of landscaping is now proposed which would further screen the proposal reducing the dominance of the scheme within the public realm and addressing the issues raised by the Inspector when considering the appeal.

Recent Planning History

06/00235/OUT Erection of road related service facilities (outline including details of access) PER 12.10.2006

06/00573/ADC Retention of one no. externally illuminated freestanding sign PER 10.08.2006

08/01437/ADC Display of 1 No. Pole Advertisement Sign (illuminated sign) INV

08/01522/ADC Display of pole mounted sign (Advertisement Consent Application) WDN 26.03.2009

16/00216/FULM Erection of road related facilities - including petrol filling, service station, restaurant, cafe and formation of petrol forecourts, aprons and parking areas PER 14.06.2017

17/01081/OUTM Erection of a road related storage, maintenance and management facility (use classes B1 and B8) and associated site works (outline - all matters reserved) PER 02.08.2019

18/00230/ADC Display of one internally illuminated totem sign PER 15.05.2018

18/00622/NMA Non-material amendment to planning permission 16/00216/FULM to increase the footprint of the building and amend the design of the building PER 23.05.2018

21/00471/REMM Erection of a road related storage, maintenance and management facility and associated site works (reserved matters to outline planning permission ref. 17/01081/OUTM) REF 04.11.2021

2. Publicity

17 neighbours notified.

Site Notice displayed 27 April 2022.

Press Notice published Leicester Mercury 4 May 2022.

3. Summary of Consultations and Representations Received

Statutory Consultees

Ashby de la Zouch Town Council objects on the following grounds:

- Will cause disruption and deter visitors from the town
- Proposal is too large for the location
- Noise, air and light pollution
- Highways concerns
- Harm to the River Mease - assessments are required and no capacity is available
- Contrary to Local Plan policies as the proposals are not a road related services facility, contrary to Policy T4b (a reference to the former policy for the site within the previous North West Leicestershire Local Plan), and as the site is allocated as countryside, not employment land.

Leicestershire County Council Highways - No objection subject to the imposition of comments.

Leicestershire County Council Lead Local Flood Authority - No objection.

NWLDC Environmental Protection - Stated 'no information submitted for Environmental Protection consideration hence, no comments'.

NWLDC Tree Officer - No objection.

NWLDC Urban Designer - No objection.

The National Forest Company - No objection.

Natural England - No objection.

Third Party Letters of Representation

5 neighbouring dwellings and businesses objected to the proposal raising the following;

- Merits of the application
- Highways concerns
- Contravenes development plan
- Land area too small for the proposal
- Ugly design
- Overly dominant
- Little changed from the previously refused application
- Pedestrians struggle to cross the road due to already bad waiting times
- Application type not suitable
- Site does not have sustainable transport routes
- High pressure gas pipeline running under the application site
- Proposal not road related
- Land designated as open countryside
 - Inadequate surface water drainage
- Overloading of the Packington sewerage plant
- Great Crested Newts within the site
- 24 hour noise

- Light pollution
- Exhaust pollution and disturbance
- Air quality concerns
- Mixing extra HGV traffic with the A42 Services passenger cars and pedestrians
- Oil pollution
- Impacts on the River Mease
- Hydrocarbon pollutants
- Ecological harm
- Fire hazard
- Flooding concerns
- Residents and consultees were not consulted on the 2019 application
- EIA should have been independent
- Officer errors from previous applications
- Harm to public health
- Potential for storage of toxic materials
- Size of building larger than stated during outline
- Harmful to local businesses
- Absence of adequate technical assessments in respects of noise, air quality and lighting
- Insufficient detail regarding the proposed diversion of a gas main directly towards the hotel
- Inconsistencies between the drawing pack and supporting statements
- Inadequate parking provision
- Potentially inadequate service yard including capacity, turning circles for HGVs and potential for queueing onto Lountside
- Insufficient or inappropriate detail regarding site operations, security and management

All responses from statutory consultees and third parties are available to view via the Council website.

Only comments which raise material planning issues can be taken into account. For the avoidance of doubt material considerations for this site relate to impact on the character of the area, scale/ design, layout, landscaping and access. Matters relating to the granted outline application, nor considerations which would have been considered as part of the outline application such as the principle of the development, neighbour amenity, impacts on the SAC, impacts on the wider highways network, environmental impacts and ecological issues are not material planning considerations for this application.

4.Relevant Planning Policy

National Planning Policy Framework (2021)

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.

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 109, 110, 111 and 112 (Promoting sustainable transport)

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

Paragraphs 153, 154 and 157 (Meeting the challenge of climate change, flooding and coastal change)

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

Adopted North West Leicestershire Local Plan (2021)

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are relevant to the determination of the application:

S3 - (Countryside)
D1- (Design of New Development)
D2- (Amenity)
IF4- (Transport Infrastructure and New Development)
IF7- (Parking Provision and New Development)
En1- (Nature Conservation)
En2- (River Mease Special Area of Conservation)
En3 - (The National Forest)
En6 - (Land and Air Quality)
Cc3- (Sustainable Drainage Systems)

Adopted Ashby Neighbourhood Plan (2018)

The Ashby Neighbourhood Plan forms part of the development plan and the following policies of the Neighbourhood Plan are relevant to the determination of the application:

Policy S1 - Presumption in favour of Sustainable Development
Policy S3 - Development Proposals Outside of the Limits to Development
Policy S4 - Design
Policy NE5 - Trees and Hedgerows

Other Guidance

The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).
River Mease Water Quality Management Plan - August 2011.
The River Mease Developer Contributions Scheme (DCS1 & 2)
Natural England - Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites - March 2021.
Leicestershire Highways Design Guide (Leicestershire County Council).
Planning Practice Guidance.
National Design Guide - October 2019.
Good Design for North West Leicestershire SPD.

5. Assessment

Principle of Development

The principle of development on this site for the proposed use was established by the grant of the original outline planning permission (17/01081/OUTM) 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. 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 issues (e.g. the impacts on the wider highway network and matters relating to the sustainability of the development) are not relevant to this application.

Insofar as the proposed reserved matters applied for are concerned, the following conclusions are reached:

Appearance, Layout and Scale

Whilst the site is located outside Limits to Development, as set out above, the principle of the development has already been established under the outline planning permission. However, Policies S3 of both the adopted Local and Neighbourhood Plans include criteria relating to the detailed design associated with development within the countryside. In terms of matters relevant at the reserved matters stage, Local Plan Policy S3 provides that developments will be supported where the appearance and character of the landscape is safeguarded and enhanced, and where built development is well integrated with existing development and existing buildings; Neighbourhood Plan Policy S3 requires development to respect the form, scale, character and amenity of the landscape and the surrounding area through careful siting, design and use of materials. Similarly, the scheme will also need to be considered against the design policies referred to above.

The scale of the proposed unit is as set out in the introduction above. Insofar as the height of the unit is concerned, it is noted that the supporting information submitted with the outline application indicated that the unit would be between one and two storeys in height, and between 5.0m and 8.5m. As set out above, the maximum height of the unit would be 8.2m above FFL which would be within the limits as indicated at outline stage. By way of comparison with surrounding development, the closest section of the existing hotel is approximately 9.6m to ridge (above FFL), and the existing filling station canopies (for cars and HGV sections respectively) are 6.5m and 7.5m above ground level. Whilst details of proposed floor and external ground levels are not yet available (and would be able to be addressed by way of an appropriate condition), existing site levels for that part of the site where the unit would be erected are (generally) at a similar level (and, in places, approximately 1m above) those of the filling station, and approximately 3 to 4m below those of the hotel's FFL.

The site is currently well screened from Nottingham Road by established tree planting and additional planting to further screen the development is proposed. Whilst the proposed unit would be taller than the adjacent filling station canopies (which are considered to be well screened by the existing vegetation), it is noted that the unit would be sited approximately 55m from the site boundary (compared to only around 16m in the case of the adjacent petrol station) and, as such, the visibility of the unit beyond the trees would be likely to be limited to some extent from street level on Nottingham Road.

In terms of the size of the unit generally, it is noted that this complies with the maximum floorspace specified in the outline planning permission.

With regard to the design of the unit, officers have sought to engage with the applicants so as to secure improvements to the proposed elevations. In particular, the Urban Designer whilst complimenting the proposal over the previously submitted scheme as sitting comfortably within the plot and the reduction in the size of the service yard, did advise that the elevations appeared unnecessarily complicated offering advice to offset this. Following the receipt of amended plans, it is considered the elevations now offer a greater simplicity and palette for such a scheme and it is accepted that it would represent a significant enhancement over and above the originally submitted scheme offering a good standard of design, in accordance with the relevant Local Plan, Neighbourhood Plan and SPD policies.

Additionally, whilst the unit incorporates car parking to its principal public realm-facing frontage, it is acknowledged that it would be set behind a substantial landscaped area, and the visual impact of the extent of hardstanding proposed would be expected to be mitigated to a reasonable degree.

The previous scheme would have resulted in a much taller and more dominant building with a height of 10.3m, an overly large service yard, insufficient landscaping and a siting which would have ensured significant prominence when viewed from the public realm. For these reasons, the previously submitted scheme 21/00471/REMM was refused by the Planning Inspectorate Inspector who considered the proposed development would be visually harmful to the character and appearance of the surrounding area.

As a result of the amended scheme, the height of the building has been reduced to 8.2m which is lower than adjacent canopies and the siting of the building has been re-orientated to reduce prominence from public vantage points. Further, the amended scheme now features a substantially reduced service yard and a significant amount of landscaping is now proposed which would further screen the proposal reducing the dominance of the scheme within the public realm. Given this and as discussed above, it is considered the amended scheme would satisfy the concerns raised by the Inspector when determining the appeal.

Given the above, the proposal is not considered to result in significant harm to the site itself or the character of the street scene. The proposal is considered to be compliant with Policy D1 of the Local Plan, Policy S4 of the Ashby Neighbourhood Development Plan and the advice contained within the NPPF.

Access

The development is proposed to be accessed via two vehicular accesses from Lountside; one served from the existing estate road used to access the adjacent roadside services, and the other formed at the existing turning head at the end of Lountside. The access proposals remain largely unaltered from the previously submitted scheme of which the Planning Inspectorate Inspector did not raise specific concerns over.

The Leicestershire County Council Highways Authority (LHA) were formally consulted on the application and raised no concerns advising that in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe subject to the imposition of conditions.

The LHA noted the internal access proposals, visibility splays and swept path analysis are acceptable. With regard to the parking arrangements, the LHA concluded the proposal is in excess of the required amount of vehicular parking spaces and the disabled persons parking bays are in accordance with Table DG12 of Part 3 of the Leicestershire Highway Design Guide and are therefore acceptable. With regard to the service yard, they advised the proposed B8 use of the site requires a total of nine HGV spaces which have been demonstrated on the submitted plans. As such, the parking provision is in accordance with LHDG standards and therefore the application is acceptable.

Issues in respect of the scheme's impacts on the wider highway network, the suitability of the site in terms of sustainable location and its accessibility to public transport have in effect been dealt with at the outline stage. The scheme is therefore considered acceptable in terms of access and associated matters, and would comply with Policies IF4 and IF7 of the Local Plan, Policy S4 of the Ashby de la Zouch Neighbourhood Development Plan as well as the

Leicestershire Highways Design Guide.

Landscaping

As set out above, the site is currently well screened from Nottingham Road by established tree planting (some of which was originally established as part of the landscape mitigation for the development of the commercial development to the south east of the site); a number of other smaller trees are currently located within the site. The application is accompanied by an Arboricultural Impact Assessment and Method Statement (AIA) and Landscaping Plan detailing additional planting and the retention of the existing vegetation.

With regard to the existing trees adjacent to Nottingham Road, of the 9 singular trees and groups, 3 are proposed to be removed, however new landscaping would be provided to those areas adjacent to Nottingham Road (including new tree, hedgerow, shrub and wildflower meadow planting). The affected existing groups in this part of the site would also be within Retention Category C and U, identified in the AIA as collectively of low quality and value beyond partial screening from Nottingham Road. Whilst the "depth" of the planting buffer to Nottingham Road would be reduced to some extent, it is considered that the area of vegetation retained and the additional planting proposed would likely to continue to provide an effective means of limiting the visual impacts of the development when viewed from Nottingham Road.

In addition to the landscaping referred to above, landscaped buffers would also be provided to the site boundaries. The submitted Landscaping Plan confirms that the site's proposed landscaping would include the provision of shrubs, native woodland mixes, native hedgerow mixes, native shrub mixes, pond edge seed mix, wildflower mixes and 93 no. heavy standard sized trees.

The NWLDC Tree Officer advised they did not have any objections to the proposal further commenting that the Tree Protection Plan (120422_0029_TPP_V2) included in the AIA is additionally acceptable for the temporary protection of the retained trees during the development construction works.

In terms of National Forest planting, it is noted that the Section 106 obligations entered into at the outline stage secure National Forest planting and/or financial contributions (with the amount payable dependent on the final extent of on-site Forest planting). Under the relevant National Forest planting standards, a minimum area of 0.48ha of National Forest planting is required to be provided within the site (or, in the event that it is not, an off-site financial contribution of £20,000 per hectare of the shortfall is payable). Since the initial landscaping documents were received we requested a further detailed plan to be submitted and an amended detailed Landscaping Plan has now been received which increased the standard tree sizes and confirmed the minimum area of National Forest planting which would be provided. The National Forest Company has advised the amended plan and details indicates that the National Forest planting requirement (which includes woodland planting, shrub planting and specimen tree planting) would be met on site and that the species mix, density and sizes are considered appropriate. As such, the National Forest Company raised no objection to the proposal.

Other amendments requested were for clarity over the proposed physical boundary measures which has now been made clear and as such, the proposal would result in a 1.8m high Paladin fence to the site side of the planting buffer which would be green to blend in with the tree planting. It is considered the proposed fence therefore would be well screened by the planting and the green would be appropriate to provide further camouflage of the fencing. Following the amended plan the NWLDC Urban Designer was reconsulted who confirmed they have no

objection to the scheme.

The previous scheme would have resulted in insufficient landscaping for the proposal with the Planning Inspectorate Inspector additionally noting 'between the unit and the road, it would not be possible to introduce any meaningful landscape to mitigate the impact of the proposed west elevation'.

As a result of the amended scheme, the siting of the building has been re-orientated to reduce prominence from public vantage points and allow further scope for landscaping. As such, a significant amount of landscaping is now proposed which would further screen the proposal reducing the dominance of the scheme within the public realm. Given this and as discussed above, it is considered the amended scheme would satisfy the previously raised concerns.

Overall it is considered that the proposal would contribute positively to its setting within the National Forest and therefore would comply with the aims of Policies D1 and En1 of the adopted Local Plan.

Other Issues

A number of objections have been raised in respect of other matters not directly relevant to the determination of this reserved matters application. These include concerns relating to the need or otherwise for the development, the principle of development outside Limits to Development, and the drainage implications of the scheme (and including impacts on the River Mease SSSI and SAC) amongst others. With regard to the drainage concerns raised, it is noted that the Section 106 agreement entered into at the outline stage to secure appropriate contributions under the River Mease Developer Contribution Scheme, and that the capacity at the receiving treatment works has already been allowed for on the basis of the outline planning permission proposals. In terms of surface water drainage, this is controlled under conditions attached to the outline planning permission. On this basis (and subject to the submission of appropriate details under a discharge of condition application), it remains the case that the proposal will, either alone or in combination with other plans or projects, have no likely significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Similarly, ecological concerns have been raised by third parties however, a scheme of ecological mitigation is required to be implemented in accordance with the outline planning permission (and in respect of which details have already been approved under a separate discharge of condition application (ref. 21/00854/DIS)). Whilst comments have been made to the effect that the scheme should be subject to an Environmental Impact Assessment (EIA) independent of the Council and applicant, it is considered that, having regard to the characteristics of the site and its surroundings and to the scale of the scheme, it would not constitute EIA development under the regulations and this is an assessment that the EIA regulations require the Council to make and cannot be done by an independent organisation. Indicative criteria for industrial estate development projects (which, in effect, this use would be akin to) as set out in the DLUHC's Planning Practice Guidance suggest that EIA is unlikely to be required for development of below 20ha. It is not considered that there are any other specific factors applicable here that would indicate any other position ought to be reached in this regard. Therefore, as the proposal falls outside of the remit of EIA development it does not require such an assessment.

It is noted that objections have been raised in respect of the scheme's impact on issues such as noise, oil, air pollution and the risk to public health from the proposal. However, these are not considered to be matters directly relevant to the determination of this reserved matters

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application and were matters that were considered at the appropriate outline stage. It is nevertheless noted that the supporting information submitted at outline stage indicated that the impacts on residential amenity would be likely to be limited given the existing noise climate of the site and aside from conditions relating to land contamination the NWLDC Environmental Protection Team advised they had no environmental observations at the time of the outline planning permission. Any additional information with respect of these issues would have needed to be requested at outline stage and it is not appropriate to reconsider these or request additional conditions at the reserved matters stage which only deal with specific elements of the scheme i.e. the reserved matters which are referred to in this report.

It is therefore considered that the proposed scheme would be acceptable, and approval is recommended.