

**Reserved matters approval (internal access, appearance, layout, scale and landscaping) (outline planning permission 15/00456/OUTM) for a 45 unit apartment block within the second phase  
Willow Farm Ashby Road Moira Swadlincote DE12 6DP**

**Report Item No  
A2**

**Application Reference  
21/00711/REMM**

**Grid Reference (E) 432913  
Grid Reference (N) 316480**

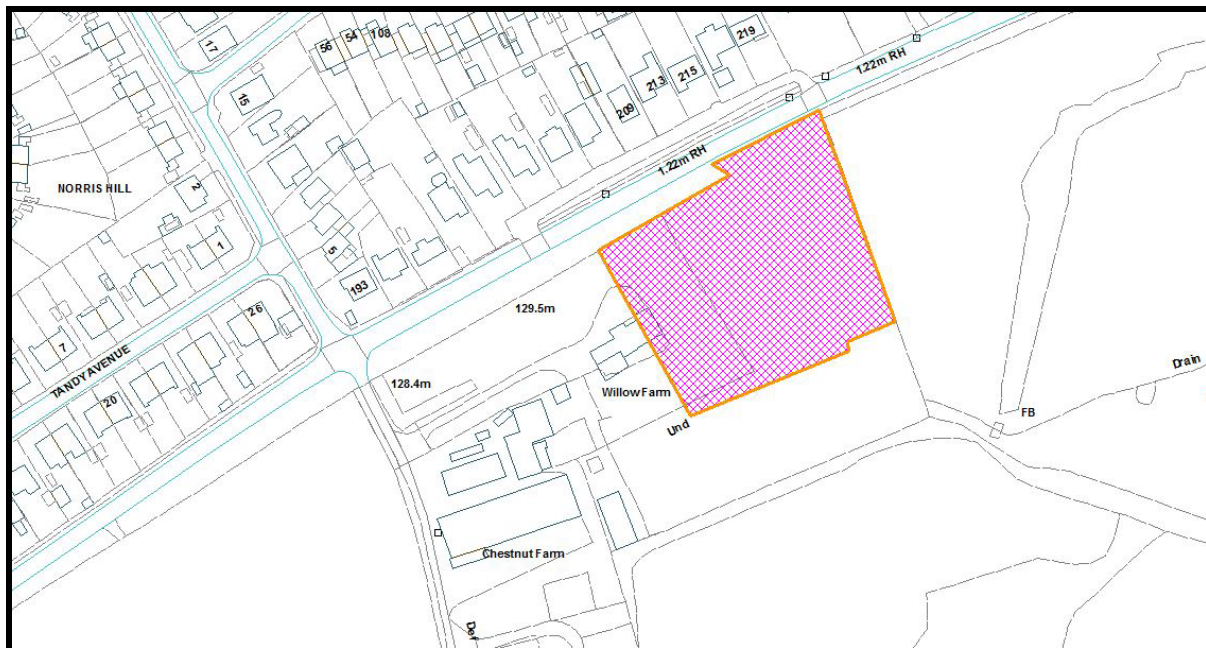
**Date Registered:  
16 April 2021  
Consultation Expiry:  
7 September 2023  
13 Week Date:  
16 July 2021  
Extension of Time:  
FINAL EXT TO BE  
AGREED**

**Applicant:  
MACC Group and Prospect Capital**

**Case Officer:  
Adam Mellor**

**Recommendation:  
PERMIT**

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



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**Reasons the case is called to the Planning Committee:**

This application is brought to Planning Committee originally at the request of Councillor Gill Hoult and subsequently by Councillor Woodman due to the proposal, raising considerable public concern, being outside the defined Limits to Development, differing from the outline permission and that there is no justification for this application to proceed as there are 2, possibly 3, other new care facilities in Ashby.

**RECOMMENDATION – PERMIT, subject to the following conditions:**

1. Compliance with conditions of outline permission (15/00456/OUTM).
2. Approved plans.
3. Finished floor levels to be delivered in accordance with submitted plans.
4. No raising of land levels unless precise details of finished ground levels are first submitted and approved.
5. Scheme of external materials prior to the care related apartment block being built above damp proof course level to be submitted, approved, and implemented.
6. Design detailing of care related apartment block prior to the care related apartment block being built above damp proof course level to be submitted, approved, and implemented.
7. External meter boxes and rainwater goods to be finished black.
8. Soft landscaping scheme (including timetable for implementation) prior to the care related apartment block being built above damp proof course level to be submitted, approved and implemented.
9. Hard landscaping scheme (including timetable for implementation) prior to the care related apartment block care being built above damp proof course level to be submitted, approved and implemented.
10. Boundary treatment scheme in accordance with submitted plans and removal of permitted development rights for alternative boundary treatment schemes to care home and care related dwellings.
11. Elevational information of boundary treatments prior to boundary treatments being installed to be submitted, approved, and implemented.
12. Details of retaining walls (if required) prior to construction to be submitted, approved and implemented.
13. Scheme of a bin storage point(s) (including timetable for implementation) prior to the care related apartment block being built above damp proof course level to be submitted, approved and implemented.
14. Timetable for the delivery of the pedestrian link to National Forest woodland prior to first occupation to be submitted, approved, and implemented.
15. Signage for the pedestrian link to National Forest woodland prior to first occupation to be submitted, approved, and implemented.
16. Delivery of access arrangements (including visibility splays) in accordance with submitted plans prior to first occupation.
17. Delivery of off-street parking and turning arrangements in accordance with submitted plans prior to first occupation.
18. Delivery of secure cycle parking facilities prior to the first use of the development to be submitted, approved, and implemented.

**1. Proposals and Background**

This is a reserved matters application relating to the erection of a 45 unit apartment block for the second phase at Willow Farm, Ashby Road, Moira. An application for outline planning

permission for a residential care development including apartments and cottages and residential care home with associated car parking and landscaping (outline – details of access, appearance, landscaping, layout, and scale reserved for subsequent approval) (ref: 15/00456/OUTM) was approved, subject to a Section 106 agreement on the 17<sup>th</sup> of April 2018. As a result matters of the internal access, layout, appearance, scale, and landscaping are now submitted for consideration.

The application site is some 1.5 hectares in size and currently comprises a residential dwelling, with associated curtilage buildings, and agricultural land to the north-east of Moira village. The application site is outside the defined Limits to Development and there is residential development on the opposite side of Ashby Road.

An application for reserved matters approval (access, appearance, layout and scale) (outline planning permission 15/00456/OUTM) for a 62 bed care-home development and 15 care related dwellings along with vehicular access from Ashby Road and internal layout for the first phase is also under consideration with the Local Planning Authority and forms the basis of a separate report to this committee (21/00233/REMM). Such an application deals with the principal means of vehicular access into the site from Ashby Road.

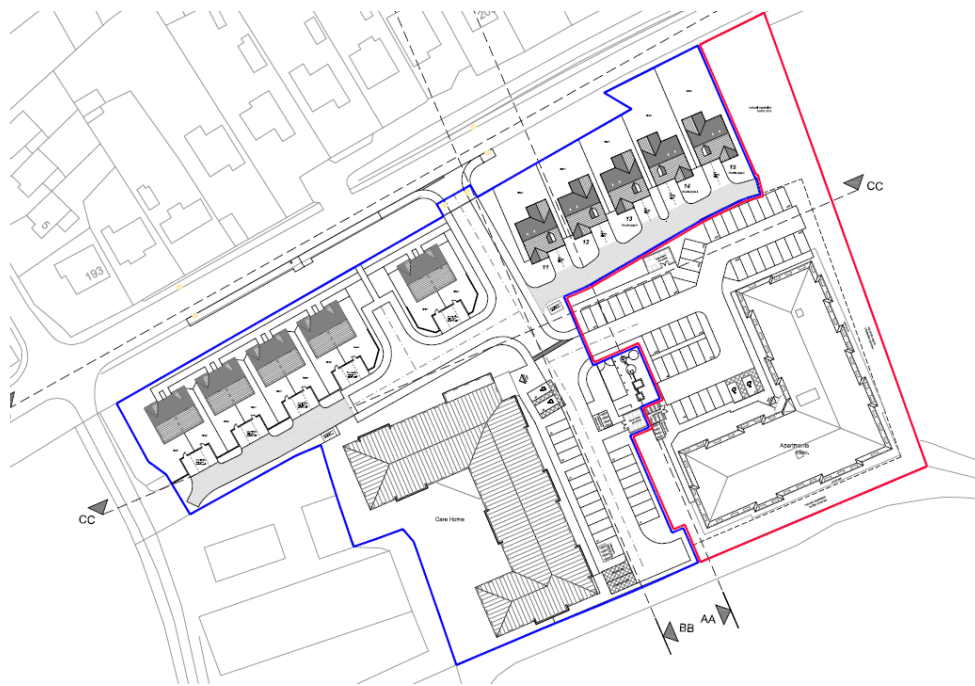
Following comments received from statutory consultees, the scheme has been amended and revised plans submitted. Re-consultation has been undertaken on these revised plans.

Condition 3 of the outline planning permission (15/00456/OUTM) stated the following in relation to the scale of the development:

*“The care facility hereby permitted shall comprise a maximum number of 30 no. care related dwellings, 66 no. sheltered units, and a care home with 62 no. ensuite bedrooms along with ancillary social and medical related space.*

*Reason: For the avoidance of doubt since the indicative plans show that a development of this size can be achieved on the site without adverse impacts in respect of material planning considerations.”*

**Site Location Plan and Site Layout (The land outlined in red comprises that associated with this application reference 21/00711/REMM with that outlined in blue being connected with application reference 21/00233/REMM)**



As submitted the layout indicates that the phase 2 development would comprise:

- A 45 bed care related apartment block located within the south-eastern part of the site which would comprise a three-storey building with an internal floor area of 4,618 square metres and overall height of 9.58 metres. This care related apartment block would contain 18 x 1 bed apartments and 27 x 2 bed apartments.

The layout, appearance, and scale of the care related apartment block within phase 2 of the development can be viewed on the plans available on the District Council's website.

Vehicular access into phase 2 would be via the internal highway created within phase 1 of the development (as proposed under application reference 21/00233/REMM) with a junction formed onto such an internal highway.

Soft landscaping would be accommodated within areas of open space around the care related apartment block as well as within the parking areas. Hard landscaping would form pedestrian footways, parking areas, pathways, and patios.

A planning and design statement, transport assessment, road safety audit and land contamination assessment were originally submitted in support of the application with a statement of community involvement, planning statement addendum and flood risk assessment (FRA)/drainage strategy (DS) addendum subsequently being submitted following the receipt of third party and statutory consultee comments. Re-consultation has been undertaken on this information.

**Relevant Planning History**

- 88/1368 – Erection of agricultural workers dwelling following coal extraction nearby – Approved 16<sup>th</sup> March 1989.
- 11/00851/VCU – Variation of condition 13 of 88/1368 to remove the agricultural tie associated with the dwelling – Approved 10<sup>th</sup> February 2015.

**2. Publicity**

69 no. neighbours initially notified 9 March 2021 and on amended plans on the 21 September 2022, 2 May 2023, and 3 July 2023.

A site notice was initially displayed on the 9 March 2021 and following an amendment to the description of the development on the 6 July 2023.

A press notice was initially published in the Leicester Mercury on the 24 March 2021 and following an amendment to the description of the development on the 12 July 2023.

**3. Summary of Consultations and Representations Received**

The following summary of representations is provided. All responses from statutory consultees and third parties are available to view in full on the Council’s website.

**Objections from:**

Ashby Woulds Town Council on the following grounds:

<b><u>Grounds of Objections</u></b>	<b><u>Description of Impact</u></b>
<b>Principle and Need</b>	The Oakleigh Care Home in Moira has been extended, with an existing facility in Ashby being extended and new facilities proposed both within Ashby and as part of the Money Hill development. On this basis there is no longer a requirement for this facility.
	There are no facilities in the local area which would serve the future residents.
	It needs to be ensured that the existing medical practices can accommodate additional patients from the proposed development.
<b>Highway Safety</b>	The speed limit must be reduced to 30mph.
	A pedestrian crossing should be provided to allow residents to use local shops safely.

**PLANNING APPLICATIONS- SECTION A**

	<p>There needs to be adequate parking for all residents and staff.</p>
	<p>Provision of a pedestrian refuge will impact on the flow of traffic on Ashby Road given its proximity to a bus stop and limit vehicle movements at 199 Ashby Road.</p>
<p><b>Residential Amenity</b></p>	<p>Social, recreational and wellbeing facilities for the proposed development should be clearly identified with residential gardens shown clearly on the plans.</p>
	<p>There are no details of the proposed external lighting which would be provided which would impact on residential amenity given the current dark environment.</p>
	<p>It is not understood how the Council's Environmental Protection Officer has raised no objections with noise and disturbance being associated with a 24 hour care home.</p>
	<p>The proposed development will result in adverse overlooking and overbearing impacts to existing residential amenities.</p>
<p><b>Design</b></p>	<p>The proposed development would not be of a design or scale which would enable it to successfully integrate into the area with there being a need for the two-storey development to be at the site frontage and the three-storey development in the south.</p>
<p><b>Other Matters</b></p>	<p>The Section 106 agreement should be rewritten with the involvement of the Town Council to reflect the needs of the local community.</p>

Ashby De La Zouch Town Council on the following summarised grounds:

- Concerns around traffic as Ashby Road is already very busy and the proposed development will add to this burden. Further information should therefore be submitted to the County Highways Authority.
- There is also no evidence of the mitigation for tree loss and no biodiversity net gain assessment (BNG) has been submitted.

**No Objections from:**

NWLDC Environmental Protection.

**No Objections, subject to conditions and/or informatives, from:**

Leicestershire County Council – Ecology.  
 Leicestershire County Council – Highways Authority.  
 Leicestershire County Council – Lead Local Flood Authority.  
 National Forest Company.  
 NWLDC Tree Officer.  
 NWLDC Urban Designer.  
 Police Architectural Liaison Officer.

**Third Party Representations**

14 no. third party representations have been received objecting to the application with the comments raised summarised as follows:

<u>Grounds of Objections</u>	<u>Description of Impact</u>
<b>Principle and Need</b>	There is no need for a further residential care home in the area given the number which already exist.
	There will be adverse impacts to existing services, including further pressures on health services.
<b>Design Matters</b>	Development does not add to or enhance the environment and is not in keeping with the area.
	The loss of the existing hedgerow alongside Ashby Road will result in detriment to the streetscape.

**PLANNING APPLICATIONS- SECTION A**

	<p>Presence of three-storey development at the site frontage would impact adversely on the natural rural landscape as well as along the streetscape given that it is out of keeping.</p>
	<p>The materials of construction need to better reflect the location of the development within the National Forest.</p>
<p><b>Residential Amenity</b></p>	<p>The scale of the care home will result in adverse impacts to residential amenity, including overlooking impacts, and would result in the loss of a view.</p>
	<p>Pollution of vehicles headlights when exiting the site will cause impacts to amenities.</p>
	<p>The provision of external lighting will impact adversely on residential amenity given that at present the only external lighting is street lighting.</p>
	<p>There will be an increase in noise pollution from emergency vehicles and other vehicles using the site.</p>
	<p>Construction works will impact on residents' health.</p>
	<p>Uses undertaken in the commercial buildings to the south-west of the site will impact on the future amenities of residents of the care development.</p>
	<p>The future amenities of the occupants of any of the care related dwellings would be adversely impacted on by virtue of their relationship with the care related apartments and residential care home.</p>
<p><b>Highway Safety</b></p>	<p>Additional traffic on the highways will increase</p>



**PLANNING APPLICATIONS- SECTION A**

	<p>the risk of accidents, involving vehicles and pedestrians, irrespective of whether additional signage or traffic calming is introduced. This is due to the poor visibility available. The transport data is also outdated.</p>
	<p>The area lacks facilities within walking distance for the future residents which will lead to an increased use of private cars as public transport is poor.</p>
	<p>Provision of a vehicular access directly opposite an existing junction will create a staggered junction resulting in dangers to highway users.</p>
	<p>There is a lack of off-street parking provided for the development which will result in parking being undertaken on the highways and therefore to the detriment of highway safety. The applicant's modelling of the parking levels is also based on their urban sites where public transport infrastructure is better. A decision was made on an application in Coalville (23/00454/FULM) that insufficient off-street parking would be provided and as such the application was refused.</p>
<p><b>Drainage and Flood Risk</b></p>	<p>The proposed development will result in an increase in surface water runoff which would not be suitably managed and would cause flooding impacts.</p>
<p><b>Landscaping and Ecology</b></p>	<p>The development will result in the loss of trees within the National Forest.</p>
	<p>The development will result in the loss of wildlife habitat including the loss of the hedgerow along Ashby Road.</p>
	<p>There is no green space within the development which would contrast with the existing area.</p>

<p><b>Other Matters</b></p>	<p>How can double bed apartments comply with the condition restricting occupancy to the over 55's as stipulated on the outline permission?</p>
	<p>No communal facilities, to integrate the development with the wider community, are proposed as was suggested by the outline consent.</p>

#### 4. Relevant Planning Policy

##### National Policies

##### National Planning Policy Framework (2023)

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

Paragraphs 8 and 10 (Achieving sustainable development);  
 Paragraphs 11 and 12 (Presumption in favour of sustainable development);  
 Paragraph 34 (Development contributions);  
 Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);  
 Paragraphs 55, 56, 57 and 58 (Planning conditions and obligations);  
 Paragraphs 60, 62, 65, 74, 75 and 77 (Delivering a sufficient supply of homes);  
 Paragraph 92, 93 and 100 (Promoting healthy and safe communities);  
 Paragraphs 107, 108, 110, 111, 112 and 113 (Promoting sustainable transport);  
 Paragraphs 119, 120 and 124 (Making effective use of land);  
 Paragraphs 126, 128, 130, 131 and 134 (Achieving well-designed places);  
 Paragraphs 152, 153, 154, 159, 167 and 169 (Meeting the challenge of climate change, flooding, and coastal change);  
 Paragraphs 174, 180, 182, 183, 184 and 185 (Conserving and enhancing the natural environment); and  
 Paragraphs 194, 195, 197, 199, 200, 202 and 205 (Conserving and enhancing the historic environment).

##### Local Policies

##### Adopted North West Leicestershire Local Plan (2021)

The following policies of the adopted local plan are consistent with the policies of the NPPF and should be afforded full weight in the determination of this application:

Policy S1 – Future Housing and Economic Development Needs;  
 Policy S2 – Settlement Hierarchy;  
 Policy S3 – Countryside;  
 Policy D1 – Design of New Development;

Policy D2 – Amenity;  
 Policy IF1 – Development and Infrastructure;  
 Policy IF4 – Transport Infrastructure and New Development;  
 Policy IF7 – Parking Provision and New Development;  
 Policy En1 – Nature Conservation;  
 Policy En2 – River Mease Special Area of Conservation;  
 Policy En3 – The National Forest;  
 Policy En6 – Land and Air Quality;  
 Policy He1 – Conservation and Enhancement of North West Leicestershire’s Historic Environment;  
 Policy Cc2 – Water – Flood Risk; and  
 Policy Cc3 – Water – Sustainable Drainage Systems.

**Other Policies**

National Planning Practice Guidance.  
 Good Design for North West Leicestershire Supplementary Planning Document – April 2017.  
 Leicestershire Highways Design Guide (Leicestershire County Council).  
 The Conservation of Habitats and Species Regulations 2017 (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 (DCS).

**5. Assessment**

**Principle of Development**

The principle of the redevelopment of the site to provide a residential care development including a care home, care related apartments and care related dwellings was established by the grant of outline planning permission on the 17<sup>th</sup> of April 2018. Under the outline application all matters were reserved and therefore this reserved matters application seeks to provide a greater level of detail in relation to the access, layout, appearance, scale and landscaping of the site within phase 2 of the development.

Assessment of this application should therefore relate to whether those matters reserved for subsequent approval accord with policies of the adopted Local Plan (2021) and NPPF (2023), as well as other relevant guidance. Issues relating to the principle of the development and associated issues (e.g. the suitability of the site generally for the proposed development, need for the development, impact of the development on services, impacts on the wider highway network and flood risk) are not relevant to this application as these were all considered at the outline stage.

Assessment of the objections received in relation to the principle of the development

Objection	Officer Response
<i>There is no need for a further residential care home in the area given the number which</i>	As is outlined above the principle of the provision of a care related development on the

<p><i>already exist.</i></p>	<p>site has been established by the grant of the outline planning permission (15/00456/OUTM). This reserved matters application can only assess the layout, appearance, scale, access and landscaping of the site and as such cannot reassess the need for the development.</p>
<p><i>There will be adverse impacts to existing services including further pressures on health services.</i></p>	<p>The impact of the development on existing services, including health services, was a matter to be considered as part of the outline application (15/00456/OUTM) when the acceptability of the principle of the development was established. In this respect contributions were secured in a Section 106 agreement towards highway infrastructure, Leicestershire police, libraries, the National Forest (if landscaping not delivered on site) and to mitigate the impacts of the development on the River Mease Special Area of Conservation (SAC)/Site of Special Scientific Interest (SSSI). No contribution requests were received from the NHS.</p> <p>It is therefore considered that the impacts of the development on existing services have already been mitigated against and cannot be revisited as part of this reserved matters application.</p>

### 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 required certain matters to be addressed prior to the submission of a reserved matters application(s), these conditions included requirements in relation to addressing the coalfield legacy of the site as well as a phase 1 habitat survey and Great Crested Newts (GCNs) survey. It was also a requirement of the first reserved matters application to be submitted that a masterplan of the site was provided along with finished floor levels of the development to be provided.

Condition 5 of the outline planning permission required the reserved matters application(s) to be accompanied by precise details of the finished floor levels of each of the elements of the care related development in relation to finished ground levels and to demonstrate the relationship with residential properties on the opposite side of Ashby Road. The application is accompanied by a site section drawing which depicts the finished floor levels of each of the elements of the care related development in relation to ground levels and shows the relationship with nos. 207 and 215 Ashby Road. An assessment of the suitability of the information shown on the site sections is undertaken in the *'Layout, Scale and Appearance'* and *'Neighbours and Future Occupants Amenities'* sections of this report below.

Condition 6 of the outline planning permission required the first reserved matters application submission to be accompanied by a masterplan setting out the details of site layout, areas of open space, surfacing and width of footpaths through the site, landscaping, density parameters and scale, as well as details of any proposed phasing of the development. Application reference 21/00233/REMM is the first reserved matters application and the submitted combined site plan associated with that application indicates that the 62 bed residential care home and 15 care related dwellings would form phase 1 of the development (this being considered under application reference 21/00233/REMM) with the 45 unit care related apartment block forming phase 2 of the development. An assessment of the suitability of the information shown on the combined site plan, which has also been submitted in support of this application, is undertaken below.

Condition 11 of the outline planning permission required the approval of a scheme of intrusive site investigations, including mine gas monitoring, the undertaking of the scheme of intrusive site investigations, the submission of a report of findings arising from the intrusive site investigations and the submission of a scheme of remedial works for the shallow coal workings and mine gas protection measures. Information associated with this condition was discharged on the 28<sup>th</sup> of September 2018.

Condition 19 of the outline planning permission required the submission of a phase 1 habitat survey and great crested newts survey and information associated with this condition was discharged on the 5<sup>th</sup> of June 2018.

### **Layout, Scale and Appearance**

Policy D1 of the adopted Local Plan requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal. It also requires that new residential developments must positively perform against Building for a Healthy Life (BfHL) (formerly Building for Life 12 (BfL12)) and that developments will be assessed against the Council's adopted Good Design SPD.

#### *Layout*

The layout as originally submitted (as shown below) sought to provide an 'L' shaped care related apartment block (with 66 care related apartments) in the north-eastern corner of the site so as to be adjacent to Ashby Road, but this prompted concern from both Officers and third parties as to the impacts this location of the building would have to the visual amenities of the streetscape and wider area given its proposed scale and mass.

**Original Layout – Care Related Apartment Block in North-Eastern Part of the Site (plan now superseded)**



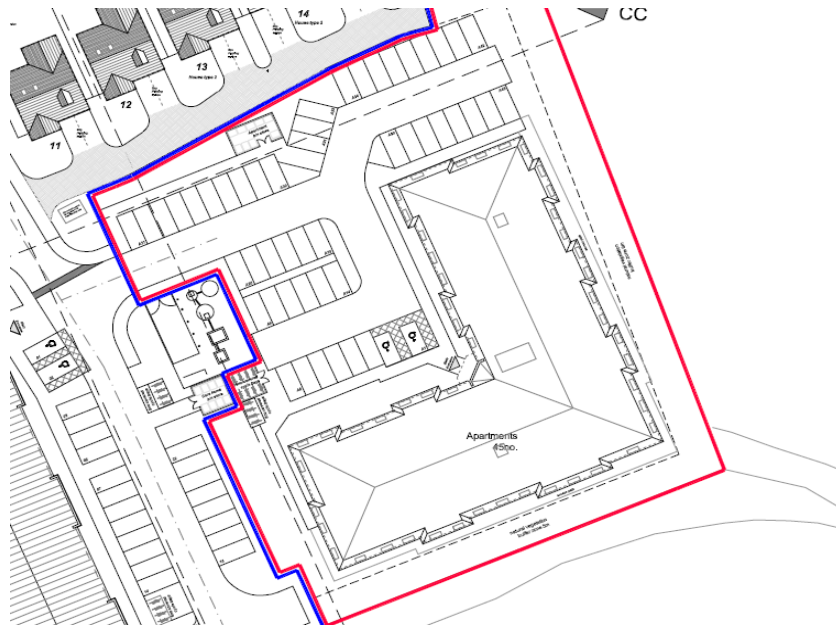
Subsequently the scheme was amended (as shown below) to propose two separate care related apartment blocks (which combined would still provide 66 care related apartments) located in the eastern part of the site and set away from Ashby Road. The Council’s Urban Designer expressed concern in respect of the relationship which would be established between the two separate apartment blocks and the potential domination of what was identified as care related apartment block 2 from care related apartment block 1 given the topography of the site.

**Amended Site Layout - Two Care Related Apartment Blocks in Eastern Part of the Site (plan now superseded)**



Following re-consideration of the layout, and the concerns raised by the Council's Urban Designer, the applicant has now reduced the number of care related apartments proposed to 45 which would be provided within a single 'L' shaped building set within the south eastern part of the site as shown below.

**Proposed Site Layout – One 'L' Shaped Care Related Apartment Block in the South-Eastern Part of the Site**



It is considered that the amended siting ensures that the care related apartment block is now at a lower land level, with the submitted site sections demonstrating that its overall height would only be marginally higher than the single storey care related dwellings (plots 11 to 15) which are set adjacent to Ashby Road. Such a location also ensures that the care related apartment block is located adjacent to the maturing woodland to the east and south of the site.

In this circumstance it is considered that the proposed layout of the care related apartment block would ensure that it would not impact significantly on the visual amenities of the streetscape or wider rural environment with the maturing woodland, in time, screening the development.

Although the car parking would be to the frontage of the care related apartment block it is considered that such location is necessary in ensuring the separation distance between the apartment block and the existing residential receptors on Ashby Road, as well as the care related dwellings at plots 11 to 15, but soft landscaping infrastructure would be introduced within the car park so as to soften its appearance with it being possible to ensure that suitable hard surfacing materials are utilised such as block paving. The car parking would also be visually screened from Ashby Road, as well as the wider environment, by the presence of the care related apartment block and care related dwellings (plots 11 to 15).

Whilst the external amenity space associated with the care related apartment block has been diminished by the need to provide a 5 metre buffer zone to the retained vegetation (as discussed in the 'Ecology' sub-section of the 'Landscaping, Trees and Ecology' section of this report below), it is noted that internally within the building leisure rooms would be provided at



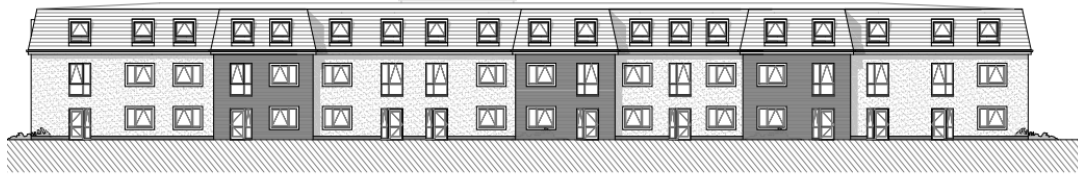




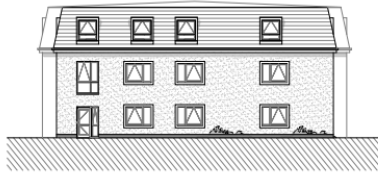
Revised Appearance of Care Related Apartments – Apartment Block One (plan now superseded)



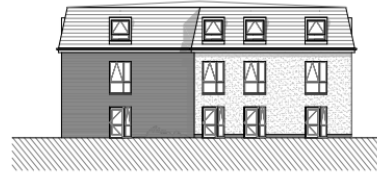
Front - North Facing



Back - South Facing



Rear Elevation - East Facing  
Scale: 1/200



Rear Elevation - West Facing  
Scale: 1/200

Client	MACC CARE
Project	Proposed Care Home Development at Ashby Works
Drawn	Proposed Developments Apartment Block 1 Elevations
Date	12.04.21
Project No.	AP21009-L13
Scale	1/200
Author	AP Architects
Checked	
Approved	

**Revised Appearance of Care Related Apartments – Apartment Block Two (plan now superseded)**



In commenting on the revised proposals, the Council’s Urban Designer outlined that the front elevations of both care related apartment blocks matched that of the original and therefore concerns were maintained in relation to how the different forms would work together and how the entrance core ‘fought’ with the mansard.

Concerns were also raised in relation to the following matters:

- 1) The presence of doors serving bedrooms at ground floor level which had no defined private space between them and the public domain;
- 2) That the shift between portrait and landscape windows appeared ‘jarring’ and which was exacerbated by the doors and apartments above lining up, whereas the landscape windows aligned to one edge of the dormer above. This could be resolved by such windows also being portrait in orientation;
- 3) That the southern facing elevation of the 2<sup>nd</sup> care related apartment block would be readily visible from the 1<sup>st</sup> care related apartment block and that the elevation presented was not coherent given that it comprised two stepped forms of differing materials, and which also varied massively in terms of its window patterns and arrangements. As such there was an imbalance to the elevation;

- 4) That consideration should be given to different window styles for the communal spaces, to enable them to be read differently, given that as proposed such windows were identical to the apartment windows. Such a change would improve the legibility of the care related apartments.

On this basis further amendments were made to the design of the care related apartments as shown below.

### Amended Appearance of the Care Related Apartments (latest plans)





### *Elevational Approach*

The approach to highlighting the projecting bays in a different material (red brick) was considered to work effectively, however there were areas where this did not 'flow' properly and resulted in the material change along a flat plane. Consequently it was required to be clarified how the two materials may sit against each other, with the use of the timber effect cladding also resulting in a material with a different depth.

It was also requested that additional windows be provided in the north-western end elevation (elevation B-B) of the building, to serve apartments 4, 19 and 34, as this would add further interest to an elevation which would be presented to the open space and care related dwellings plots 11 to 15.

A reorganisation of the apartments has resulted in the removal of the flat plane transitions, and additional windows have been inserted in the north-western end elevation (elevation B-B) to serve apartments 4, 19 and 34. This thereby addressed the issues raised above.

Whilst it is acknowledged that a mansard roof would remain utilised to the care related apartment block, it is recognised that its use is means of reducing the overall height of the building whilst also allowing the creation of useable floor space in the roof which would not be achievable with the use of dormer windows (or certainly not without the use of wide flat roofed dormers which significantly detract from the design of buildings). On the basis that the care related apartment block would now be located at the lower part of the site and would be predominantly screened by the care related dwellings to the site frontage, it is considered that the use of a mansard roof would not significantly detract from the character and appearance of the building, or the visual amenities of the streetscape, as to warrant a refusal of the application.

### *Windows*

The variation in the window proportions was welcomed, but details on the approach to the windows (i.e. their reveals) and how the surrounds would work was required.

It has been specified that a projecting cill detail would be provided along with a stone surround to the landscape windows at ground and first floor level which is considered to add interest to the building whilst also projecting outwards from both the brick and timber cladding effect materials.

Information has also been provided on the vertical windows which is considered acceptable.

In terms of reveal depth to the proposed windows, it is specified that those within a timber cladding surround would have a reveal depth of 85 millimetres and those within brick work would have a reveal depth of 50 millimetres. Such reveal depths would be considered appropriate and would be conditioned on any permission to be granted.

Overall, the appearance of the care related apartments is supported by the Council's Urban Designer.

In terms of the National Forest Company (NFC), they welcomed the use of timber in the elevational material to the care related apartments but requested that this comprises timber cladding rather than timber effect cladding. The applicant, however, has outlined the use of

timber is not feasible due to restrictions associated with the use of combustible materials under Building Regulations. It is considered that the use of timber effect cladding would still achieve the aim of providing an appearance to the care related apartments which is ‘inspired’ by its location within the National Forest whilst also ensuring the development is compliant with Building Regulations. A National Forest identity would also be achieved through the landscaping infrastructure provided as part of the development.

Subject to a satisfactory resolution on the scheme of external materials and design detailing to the care related apartment block at this discharge of condition stage, it is considered that it would not result in detriment to the visual amenities of the streetscape and would respect the character of the environment in which it would be located.

*Boundary Treatments*

In terms of boundary treatments, the Council’s adopted Good Design SPD outlines that the use of timber close boarded fencing is not supported on boundaries that face onto the public or semi-public realm (including courtyards). A boundary treatment plan, which has been amended during the application, specifies the use of 1.2 metre high timber post and rail fencing to the north-eastern and south-eastern site boundaries of the phase 2 development which would be supplemented with a native hedgerow. It is also proposed that a native hedgerow would be utilised to demarcate the boundary between the car parking to the care related apartments and the private drive serving care related dwelling plots 11 to 15 (in phase 1 – 21/00233/REMM). There would be no physical boundary treatment between the care related apartment block and the care home (in phase 1 – 21/00233/REMM), with low evergreen hedges being utilised to demarcate between the ground floor apartments and the car park.

The approach to the boundary treatments is supported by the Council’s Urban Designer and a condition would be imposed on any permission granted to secure such boundary treatments.

*Layout, Scale and Appearance Conclusion*

Overall, and subject to the imposition of conditions, it is considered that the layout, scale, and appearance of the development would be acceptable and would enable it to successfully integrate into the environment in which it is set. On this basis it would be compliant with Policy D1 of the adopted Local Plan, the Council’s adopted Good Design SPD and Paragraphs 126 and 130 of the NPPF.

*Assessment of objections in relation to the layout, scale and appearance of the development*

Objection	Officer Response
<p><i>Development does not add to or enhance the environment and is not in keeping with the area.</i></p>	<p>In granting outline planning permission (under application reference 15/00456/OUTM) it was established that a substantial scale of built form would be brought forward on the site given the amount of development consented under condition 3.</p> <p>As is assessed above it is considered that</p>

	following amendments the proposed development would not impact adversely on the visual amenities of the streetscape or wider rural landscape and would be in keeping with the character of the area.
<i>The loss of the existing hedgerow alongside Ashby Road will result in detriment to the streetscape.</i>	The impact to the hedgerow along Ashby Road is a matter to be assessed under application reference 21/00233/REMM (phase 1 of the development) given that this application does not involve the creation of the principal means of vehicular access from Ashby Road.
<i>Presence of three-storey development at the site frontage would impact adversely on the natural rural landscape as well as along the streetscape given that it is out of keeping.</i>  <i>The proposed development would not be of a design or scale which would enable it to successfully integrate into the area with there being a need for the two-storey development to be at the site frontage and the three-storey development in the south.</i>	As is assessed above the scheme has been rearranged so that the care related apartments are now located at the lower part of the site and would not be dominant above the care related dwellings to the site frontage (as proposed under phase 1 – application reference 21/00233/REMM). Consequently the development would not appear out of keeping and would also not adversely impact on the rural landscape.
<i>The materials of construction need to better reflect the location of the development within the National Forest.</i>	Following amendments to the scheme so as to introduce timber effect cladding to the care related apartments, it is considered that the scheme would respect its setting within the National Forest. The landscaping infrastructure to be introduced would also contribute to the creation of a ‘National Forest’ identity.

### Neighbours and Future Occupants Amenities

Policy D2 of the adopted Local Plan outlines that development proposals will be supported where they do not have a significant adverse effect on the living conditions of existing and new residents through loss of privacy, excessive overshadowing, and overbearing impacts, which is supported by the Council's Good Design SPD. Paragraph 185 of the NPPF states that planning policies and decisions should also ensure that new development is appropriate for its location considering the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Existing residential properties (comprising nos. 193 to 221 Ashby Road (odd numbers inclusive)) are situated to the north-west of the site on the opposite side of Ashby Road with



Sweethill Oak Cottage being situated to the south-west of the site. Such properties comprise a mix of single storey and two-storey dwellings which are detached.

As originally submitted the scheme proposed the erection of the residential care home and care related apartments adjacent to the boundary with Ashby Road but following concerns being raised the scheme has been amended so that the care related dwellings would now be located adjacent to the boundary with Ashby Road resulting in the residential care home and care related apartments being situated at the lower land level away from Ashby Road.

An assessment of the impacts of the phase 1 development (residential care home and care related dwellings) is undertaken within a separate report associated with application reference 21/00233/REMM.

### Care Related Apartment Block

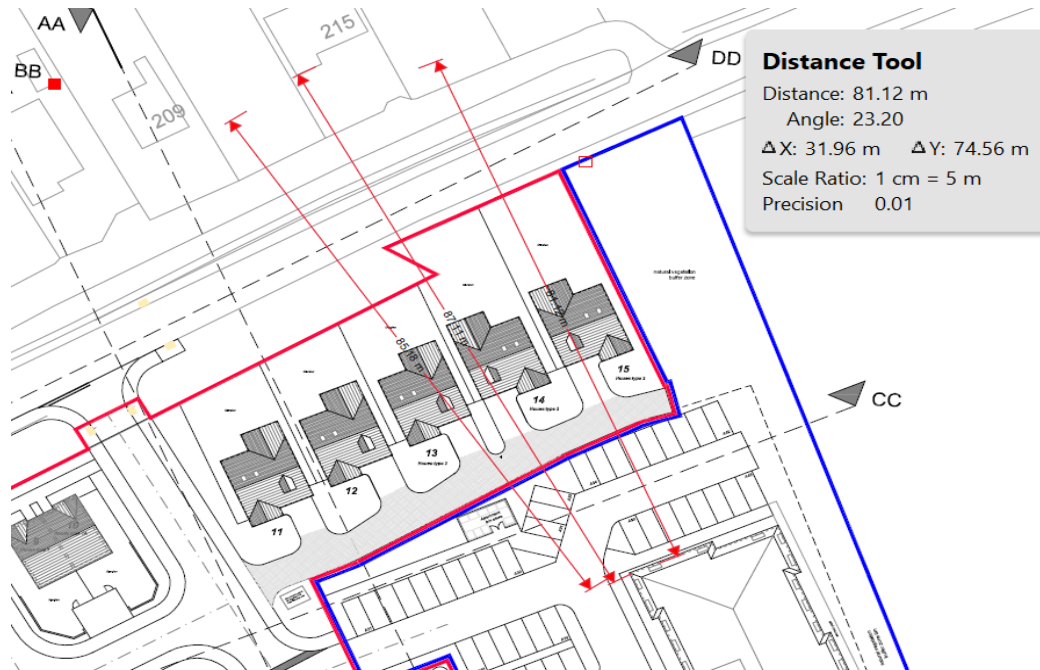
The submitted site section drawing (as shown below) indicates that the finished floor level of the care related apartment block (located within the south-eastern part of the site) would be 125.00 metres above ordnance datum (AOD). It is also shown on the site section drawing that the finished road level of Ashby Road is between 129.00 and 129.20 metres AOD (i.e. the finished floor level of the apartment block is 4 metres lower than the road level at its lowest point). Based on its height, the overall height of the apartment block would be 134.51 metres AOD.

### Section Drawings Showing Relationships



In terms of the apartment block, the shortest separation distance between what would be the north-western (side) elevation of the apartment block and the south-eastern (front) elevations of nos. 213 to 221 Ashby Road (odd numbers inclusive) would be 81.12 metres (to no. 219 Ashby Road). This being as identified on the image below.

**Separation Distances between the Apartment Block and Nos. 213 to 219 Ashby Road**



The Council's adopted Good Design SPD does not advise on appropriate distances between the side elevation of a building containing habitable room windows and the front elevation of a residential dwelling but in terms of the 'back to back' relationship (which would be considered a more sensitive relationship than a 'side to front' relationship) it recommends a minimum distance of 20 metres. When accounting for this advice it is considered that the separation distances proposed would ensure that no adverse overbearing, overshadowing, or overlooking impacts would arise from the apartment block particularly when accounting for the topography (land levels reducing in a south-eastern direction) and presence of Ashby Road between the application site and existing residential receptors.

*Other Amenity Impacts*

The officer report associated with the outline application (15/00496/OUTM) detailed that the nature of the use would not cause significantly more noise or light pollution than that which would be associated with residential development at this location. It was also concluded that the shift patterns of staff would be unlikely to cause significance disturbance to local residents since staff changes would likely be in the mornings and evenings and would be predominately associated with the residential care home which is situated away from the existing residential receptors.

An indicative layout associated with the outline application (15/00456/OUTM) detailed that one care related apartment block would be in the south-western part of the site with the other care related apartment block being in the north-eastern part of the site. As proposed the care related apartment block would be in the south-eastern part of the site in a manner not too dissimilar to that anticipated on the indicative layout. Consequently it is considered that any noise associated with staff changes would not result in detriment to residential amenity with it being the case that the Council's Environmental Protection Team have raised no objections to the application.

Whilst emergency vehicles may be required to utilise sirens it is the case that their use is

controlled by Regulation 99 of the Road Vehicles (Construction and Use) Regulations 1986 and is an operation decision for the emergency vehicle driver. It is most often the case that sirens are only used in the interests of road safety and the protection of the public. When accounting for the likely infrequency that emergency vehicles would utilise their sirens when attending the site it is considered that any impact arising would not be of such detriment that a reason to refuse the application could be substantiated. In any event such a matter is also not pertinent to the consideration of the reserved matters given that in granting outline planning permission for a care related development it would have been assumed that emergency vehicles would likely attend the site at various times, with no condition being imposed which restricted the attendance (or use) of emergency vehicles at any time.

Insofar as the amenity impacts of any lighting is concerned, under the provisions of condition 25 of the outline planning permission (15/00456/OUTM), any externally sited lighting would require the approval of the Local Planning Authority and would need to ensure that light spill onto retained hedgerows and the brook corridor was minimised in the interests of ecological species. It is therefore considered that the impact of external lighting does not need to be considered further as part of this reserved matters application.

Construction is a temporary manifestation of any development project which is not for the planning system to control unless there is exceptional amenity harm, Paragraph 188 of the NPPF also outlines that:

*“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.”*

The Council's Environmental Protection Team have raised no objections to the application, and it is considered that should construction works have been deemed to cause harm to residential amenity then a condition should have been imposed on the outline permission given that such a matter is not pertinent to the consideration of the reserved matters (i.e. it was known in granting outline permission that the construction of a care related development of a certain scale would be delivered on the site). It is also the case that any statutory noise or dust impacts arising from construction activity could be investigated under separate legislation by the Council's Environmental Protection Team thereby negating the need for any condition in the context of Paragraph 188 of the NPPF.

#### *Future Amenities*

It is considered that the relationship the proposed care related apartment block would have with existing residential receptors would be acceptable given the topography and separation distances involved.

In terms of the relationship between the separate elements of the proposed development, the apartment block would be situated to the south-east of plots 11 to 15 (single storey care related dwellings – proposed under application reference 21/00233/REMM), at a minimum distance of 30.11 metres (plot 14 to the apartment block). As is identified above, the finished floor level of the apartment block would be 125.00 metres AOD with the building having an overall height of 134.51 metres AOD. Based on the ridge height of plots 11 to 15, the ridge of the apartment block would be 1.19 metres higher. Based on the separation distance involved and that the rear

gardens to plots 11 to 15 are to their north-west, and thereby away from the positioning of the apartment block, it is considered that the future amenities of the occupant(s) of plots 11 to 15 would be adequately protected.

The apartment block would also be set more than 30 metres to the north-east of the residential care home and would have an overall height which is lower than that of the residential care home (by 2.04 metres). It is considered that such a separation distance would ensure that the amenities of the occupants of the part of the residential care home which has a relationship with the apartment block would not be adversely impacted upon. It is also considered that the amenities of any occupants of the apartment block would not be adversely impacted on given that the south-western (side) elevation of the apartment block would be presented to the residential care home with any habitable rooms which have windows within this elevation also being served by windows in the south-eastern (rear) elevation. Such an impact would only arise to three apartments being nos. 12, 27 and 42.

In granting the outline planning permission (15/00456/OUTM) it was also determined that the relationship between the proposed development and the commercial activities undertaken within the buildings to the south-west would not result in significant detriment to the amenities of any occupants of the care related development. The Council's Environmental Protection Team have also raised no objections to the application in this respect.

*Neighbours and Future Occupants Amenities Conclusion*

Overall, the access, layout, scale, appearance, and landscaping of the proposal would not result in significant detriment to the amenities of any existing or future residential occupants and as such the development accords with Policy D2 of the adopted Local and Paragraphs 185 and 188 of the NPPF.

*Assessment of objections in relation to neighbours and future occupants' amenities*

Objection	Officer Response
<p><i>The scale of the care home will result in adverse impacts to residential amenity, including overlooking impacts, and would result in the loss of a view.</i></p> <p><i>The proposed development will result in adverse overlooking and overbearing impacts to existing residential amenities.</i></p>	<p>As is assessed above, when accounting for the topography of the application site and the separation distances to be established between the proposed care development (including the care related apartments) and existing residential receptors, it is considered that no adverse impacts to amenities would arise.</p> <p>The right to, or loss of, a view is not a material planning consideration which could be considered in the assessment of the application.</p>
<p><i>Pollution of vehicle headlights when exiting the site will cause impact to amenities.</i></p>	<p>It is considered that headlights on vehicles exiting the site would not cause severe detriment to the amenities of nos. 203 and 205</p>

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	<p>Ashby Road, so as to justify a refusal of the application, given the separation distance (in excess of 27 metres), the finished floor level of these dwellings being higher than Ashby Road and the temporary nature of such an impact (i.e. only arises whilst a vehicle waits to turn left or right out of the site).</p>
<p><i>The provision of external lighting will impact adversely on residential amenity given that at present the only external lighting is street lighting.</i></p> <p><i>There are no details of the proposed external lighting which would be provided which would impact on residential amenity given the current dark environment.</i></p>	<p>A condition (no. 25) was imposed on the outline planning permission (15/00456/OUTM) which requires the submission of an external lighting scheme for approval, and which seeks to minimise light spill to retained hedgerows and the brook corridor in the interests of ecology. It is considered that in agreeing details against this condition it can be ensured that the external lighting scheme is sensitively designed to not impact adversely on residential amenity.</p>
<p><i>There will be an increase in noise pollution from emergency vehicles and other vehicles using the site.</i></p>	<p>As is assessed above, the outline planning permission (15/00456/OUTM) determined that a care related development could be provided on the site and that the noise associated with such a land use would not result in significant detriment to residential amenity. In this respect the movement and noise of private vehicles would not cause any greater noise impact than that associated with a residential development.</p> <p>Whilst emergency vehicles may be required to utilise sirens it is the case that their use is controlled by Regulation 99 of the Road Vehicles (Construction and Use) Regulations 1986 and is an operational decision for the emergency vehicle driver. It is most often the case that sirens are only used in the interests of road safety and the protection of the public. When accounting for the likely infrequency that emergency vehicles would utilise their sirens when attending the site, it is considered that any impact arising would not be of such detriment that a reason to refuse the application could be substantiated.</p>
<p><i>Construction works will impact on residents' health.</i></p>	<p>Construction is a temporary manifestation of any development project which is not for the planning system to control unless there is exceptional amenity harm. In the</p>

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	<p>circumstances that the Council's Environmental Protection team have no objections, it is considered that no adverse impacts would arise in this respect which would require specific mitigation. Such an issue is also more pertinent to the consideration of the outline application where the principle of the development was established.</p>
<p><i>Uses undertaken in the commercial buildings to the south-west of the site will impact on the future amenities of the care development.</i></p>	<p>As is assessed above no objections were raised by the Council's Environmental Protection to the outline application (15/00456/OUTM), nor was it requested that mitigation be provided by virtue of the relationship between the care development and the commercial units to the south-west. On this basis it is considered that the operations undertaken within the commercial units would not result in detriment to future residential amenities. The developer is also fully aware of the relationship to be established with such commercial units.</p>
<p><i>The future amenities of the occupants of any of the care related dwellings would be adversely impacted by virtue of their relationship with the care related apartments and residential care home.</i></p>	<p>As is assessed above it is considered that the relationship between the care related apartments, residential care home and care related dwellings would be acceptable and would not result in detriment to future residential amenities.</p>
<p><i>Social, recreational and wellbeing facilities for the proposed development should be clearly identified with residential gardens not clear on the plans.</i></p>	<p>The plans as submitted show that internally within the care related apartments a leisure room would be provided along with external seating areas and linkage to the footpath network within the National Forest planting to the north-east. It is also the case that future residents of the care related apartments would be able to access facilities within the care home proposed under phase 1 (21/00233/REMM) and on this basis it is considered that there is sufficient provision of social, recreational and wellbeing facilities for future occupants.</p>
<p><i>It is not understood how the Council's Environmental Protection Officer has raised no objections with noise and disturbance being</i></p>	<p>In granting outline planning permission (under application reference 15/00456/OUTM) it was determined that a care related development of</p>

<p><i>associated with a 24 hour care home.</i></p>	<p>a substantial scale would be provided on the site, and which was deemed to be acceptable in relation to any noise and disturbance impacts to residential receptors.</p> <p>The proposed layout seeks to provide the care related apartments (as well as the care home in phase 1 – 21/00233/REMM) away from the existing residential receptors on Ashby Road to consequently reduce noise impacts associated with staff movements and emergency vehicles.</p>
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### **Accessibility**

Policy IF4 of the adopted Local Plan requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses, and employees. Policy IF7 of the adopted Local Plan requires that development incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

The means of vehicular access into the site was reserved as part of the consideration of the outline application (15/00456/OUTM) but it is noted that the officer report associated with that application acknowledges that sufficient information was provided to demonstrate to the County Highways Authority (CHA) that the level of care development proposed would be suitably accessed and would not impact adversely on the wider highway network. Conditions were imposed on the outline planning permission to secure off-site highway works (no. 8), which require a reduction in the speed limit on Ashby Road to 30mph and provision of a pedestrian crossing point, as well as a construction management plan (no. 9).

As part of the consideration of this application the CHA has been consulted with their consultation response considering the advice outlined in the Leicestershire Highways Design Guide (LHDG).

For the purposes of phase 2 of the development, that being considered under this application, the only access to be considered is the internal access whereby a vehicular access is provided between phase 2 (the care related apartment blocks) and phase 1 (residential care home and care related dwellings). The suitability of the access into the site off Ashby Road (being the principle means of vehicular access to serve the development) is a matter to be assessed against phase 1 of the development as considered under application reference 21/00233/REMM.

### *Internal Access*

The CHA has acknowledged that the applicant does not wish for the internal highways, and access, associated with phase 2 of the development to be adopted by the CHA.

However, notwithstanding this, the CHA outlined that any change to the proposed bell-mouth

access, such as revised radii and highlighted extent of the highway demarcation, in conjunction with amendments to the internal layout associated with phase 1 of the development (21/00233/REMM) could change the footprint of the access to phase 2 where it is situated within the red-line application site boundary associated with phase 2. As such the CHA requested that any plans associated with phase 2 of the development were amended to be consistent with those presented for phase 1 of the development.

Following the receipt of amended plans which are consistent with those associated with the phase 1 development, and which demonstrate visibility splays of 2.4 metres by 25 metres in both directions at the internal junction between the phase 1 and 2 developments, the CHA has advised that they have no objections.

### *Internal Layout*

The CHA has outlined that the layout and geometrics of the phase 2 development are not in accordance with the LHDG and as such the roads within phase 2 would not be adopted by the CHA given that they solely exist for the purpose of providing parking and servicing for the care related apartment block.

It was, however, requested by the CHA that vehicle swept path analysis be provided on the internal layout associated with phase 2 using the District Council's waste collection vehicle (being a Terberg Kerbsider KS2 on a Mercedes Econic chassis), unless it was demonstrated that an alternative refuse vehicle would serve the site.

Following the receipt of further information (as shown below), it has been demonstrated that the District Council's waste collection vehicles can turn within the site which would be acceptable to the CHA.

### **Refuse Vehicle Swept Path Analysis**



### *Off-Street Parking*



The original consultation response from the CHA outlined that the scheme as originally proposed sought to deliver 65 off-street car parking spaces for the care related apartments. Following amendments to the plans the number of off-street car parking spaces was reduced to 47 spaces.

The scheme as submitted has now been amended so that 45 care related apartments would be created with a total of 50 off-street car parking spaces being proposed.

It is outlined by the CHA that the LHDG does not set out any parking standards for a C2 (residential institutions) use. On this basis Part 4 (Parking Standards) of the Highway Requirements of Development (HRfD) document was applicable in this circumstance. Part 4 of the HRfD requires one space per three or four bedrooms plus a space for each member of staff on site. Based on the number of bedrooms proposed (being 72) this would equate to 24 spaces (if using 3 bedrooms as the calculation) or 18 spaces (if using 4 bedrooms as the calculation), plus a space per member of staff. Whilst information on the number of staff present on site at any one time has not been specified by the applicant, the TS presents a parking accumulation analysis based on sites available in the Trip Rate Information Computer System (TRICS) database which demonstrates that the proposed supply of spaces would accommodate the likely peak demand. On this basis the CHA is satisfied with the proposed level of off-street parking for the care related apartment block.

Whilst the level of off-street parking is deemed acceptable, the CHA has previously queried the dimensions of the off-street parking spaces, which were not in accordance with the LHDG, and that no accessible parking spaces were proposed. Following receipt of amended plans the CHA has outlined that 2 disabled spaces would be provided and that the dimensions of the parking spaces would now accord with the LHDG. This is therefore acceptable to the CHA.

With regards to cycle parking a total of 24 number of spaces are shown on the submitted plans and this level of cycle parking would be acceptable to the CHA. It is, however, suggested that a condition be imposed to ensure that the cycle parking conforms to the standards within the LHDG.

*Accessibility Conclusion*

Paragraph 109 of the NPPF outlines that development should only be refused on highway grounds where *“there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”* As outlined above the CHA have no objection to the application subject to the imposition of conditions.

Subject to the above being secured the proposal would accord with Policies IF4 and IF7 of the adopted Local Plan as well as Paragraphs 107, 109, 110 and 111 of the NPPF.

*Assessment of the objections received in relation to accessibility*

Objection	Officer Response
<i>Additional traffic on the highways will increase the risk of accidents, involving vehicles and pedestrians, irrespective of whether additional signage or traffic calming is introduced. This is</i>	For the reasons outlined above, the CHA is satisfied with the vehicular access arrangements including the level of visibility achieved. It is also the case that the impact of

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<p><i>due to the poor visibility available. The transport data is also outdated.</i></p>	<p>the development on the highway network and highway safety was deemed to be acceptable when the principle of the redevelopment of the site for a care related development was established at the outline stage (15/00456/OUTM) with a condition being imposed (no. 8) to secure off-site highway works including a pedestrian crossing point and a reduction in the speed limit to 30mph.</p> <p>The CHA has also determined that the transport data utilised would be acceptable with it being noted that the amount of development specified within condition 3 of the outline consent (15/00456/OUTM) allowed for 66 care related apartments to be constructed (as well as 30 care related dwellings) whereas only 45 (and 15 care related dwellings) are now proposed.</p>
<p><i>The area lacks facilities within walking distance for the future residents which will lead to an increased use of private cars as public transport is poor.</i></p>	<p>In approving the principle of the redevelopment of the site for a care related development at the outline stage (15/00456/OUTM) it was determined that the impact of the development on the highway network would be acceptable and that the site was suitably located in terms of sustainability and the ability for future occupants to access services without being dependent on the private car. This is a matter which is not pertinent to the consideration of the reserved matters application given that the principle of the development is established with the granting of the outline consent for the site.</p>
<p><i>Provision of a vehicular access directly opposite an existing junction will create a staggered junction resulting in dangers to highway users.</i></p>	<p>An assessment in respect of the suitability of the main vehicular access into the site off Ashby Road is a matter to be considered as part of application reference 21/00233/REMM as the main vehicular access is included in the phase 1 proposals.</p>
<p><i>There is a lack of off-street parking provided for the development which will result in parking being undertaken on the highways and therefore to the detriment of highway safety. The applicant's modelling of the parking levels is also based on their urban sites where public transport infrastructure is better. A decision</i></p>	<p>For the reasons as outlined above, the CHA has determined that the level of off-street parking to be provided is acceptable and in accordance with relevant planning policy and guidance.</p> <p>It is also considered that each application</p>

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<p><i>was made on an application in Coalville (23/00454/FULM) that insufficient off-street parking would be provided and as such the application was refused.</i></p> <p><i>There needs to be adequate parking for all residents and staff.</i></p>	<p>needs to be assessed on its own merits, therefore whilst application reference 23/00454/FULM (at land off Ashby Road, Coalville) was refused due to insufficient off-street parking being provided there was an objection to that application from the CHA on those grounds which is not the case in this instance.</p>
<p><i>The speed limit must be reduced to 30mph.</i></p>	<p>Condition 8 of the outline planning permission (15/00456/OUTM) requires a scheme for the reduction of the speed limit on Ashby Road around the site entrance to be reduced to 30mph to be submitted, approved, and implemented. Compliance with this condition would address this matter.</p>
<p><i>A pedestrian crossing should be provided to allow residents to use local shops safely.</i></p>	<p>Condition 8 of the outline planning permission (15/00456/OUTM) requires a pedestrian crossing scheme on Ashby Road to be submitted, approved, and implemented. Compliance with this condition would address this matter.</p>
<p><i>Provision of a pedestrian refuge will impact on the flow of traffic on Ashby Road given its proximity to a bus stop and limit vehicle movements at 199 Ashby Road.</i></p>	<p>It was determined as part of the outline planning permission (15/00456/OUTM) that a pedestrian crossing would be required and condition 8 of the outline permission would secure the precise details of the location and design of the pedestrian crossing. In not raising any objections to the outline application the CHA has determined that the provision of such a pedestrian crossing would not impact on the carriageway width or the safe movement of vehicles.</p> <p>Planning exists in the public's interest, rather than the means of protecting private interests, and therefore whilst the provision of a pedestrian crossing may impact on the movement of vehicles at 199 Ashby Road this would not be a reason to refuse this reserved matters application given that it has already been established at the outline stage that such a pedestrian crossing would be delivered in the public's interest.</p> <p>In discharging condition 8 of the outline planning permission precise details would be submitted for consideration by the CHA who</p>

	would determine the suitability of the location of the pedestrian crossing.
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### Landscaping, Trees and Ecology

Vegetation, in the form of trees and other shrubs, are present on the site. Such features could be used by European Protected Species (EPS) or national protected species. As EPS may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions.

#### *Landscaping and Trees*

As part of the outline planning permission conditions were imposed to secure the protection of retained hedgerows during the construction phase (condition 17), the replacement of failed landscaping (condition 18) and the provision of native planting in the soft landscaping scheme (condition 23).

As part of the consideration of the application both the Council's Tree Officer and the National Forest Company (NFC) have been consulted.

In terms of the Council's Tree Officer, he has raised no objections to the application with the comments in respect of the formation of the vehicular access into the site off Ashby Road, and its associated implications to the roadside hedgerow, being considered in the separate report associated with phase 1 of the development as proposed under application reference 21/00233/REMM.

With regards to the proposed landscaping plans, the Council's Tree Officer considered that these were acceptable in terms of layout, plant numbers and species selection but they did not include a detailed planting specification. Therefore it was requested by the Council's Tree Officer that conditions should be imposed on any reserved matters permission to be granted to secure a detailed landscaping scheme as well as a scheme for the protection of hedgerows during the construction phase. With regards to the latter matter it is outlined above that the outline permission was subject to a condition requiring retained hedgerows to be subject to protection during the construction phase (condition 17).

The NFC's original consultation response outlined that the Section 106 secured against the outline permission (15/00456/OUTM) indicated that either 0.3 hectares of woodland planting would need to be created on the site or that a financial contribution of £6,000 would need to be paid to secure planting off-site.

It was also advised by the NFC that the proposed scheme resulted in the loss of a substantial woodland area in the east of the site which the NFC considered should be retained, however the NFC did acknowledge that as outline consent had been granted for the redevelopment of the site there would be a preference for the applicant to provide additional woodland planting within their landholding which should equate to the area of woodland to be lost. The NFC also commented that substantial areas of woodland lay to the east and south of the site and thereby connections to these areas should be provided as part of the development which would be of benefit to future residents.

In terms of the landscaping proposals, the NFC commented that they identified a new area of tree planting within the east of the site which was in a similar location to the trees which were to be removed and consequently the NFC queried why it was not possible for the existing trees to be retained. They also commented generally that the native tree species would be acceptable, that the specimen trees should be planted at a minimum of 10 – 12 centimetres (cm) apart (and not the 8 – 10cm specified), that trees within planters would not create a National Forest character, that native hedgerow planting should be used more widely on the site, that the planting of trees within the hedgerows should be explored and that landscaping (including tree planting) should be undertaken in the car parking areas.

Amended layout and landscaping plans have subsequently been submitted and the NFC have noted that the applicant intends to make a payment of £6,000 for the delivery of National Forest planting off-site in line with the Section 106 agreement secured against the outline planning permission which is acceptable. The NFC have also noted that the landscaping plans include planting specifications, the formation of a pedestrian link from the site into the woodland to the east of the site (which connects to the Ivanhoe Way public footpath), that native trees would be planted at 10–12cm apart and that trees would be sited on the Ashby Road frontage. Such amendments are supported by the NFC.

With regards to the loss of the existing woodland, the applicant has outlined that in approving the outline application a significant amount of development was considered acceptable (i.e. that specified within condition 3 of the outline permission) and as such it was inevitable that such quantum of development would result in the loss of existing trees. In such circumstances, the applicant has sought to deliver as much tree planting as possible without compromising the delivery of the development and its associated infrastructure (such as internal highways, car parking and amenity space) with a new woodland area being created in the north-eastern part of the site.

Officers accept that the amount of tree planting to be provided would not amount to that lost, but it is also acknowledged that should the amount of development deemed acceptable at the outline stage have been brought forward (which would have resulted in 15 more care related dwellings and 21 more care related apartments) then the amount of tree planting would have been substantially less whilst still resulting in the loss of existing woodland. Given that the Council's Tree Officer has no objections to the loss of the woodland, with it also being the case that woodlands are in the process of developing to the east and south of the site, it is considered that the loss of the existing woodland would not be so adverse to the overall character of the National Forest that a reason to refuse the application could be substantiated. This is particularly pertinent when accounting for the acceptance of the redevelopment of the site at the outline stage.

The applicant has also indicated that tree planting within the car parking areas is now proposed along with the provision of shrubs which will add visual interest to the car parking areas whilst also 'breaking up' the hard surfacing which would be created. It is considered by the applicant that the amount of tree planting is at an acceptable level when accounting for the need to ensure adequate visibility for vehicle manoeuvres. Given that the Council's Urban Designer has raised no objections to the approach to landscaping within the car parking areas it is considered that the position adopted by the applicant would be acceptable.

A condition would be imposed on any reserved matters permission to be granted to secure a detailed soft landscaping scheme. It is considered that the future management of the soft landscaping infrastructure and replacement of any soft landscaping failures are secured as conditions against the outline permission (being conditions 20 and 18 respectively).

### *Hard Landscaping*

The landscaping plans indicate the use of block paving to the off-street parking spaces serving the care related apartment block but does not specify the type or colour finish of such block paving. No precise details are provided on the surfacing material to other areas of the car park or the pathways and patios.

In the absence of any precise details it is considered reasonable to condition that a hard landscaping scheme be submitted for approval before such hard landscaping is delivered.

### *Ecology*

As part of the outline planning permission conditions were imposed to secure a phase 1 habitat survey and great crested newts (GCNs) survey (condition 19), biodiversity management plan (condition 20), the timing for the removal of existing vegetation (condition 21), bird nesting and bat boxes (condition 22) and a buffer zone to retained hedgerows (condition 24). As is outlined in the *'Other Matters Relating to the Outline Planning Permission'* section of this report above, condition 19 was required to be discharged prior to the submission of the first reserved matters application and this condition was discharged on the 5<sup>th</sup> of June 2018.

In their original consultation response the County Council Ecologist indicated that the proposed layout (with the care home and care related apartments at the site frontage and care related dwellings to the southern part of the site) was an improvement to the indicative masterplan submitted as part of the outline application. They did, however, advise that the dwellings having gardens which directly abutted the land to the south was not acceptable with it being necessary to provide a 5 metre buffer of open space between the residential gardens and the open countryside. They also advised that although no further ecological surveys were required it would be necessary for a biodiversity net gain (BNG) calculation to be provided.

Following amendments to the plans, to provide the care-related dwellings to the site frontage and the care home and care related apartments within the southern part of the site, the County Council Ecologist still indicated the need for a 5 metre buffer to be provided between the development and the open countryside along with the provision of a BNG calculation.

With regards to BNG (and noting that the mandatory 10% net gain required by the Environment Act 2021 is not enacted on major developments until November 2023), Officers entered discussions with the County Council Ecologist and outlined that the application was a reserved matters application. Consequently the only matters to be assessed relate to the appearance, scale, layout, access, and landscaping of the development with the principle of the development being established as acceptable as part of the outline application.

In this respect the outline planning permission was approved on the 17<sup>th</sup> of April 2018 which was before the 2019 amendments made to what is now Paragraph 174 of the NPPF where decisions should *"provide net gains for biodiversity."* This consequently led to the outline planning permission not being subject to any conditions which required a 'net-gain' in biodiversity to be delivered nor was such a requirement included in the Section 106 agreement. On this basis, Officers are of the view that it would now be unreasonable for the reserved matters application to demonstrate a 'net gain' given the matters which are being considered (i.e. appearance, scale, layout, access, and landscaping) and the fact that BNG could not be delivered on the site (given the amount of development consented by the outline application). There would also be no mechanism by which to secure off-site BNG as a Section 106 agreement cannot be secured against a reserved matters consent.

Following further consideration of this matter the County Council Ecologist has determined that a BNG calculation is not needed.

In terms of the 5 metre buffer zone, the applicant has acknowledged the contents of condition 24 of the outline permission and has provided a revised landscaping plan which indicates that the requested buffer zone would be provided around the north-eastern and south-eastern elevations of the care related apartment block which are adjacent to the countryside edge of the application site. The buffer zone to the north-east of plot 15 also falls within the part of the application site associated with phase 2 of the development.

Following re-consultation the County Council Ecologist is satisfied with the approach of the applicant to the buffer zones within phase 2 of the development.

In terms of the soft landscaping plans, the County Council Ecologist considers that they lack sufficient detail and show small areas which are labelled as ‘meadow’ where it would be difficult to establish and maintain a wildflower meadow. It is suggested by the County Council Ecologist that these would be more suitable as ‘flowering lawns’ with Emorsgate Seeds and Naturescape both supplying a seed mix which can tolerate higher nutrient levels and can also be subjected to more regular mowing.

Overall, the County Council Ecologist has no objections to the application subject to the imposition of conditions to secure a detailed soft landscaping scheme and landscape management plan (LMP). As is outlined in the ‘*Landscaping and Trees*’ sub-section of this ‘*Landscaping, Trees and Ecology*’ section of this report, the management of the soft landscaping infrastructure is secured as a condition against the outline planning permission (condition 20) and therefore would not need to be replicated should permission be granted.

*Landscaping, Trees and Ecology Conclusion*

Overall, and subject to the imposition of conditions, the proposal would accord with Policies D1, En1 and En3 of the adopted Local Plan, Paragraphs 174 and 180 of the NPPF and Circular 06/05.

*Assessment of objections in relation to landscaping, trees and ecology*

Objection	Officer Response
<p><i>The development will result in the loss of trees within the National Forest.</i></p> <p><i>There is no evidence of the mitigation for tree loss.</i></p>	<p>See above assessment. The development resulting in the loss of the existing Willow tree planting was assessed to be acceptable as part of the outline permission (15/00456/OUTM) with the overall level of development permitted being more than that which is to be brought forward as part of the reserved matters applications.</p> <p>Soft landscaping infrastructure would be introduced as part of the proposed development, and this would assist in mitigating the overall impact.</p>

<p><i>The development will result in the loss of wildlife habitat including the loss of the hedgerow along Ashby Road.</i></p>	<p>The impact to wildlife habitat because of the re-development of the site was assessed to be acceptable as part of the outline permission (15/00456/OUTM) with conditions imposed on the permission to mitigate against the impacts to ecology. The impact to the hedgerow along Ashby Road is a matter to be assessed under application reference 21/00233/REMM (phase 1 of the development) given that this application does not involve the creation of the principal means of vehicular access from Ashby Road.</p>
<p><i>There is no green space within the development which would contrast with the existing area.</i></p>	<p>See above assessment. Soft landscaping infrastructure would be introduced as part of the proposed development, and this would assist in mitigating the overall impact with suitable areas of green space created around the apartment block (as well as within the wider development). It is also the case that the quantum of development is less than that consented by the outline application.</p>
<p><i>No biodiversity net gain assessment (BNG) has been submitted.</i></p>	<p>As is outlined above the County Council Ecologist has determined that there is no requirement for a BNG assessment to be submitted given that 'net gains' in biodiversity were not a requirement of the NPPF at the time the outline planning permission was granted.</p>

### **Drainage and Flood Risk**

Conditions 15 and 16 of the outline permission (15/00456/OUTM) require the submission of drainage plans for the disposal of foul sewerage (condition 15) and surface water (condition 16) prior to the commencement of development.

Whilst it would be necessary for the applicant to demonstrate at the appropriate time (i.e. when submitting details to comply with conditions 15 and 16 of the outline permission) that a suitable surface water drainage solution would be provided, as part of the consideration of the application the Lead Local Flood Authority (LLFA) have been consulted on the reserved matters application.

As part of the consideration of the reserved matters application the LLFA have noted that the layout is significantly different to the indicative layout associated with the outline application (15/00456/OUTM) and as such a revised surface water drainage strategy was required to be submitted for review. In this respect the LLFA noted that the residential care home would be



relocated to the south-western part of the site given that its location, based on the indicative layout, was not deliverable due to the drainage constraints of the site and as such the care related apartment block is now proposed in the north-eastern part of the site.

An addendum to the flood risk assessment (FRA)/drainage strategy (DS) has subsequently been submitted by the applicant and re-consultation undertaken with the LLFA.

In their revised response the LLFA have indicated that the addendum FRA/DS provides the same benefits as those suggested by the scheme presented at the outline stage including a gravity connection to support the scale of sustainable urban drainage system (SuDS) attenuation proposed. Surface water would also be discharged into a watercourse via an underground attenuation tank, permeable paving, and a rain garden, and although the discharge rate has slightly increased (to 6.92 litres per second (l/s)) due to updated model information this would be acceptable to the LLFA. Overall the LLFA is satisfied that the layout of the development allows for the provision of a suitable surface water drainage solution which would be considered further when the applicant seeks to discharge condition 16 of the outline permission.

On this basis the proposal would be compliant with Policies Cc2 and Cc3 of the adopted Local Plan as well as Paragraphs 167 and 169 of the NPPF.

No representation has been received from Severn Trent Water (STW) to the reserved matters application. As is the case above it would be necessary for the applicant to demonstrate at the appropriate time (i.e. when submitting details to comply with condition 15 of the outline consent) that a suitable foul drainage proposal would be provided with STW being consulted on any discharge of condition application and ensuring that such a solution would not result in pollution incidents. On this basis it is considered that the proposal would be compliant with Paragraph 185 of the NPPF.

Assessment of objections in relation to drainage and flood risk

Objection	Officer Response
<p><i>The proposed development will result in an increase in surface water runoff which would not be suitably managed and would cause flooding impacts.</i></p>	<p>Condition 16 of the outline planning permission (15/00456/OUTM) requires the submission of a surface water drainage scheme for approval. In considering such a surface water drainage scheme the LLFA will need to be satisfied that such a scheme would not result in an increase in flood risk with it being standard practice that because of development surface water runoff rates should result in betterment to the pre-development runoff rates.</p>

**River Mease Special Area of Conservation (SAC)/SSSI – Habitat Regulations Assessment**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). The nearest tributaries to the river are over 668 metres to the north-east/east of the site. Discharge from the sewerage treatment works within the SAC catchment area is a major

contributor to the phosphate levels in the river. Surface water flows can also adversely impact on the SAC.

As a result of the proposed development there could be an impact on the River Mease SAC, which may undermine its conservation objectives, from an increase in foul and surface water drainage discharge. Therefore, an appropriate assessment of the proposal and its impacts on the SAC is required.

Discharge into the river from surface water disposal via a sustainable drainage system or via the mains sewer system can also result in an adverse impact on the SAC, including in relation to water quality and flow levels.

Whilst the site is located close to a ditch this is not a tributary of the River Mease.

### *Foul Drainage*

As part of the consideration of the outline application (ref: 15/00456/OUTM) it was established that the care development would result in an increase in foul drainage discharge from the site, given its undeveloped greenfield status, and that such foul drainage could adversely impact on the River Mease SAC given that it would pass through a treatment works within the catchment area of the River Mease and contribute towards raised phosphate levels in the river.

The River Mease Developer Contribution Scheme First and Second Development Windows (DCS1 and 2) have been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). Both DCS1 and DCS2 are considered to meet the three tests of the 2010 CIL Regulations and Paragraph 177 of the NPPF. DCS2 was adopted by the Council on 20<sup>th</sup> September 2016 following the cessation of capacity under DCS1.

A Section 106 agreement entered into as part of the consent granted under application reference 15/00456/OUTM secured a River Mease Contribution which would be calculated on the number of bedrooms within each part of the development (i.e. the residential care home, care related apartments and care related dwellings). It is noted that Natural England (NE) raised no objections to application reference 15/00456/OUTM subject to the applicant entering into the DCS.

The flows from the proposal have been considered against the existing headroom at Donisthorpe Treatment Works (DTW) and at the time of the consideration of application reference 15/00456/OUTM it was determined that there was no capacity at this treatment works (as of March 2014). On this basis a condition was imposed on the outline consent (no. 14) which requires the approval of a scheme of measures to ensure the sewer/drainage network has capacity to serve the development before such time as it is occupied. Such a condition was to allow Severn Trent Water (STW) time to provide additional capacity at the DTW, or elsewhere in its sewer system, in order to deal with the foul discharge from the development.

Notwithstanding the above, at March 2016 capacity was available for 21 dwellings but this is reduced by the number of dwellings that already have consent or are under construction at March 2016 (13) and those subsequently approved or with a resolution to permit (14). Taking these into account it remains that case that there is currently no capacity available at the DTW. STW has previously advised that it will not object to proposals where there is no capacity available but that a phasing condition should be imposed.

Whilst a phasing condition was imposed on the outline permission (15/00456/OUTM), an appeal decision for a site at Talbot Place in Donisthorpe considered that a condition could be imposed relating to drainage details. In addition, STW can consider whether capacity is available within its sewer network when issuing permits to connect to the sewer system. On this basis a phasing condition may not be entirely necessary but as this is a reserved matters application, rather than a Section 73 application to vary or delete conditions of an existing permission (i.e. the outline permission), such a matter is not relevant to the merits of this application.

On the basis of the proposed development the contribution to be paid would total £13,149.00 (being 18 one bed apartments x £228 (being the contribution fee for one bed apartments) = £4,104.00 + 27 two bed apartments x £335.00 (being the contribution fee for two bed apartments) = £9,045.00) and the payment of this contribution in line with the requirements of the legal agreement would mitigate the impact of an increase in foul drainage discharge from the site on the integrity of the River Mease SAC.

### *Surface Water Drainage*

With regards to surface water drainage it would be a requirement for a surface water drainage scheme to be approved under 16 of the outline consent (15/00456/OUTM). In approving such a scheme of surface water drainage as part of the discharge of condition process it could be ensured, in conjunction with the Lead Local Flood Authority (LLFA), that discharge of surface water is to a soak away or other sustainable urban drainage system (SuDS) to ensure there is no adverse impacts on the River Mease SAC.

On the above basis, compliance with the proposed condition would ensure that surface water run-off from the site would not adversely impact on the integrity of the River Mease SAC and the development would accord with Policies Ec2 and Cc2 of the adopted Local Plan.

### *Conclusion*

Therefore, it can be ascertained that the proposal would, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, and would comply with the Habitats Regulations 2017, Policies En1 and En2 of the adopted Local Plan and the NPPF.

### **Waste Collection**

Whilst the District Council's Waste Services Development Officer (WSDO) was consulted as part of the consideration of the application no consultation response has been received.

Although this is the case it is outlined within the 'Accessibility' section of this report above that County Highways Authority (CHA) have determined that the parts of the internal highway which would not be put forward for adoption (being principally the internal highway and car parking to the care related apartments) could be constructed to an adoptable standard and could also be utilised by the District Council's waste vehicle (as demonstrated by the swept path analysis).

If the applicant wants the District Council's waste vehicles to collect waste receptacles associated with the care related apartments, then an indemnity agreement would need to be entered into between the Council and the applicant outside of the remit of this planning application so as to ensure the District Council would not be liable should damage to a private highway occur.

However, following further discussions with the applicant, they have advised that a private waste contractor would be appointed to collect the waste receptacles associated with the care related apartments rather than the District Council’s waste operatives. On this basis an indemnity agreement would not be required, and a note to the applicant would be imposed on any permission to be granted to ensure that future residents are aware that their waste receptacles would be collected by a private waste contractor.

A bin store is proposed to serve the care related apartments which would be situated within the car park, and which could be directly accessed by waste vehicles. Part H6 of the Building Regulations indicates that residents should not be expected to carry their refuse more than 30 metres to a bin storage point, which excludes any vertical distance. An entrance door is proposed within the north-western (side) elevation of the care related apartments which would be set less than 30 metres from the bin storage point and thereby providing convenient access to the bin storage point. In any event it is noted that a planning application could not be refused based on the lack of compliance with Building Regulations given that it does not constitute planning legislation.

The proposed bin store would have visibility within the development and consequently a condition would be imposed to secure the details of an enclosed bin store in order to ensure that there was no detriment to the visual amenities of the streetscape within the development.

**Other Matters**

Assessment of other third party objections

Objection	Response
<p><i>How can double bed apartments comply with the condition restricting occupancy to the over 55’s as stipulated on the outline permission?</i></p>	<p>Condition 10 of the outline planning permission (15/00456/OUTM) limits the occupation of the care accommodation to persons having a minimum age of 55 years or a widow or widower of such a person, and in the case of couples living together, one of the occupants would be required to be aged 55 or older.</p> <p>Whilst 2 bed care related apartments are proposed, any occupants would be required to comply with the terms of condition 10. The additional bedrooms would also enable couples to sleep in separate rooms (which is not uncommon), enabler a carer to ‘sleep over’ if deemed necessary for the care of an occupant and allow ‘elderly’ friends to live together in a single apartment.</p>
<p><i>No communal facilities, to integrate the development with the wider community, are proposed as was suggested by the outline consent.</i></p>	<p>The outline planning permission granted (15/00456/OUTM) was not subject to any conditions by which to secure communal facilities nor was such a requirement included within the Section 106 agreement.</p>

	<p>Although this is the case it is noted that the plans associated with the care home within phase 1 (as considered under application reference 21/00233/REMM) include a cinema, salon, bistro café and gym which could potentially be made available to wider members of the public. This, however, would be a matter to be considered and determined by the applicant given that it was not a requirement of the outline consent for such facilities to be delivered to the wider public.</p>
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### Conclusion

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2021).

The principle of the development has been accepted by virtue of the approval of the outline planning permission for a residential care development including a residential care home, care related apartments and care related dwellings. It is considered, following amendments made by the applicant, that the proposed development would be carried out in a manner which ensures that it would not impact adversely on existing and future residential amenities, the character and appearance of the streetscape and rural environment, highway safety, landscaping and ecology, flood risk and drainage and the integrity of the River Mease Special Area of Conservation (SAC)/Site of Special Scientific Interest (SSSI). There are no other material planning considerations that indicate reserved matters approval should not be granted, particularly given that conditions of the outline permission would need to be adhered to in developing the site, and accordingly the proposal subject to the imposition of conditions is considered acceptable for the purposes of the aforementioned policies.

It is therefore recommended that the application be permitted.

**SECTION B- OTHER MATTERS**

**OTHER MATTERS - SECTION B**

**LIST OF APPLICATIONS FOR PLANNING COMMITTEE 3 October 2023**

**Section A – Planning Applications**

Item	Reference	Details	Amend	Print	Sign	Sent
A1	21/00233/REM M					
A2	21/00711/REM M					

**Section B – Other Matters**

Item	Reference	Details	Amend	Print	Sign	Sent
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