

Erection of two dwellings (Resubmission of 20/00699/FUL)

Report Item No  
A2

Land Adjacent To 5 Cedar Grove Moira Derby

Application Reference  
23/01127/FUL

Grid Reference (E) 432786  
Grid Reference (N) 316717

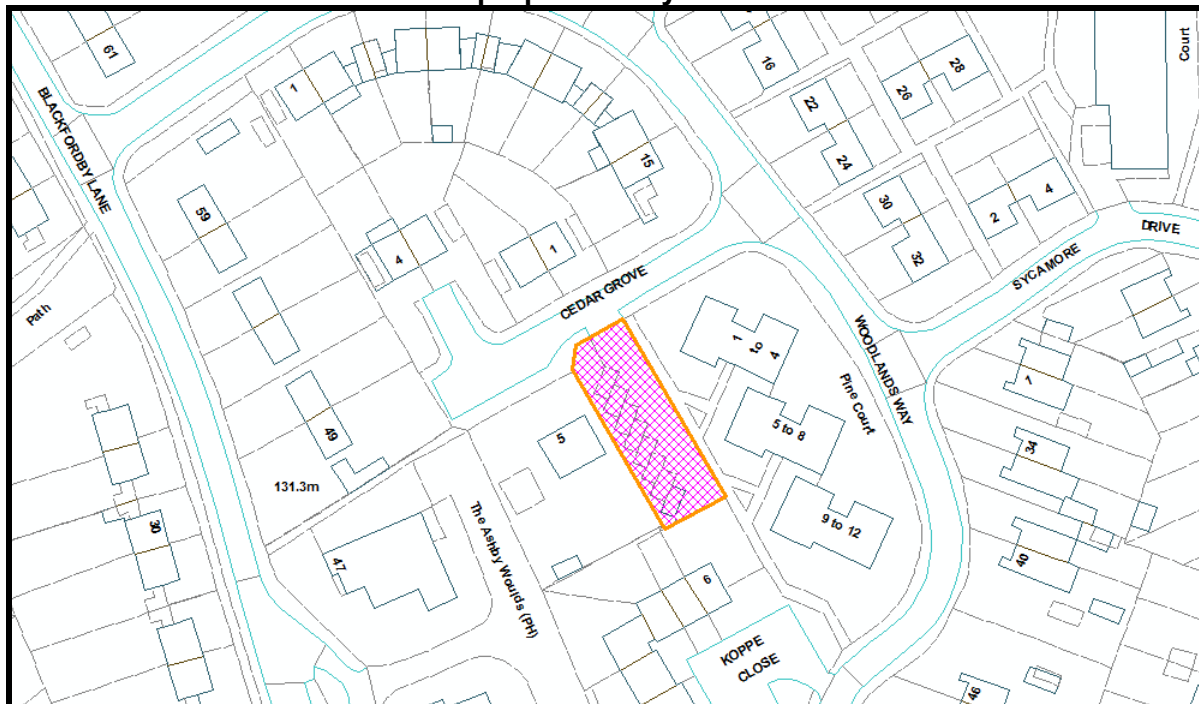
Date Registered:  
30 August 2023  
Consultation Expiry:  
27 October 2023  
Determination Date:  
25 October 2023  
Extension of Time:  
10 November 2023

Applicant:  
Mr Michael Fowell

Case Officer:  
Sarah Booth

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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

The application is brought before Planning Committee in line with the council's constitution as the application has been submitted by North West Leicestershire District Council and contrary representations to the recommendation to permit the application have been received.

### **RECOMMENDATION - PERMIT, subject to No Objections from Natural England and the following conditions;**

- 1 Standard time limit (3 years).
- 2 Approved Plans.
- 3 Materials details to be agreed.
- 4 Levels shall not be raised unless otherwise agreed.
- 5 Risk based land contamination assessment prior to commencement to be submitted, approved, and implemented.
- 6 A verification investigation prior to first use of the development to be submitted, approved and implemented
- 7 Hard and soft landscaping and boundary treatments and timescale for their implementation to be submitted and agreed prior to occupation. Replacement planting to be provided if any should die within 5 years.
- 8 Obscure glazing to be secured for the first floor windows on the east and west side elevations of the proposed dwellings.
- 9 Delivery of access arrangements (including visibility splays) in accordance with submitted plans.
- 10 Delivery of off-street parking and turning arrangements in accordance with submitted plans.
- 11 Provision of 1m x 1m pedestrian visibility splays.

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of two new dwellings on land located between flats at Pine Court and No.5 Cedar Grove in Moira. This application has been submitted by North West Leicestershire District Council and the proposed new dwellings would become council housing to rent as affordable units.

The site is located within limits to development, as defined by the policy map to the adopted Local Plan. The site location plan is shown below.

#### Site Location Plan



The application site was last used for car parking for the adjacent Pine Court flats, which are also owned by the Council. This land was previously occupied by several detached garages serving Pine Court; however, these buildings have now been demolished (see below).

#### Garages before demolition



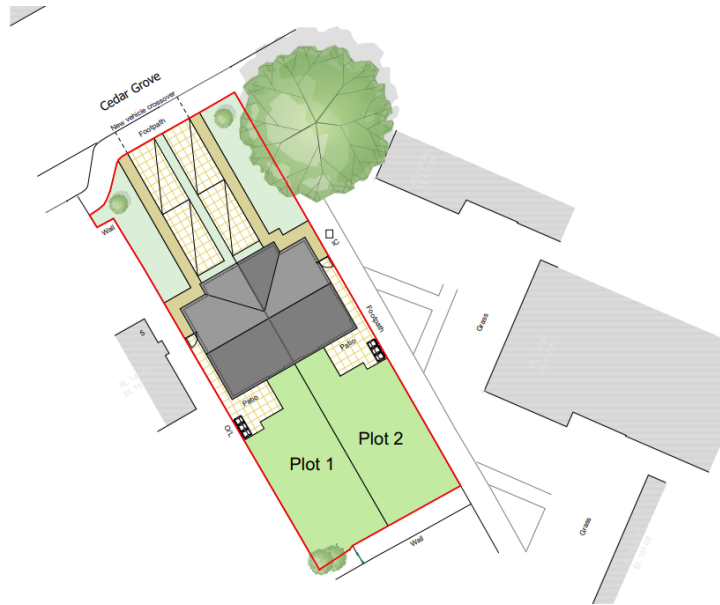
#### Application site after demolition



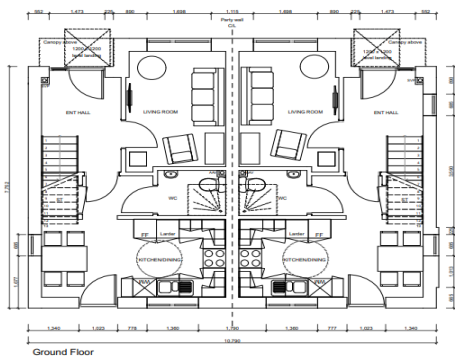
This application is a resubmission of application 20/00699/FUL, which was approved in August 2020. The proposed design, location and appearance of the application dwellings remains the same as the previously approved scheme. Planning approval is sought again for this development as the previous permission has now expired and more time is required by the Council to implement this development.

Details of the proposed development are shown below:

**Site Layout Plan Showing Proposed Development**

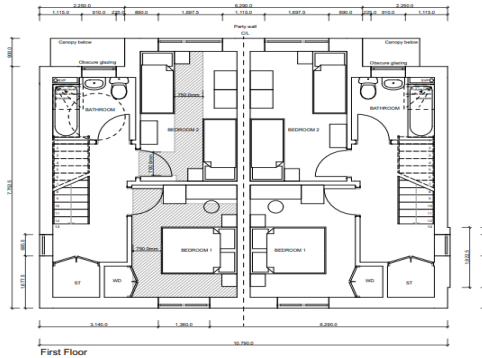


**Proposed Floor Plans**



Plot 1  
Ground Floor GIFA = 36.5m<sup>2</sup>  
First Floor GIFA = 36.5m<sup>2</sup>  
Total GIFA = 73m<sup>2</sup>

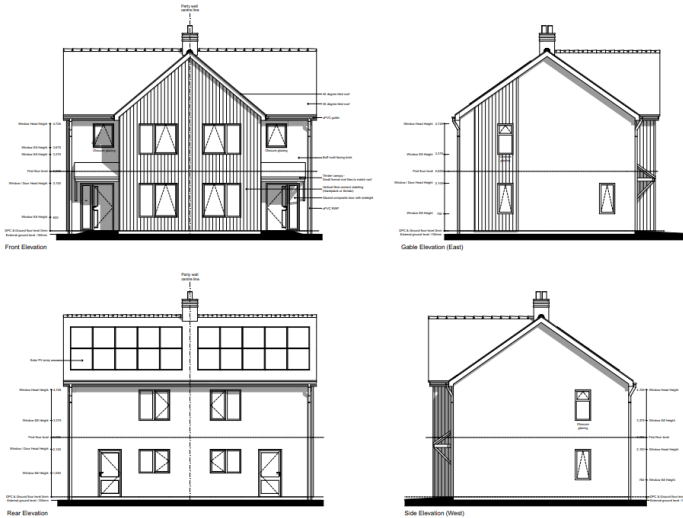
Plot 2  
Ground Floor GIFA = 36.5m<sup>2</sup>  
First Floor GIFA = 36.5m<sup>2</sup>  
Total GIFA = 73m<sup>2</sup>



Plot 1

Plot 2

## Proposed Elevations



## Recent Planning History

20/00699/FUL - Erection of two dwellings (PER 05.08.2020).  
 18/02260/DEM - Demolition of 8 brick garages (PER 21.01.2019).

The following application on a nearby site at Woulds Court, Willow Close, Moira is also relevant to this application:

18/02261/DEM - Demolition of Woulds Court flats and associated buildings (PER 21.01.2019).

## 2. Publicity

27 Neighbours have been notified.  
 Site Notice displayed 6 October 2023.

## 3. Summary of Consultations and Representations Received

**Ashby Woulds Town Council** - Object to the application on the following grounds:

Members consider the land would be better used as car parking to ease the existing parking problems. The money could be spent on improving existing housing stock.

**No objection from: -**

Environmental Protection  
 Leicestershire County Council Ecology  
 NWLDC Waste Services (note to applicant recommended)

**No objection subject to conditions from: -**

County Highway Authority

**No response received at the time of writing this report from: -**

Severn Trent Water  
Natural England

**Third Party Representations**

One letter of neighbour representation has been received raising objections to the proposal, this can be summarised as follows:

- the land should be used for car parking.
- Parking problems have increased on Woodlands Way and are worse at school times.

One letter of support has also been received, which also raises some concerns, this can be summarised as follows:

- Happy for the properties to be built.
- Concerns about parking for machinery and construction workers.
- Where will the tenants of the flats park.
- Could parking be provided on the grass areas around the flats for tenants.

**4. Relevant Planning Policy**

**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);  
Paragraph 11 (Presumption in favour of sustainable development);  
Paragraphs 55, 56 and 57 (Decision-making);  
Paragraphs 60, 69, 74 and 75 (Delivering a sufficient supply of homes);  
Paragraphs 104, 105, 110, 111 and 112 (Promoting sustainable transport);  
Paragraphs 119, 120, 123 and 124 (Making effective use of land);  
Paragraphs 126, 130, 132 and 134 (Achieving well-designed places);  
Paragraphs 152, 154, 157, 159 and 167 (Meeting the challenge of climate change, flooding, and coastal change);  
Paragraphs 174, 182, 183, 184, 185 and 186 (Conserving and enhancing the natural environment).

**Adopted North West Leicestershire Local Plan (2021):**

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

S1 - Future Housing and Economic Development Needs  
S2 - Settlement Hierarchy  
D1 - Design of New Development  
D2 - Amenity  
IF4 - Transport Infrastructure and New Development  
IF7 - Parking Provision and New Development  
En1 - Nature Conservation

En2 - River Mease Special Area of Conservation  
En3 - The National Forest  
En6 - Land and Air Quality  
Cc3 - Water - Sustainable Drainage Systems

### **Other Guidance**

The Conservation of Habitats and Species Regulations 2017  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System  
National Planning Practice Guidance - March 2014  
River Mease Water Quality Management Plan - August 2011  
The River Mease Developer Contributions Scheme (DCS) - September 2016  
Leicestershire Highways Design Guide (Leicestershire County Council)  
Good Design for North West Leicestershire SPD - April 2017  
National Design Guide - October 2019  
The Community Infrastructure Levy Regulations 2010  
Natural England - Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites - March 2022  
National Forest Strategy 2014-2024

## **5. Assessment**

### **Principle of Development**

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 site is located within Limits to Development as defined by the adopted Local Plan. Policy S2 defines Moira as a 'Sustainable Village' which is supportive of a limited amount of new development within limits to development.

It is proposed that these two dwellings would provide additional housing for the council to rent as affordable units, the principle of which is encouraged by the NPPF and the council's Local Plan.

Overall, it is considered that the proposal would represent a sustainable form of development and would accord with the policy aims of the adopted Local Plan and would be acceptable in relation to the NPPF. Therefore the development is acceptable in principle subject to other material considerations.

### **Siting and Design and Impact upon Character**

The need for good design in new residential development is outlined in adopted Local Plan Policy D1 and the Council's Good Design Supplementary Planning Document (SPD) and in the NPPF.

The wider area consists of a mixture of property types including flats, bungalows and detached and semi-detached dwellings, which are all set back from the public highway. The existing street scene primarily comprises brick built, side gable properties with chimneys and some elements of cladding. Most dwellings in this location are semi-detached.

The proposed new dwellings would be two storey semi-detached dwellings with a set back from the highway in line with No.5 Cedar Close and would be constructed in brick and vertical cladding. The plans proposed the same design as previously approved application 20/00699/FUL which was acceptable. The proposal would have a symmetrical appearance with a chimney and porches that would be in keeping with the character of the area.

It is noted that the proposed design includes a protruding front gable element which differs somewhat from the other dwellings in Cedar Grove. However, this feature is similar in appearance to certain design aspects of the adjacent Pine Court flats. On that basis it is considered that the proposal would not be harmful to the street scene.

The overall plot sizes, floor area and height of the proposed new dwellings would also be comparable to surrounding neighbouring properties.

It is noted that the proposal includes tandem parking which is not the Council's preferred type of off street parking as advised in the Council's Good Design SPD. However, the design includes an almost equal ratio of landscaping to parking and hardstanding which softens the appearance of the frontage of the new development and accords with the aims of the Council's Good Design SPD.

Whilst some materials have been referred to in the application submission it is recommended to condition more specific details of the proposed materials, especially the cladding, to ensure they would be in keeping with the visual amenity of the area.

Precise details for the proposed boundary treatments have not been included in the application at this stage. It is recommended that these details are secured by condition if this application is approved.

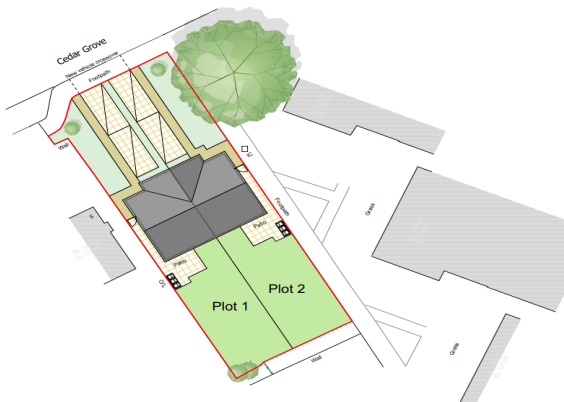
Overall the proposed development accords with the general siting and scale of existing dwellings within the vicinity and the design approach is considered acceptable. Therefore, the proposal is considered to be in accordance with Policy D1 of the adopted Local Plan, the Council's Good Design SPD and the advice contained in the NPPF.

### **Impact upon Residential Amenity**

The residential dwellings most immediately impacted upon because of the proposal would be No.5 Cedar Grove to the west, the flats in Pine Court to the east (No's 1- 12), No's 1 and 2 Cedar Grove opposite the site (to the north) and No.6 Koppe Close which borders the rear of the site (to the south).



## Proposed Site Plan



Regarding No's 1 and 2 Cedar Grove and No.6 Koppe Close to the front and rear of the site, these neighbouring dwellings would be at least 20 metres away from the proposed new dwellings. This would accord with the separation distances set out within the Council's Good Design SPD and therefore the development is not considered to adversely impact on the residential amenities of these properties.

As the new dwellings would be in a parallel position to No.5 Cedar Grove the new development would accord with the 45 degree code of practice as per the Council's Good Design SPD and it is considered that the new dwellings would not significantly impact on No.5.

It is noted that there are proposed first floor side facing windows on both the east and west side elevations of the new dwellings. It is recommended that these should be conditioned to be obscurely glazed and fixed shut below in internal height of 1.7 metres to prevent any overlooking impacts of either the flats at Pine Court to the east or No.5 Cedar Grove to the west.

Regarding the flats at Pine Court, it is noted that there are some first floor windows serving the flats which would be near the application site. Notwithstanding this, there is a distance of at least 10 metres from the Pine Court first floor windows to either the side elevation of the proposed Plot 2 or its garden. In addition to this the flats are rotated at an oblique angle to the application site which further reduces the impact. Overall it is considered that this proposal would not result in any harmful overlooking, overbearing or overshadowing impacts on the flats of Pine Court.

Overall, the proposal is not considered to result in significant impacts upon surrounding residential amenity. Therefore, the proposed development is considered to be in accordance with Policy D2 of the adopted Local Plan and the Council's Good Design SPD.

### Highway Considerations

Neighbour representations have been received for this application raising concerns about the loss of existing parking for Pine Court, because of this development, and the subsequent impacts on on-street parking in the area. Ashby Woulds Town Council has also objected on the basis that they would prefer the site to be used for car parking also. These matters will be considered below.

The site is located on Cedar Grove, an adopted, unclassified residential street subject to a 30mph speed limit. The scheme proposes two dwellings with two bedrooms and two off street

parking spaces for each dwelling. This is in accordance with the Local Highways Design Guide (LHDG). The proposed access would be approximately 5.5m in width which also accords with the LHDG.

It is noted that this proposal would be built on an existing car parking area for Pine Court. The applicant advised in the previous application that the garages that were formerly located on the application site, had not been occupied since 2015. All those garages had also been vacant between 4 and 11 years prior to their demolition in 2019. The applicant therefore considered that there was a lack of demand for garages from the residents of Pine Court. It was also previously understood from the applicant that a small number of cars have parked on the application site, however, most appear to already park on the public highway.

The County Highways Authority (CHA) have referred the Local Planning Authority to their previous advice from planning application 20/00699/FUL for the current application. The CHA previously advised that there are no current planning restrictions which secure the application site to remain available for use by the flats. The CHA is also satisfied that the loss of the existing parking area and the impacts of any displaced parking onto the surrounding highway would not cause severe harm to the highway network in this location. As such a reason to refuse the application on highway safety grounds could not be justified.

The CHA has advised that conditions should be included to secure the proposed access arrangements, off-street parking and turning for the proposed new dwellings and a condition is recommended to secure 1m x 1m pedestrian visibility splays. It is recommended that these conditions should be attached if permission is granted.

Neighbour concerns have been raised regarding parking of construction vehicles in the area. No objections have been raised by the CHA regarding this matter. Given the scale of the development the scheme is not of a nature where it would normally be considered necessary or reasonable to secure a scheme for off-street parking for construction vehicles. It is also noted that the CHA has not requested a construction management condition for the proposed development. Notwithstanding this, a note to applicant could be added requesting that the developer gives careful consideration to parking in the area during the construction phase.

A neighbour has requested that additional parking be provided on the Pine Court site, however this does not form part of the current application and would be a matter for the Council's Housing Team to consider.

Overall, therefore, the highway safety aspects of the scheme are considered to be acceptable. The proposal is considered to comply with the aims of Policies IF4 and IF7 of the adopted Local Plan and the LHDG.

### **River Mease Special Area of Conservation/SSSI - Habitat Regulations Assessment**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewerage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river.

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 as well as due to its proximity to tributaries of the River Mease. Therefore an appropriate assessment of the proposal and its impacts on the SAC is required.

The proposed development would result in an increase in foul drainage discharge from the site which would therefore adversely impact on the SAC as it would pass through the sewage treatment works within the catchment area of the River Mease SAC and contribute to the 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 20th September 2016 following the cessation of capacity under DCS1.

This application has been submitted by North West Leicestershire District Council. In the application submission the Council have highlighted that they own other sites within close proximity to the application site. The Council have demolished a sheltered accommodation building on the site of Woulds Court in Moira (shown highlighted in yellow below), this was located on Willow Close which is approximately 90 metres to the north-east of the application site. The location of the application site is shown outlined in red below.

**Figure 3 - Location of the Former Woulds Court site in relation to the application site**



The Woulds Court sheltered accommodation building previously comprised of 20 one-bedroom flats and 1 three-bedroom flat. DCS2 advises that this is an average foul discharge rate of 140.4 litres per day for a 1-bedroom dwelling and 278.4 litres per day for a 3-bedroom dwelling, this equates a foul discharge rate of 3086.4 litres per day. Given that the sheltered housing building has been demolished in recent years then this foul drainage discharge has now ceased. As such it could be possible for new development to be built and offset against the former usage of the Woulds Court site.

The offsetting of foul drainage of a previous use is usually limited to a redevelopment scheme on the same application site. However, in this instance the applicant is the same land owner, the two sites are near each other and both sites also discharge to the same sewage treatment works. Given these specific circumstances, and that there is no extant planning permission for redevelopment of the sheltered housing site, it is considered that the proposed two new dwellings for this Cedar Grove applicant can be offset against the foul drainage previously

associated with Woulds Court. This was the same arrangement for previously approved application 20/00699/FUL and is therefore considered to be acceptable.

The foul drainage associated with the proposed 2 x two-bedroom dwellings would equate to 412.8 litres a day, which would not exceed the amount used by the former sheltered housing site. Therefore, there would be no further impacts on the River Mease SAC and as such a DSC2 contribution would not be required in this case.

If this application is approved, then it is recommended to include a note to applicant to remind the applicant that this scheme would need to be included in the total new foul drainage output if a new application is proposed to redevelop the Woulds Court site.

Natural England have been consulted on this application however their response has not been received at the time of writing this report. If Natural England's advice is provided prior to committee then this can be included in the committee update sheet. It is recommended that this application be approved subject to there being no objections from Natural England.

The flows from the new dwellings need to be considered against the existing headroom at Packington Treatment Works. At the time of writing this report capacity is available at the treatment works for the proposed 2 dwellings.

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.

Regarding surface water and flood risk, the site is within Flood Zone 1 which has the lowest risk of flooding, and the proposed development does not fall within an area identified as having a risk of surface water flooding.

In this case the development is located on an area of existing impermeable hard standing and the proposed development would include new areas of grass and landscaping which would improve the surface water drainage situation from the existing arrangements. Therefore it is not considered reasonable to condition a sustainable surface water drainage scheme in this instance and it is considered that the proposal would comply with the aims of Policies CC2 and CC3 of the adopted Local Plan.

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 Habitat Regulations 2017, the NPPF and Policies En1 and En2 of the Local Plan.

## **Ecology**

Policy En1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district.

Whilst the mandatory requirement for 10 percent Biodiversity Net Gain has not yet been enacted through the Environment Bill (expected in January 2024), paragraph 174(d) of the NPPF sets out a requirement to minimise impacts on and provide net gains for biodiversity. Whilst no metric calculations have been provided the proposed development would be largely sited on existing hardstanding and as such the site would be of low biodiversity value.

Notwithstanding this, it is noted that some additional grassed areas would be planted for the gardens of the new dwellings which would have a biodiversity gain from the existing situation.

Having considered the nature of the proposal and the scale of the development, it is not considered that the application would result in any unacceptable ecology impacts. The application is therefore considered to accord with Local Plan Policy En1.

**Land Contamination**

The Council's Environmental Protection Land Contamination Officer hasn't provided a consultation response at the time of writing this report however in the previously approved application 20/00699/FUL it was requested that conditions be imposed requiring a risk based land contamination assessment. It is therefore recommended to attach these conditions again. On that basis the development would accord with Policy En6 of the adopted Local Plan and paragraphs 183 and 184 of the NPPF regarding land and air quality.

**Conclusion**

The principle of the development is acceptable. The proposal is not considered to have any significant detrimental design, residential amenity, highway, River Mease or ecology impacts. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the adopted Local Plan, the advice in the NPPF and the Council's Good Design SPD. It is therefore recommended that the application be permitted.