

Residential development (up to 81 Dwellings), associated open space (incorporating community infrastructure), drainage infrastructure (outline - access included)

Report Item No
A1

Land Adjacent To Blackfordby House Farm Butt Lane
Blackfordby

Application Reference
14/00460/OUTM

Applicant:
Mr Guy Mansfield

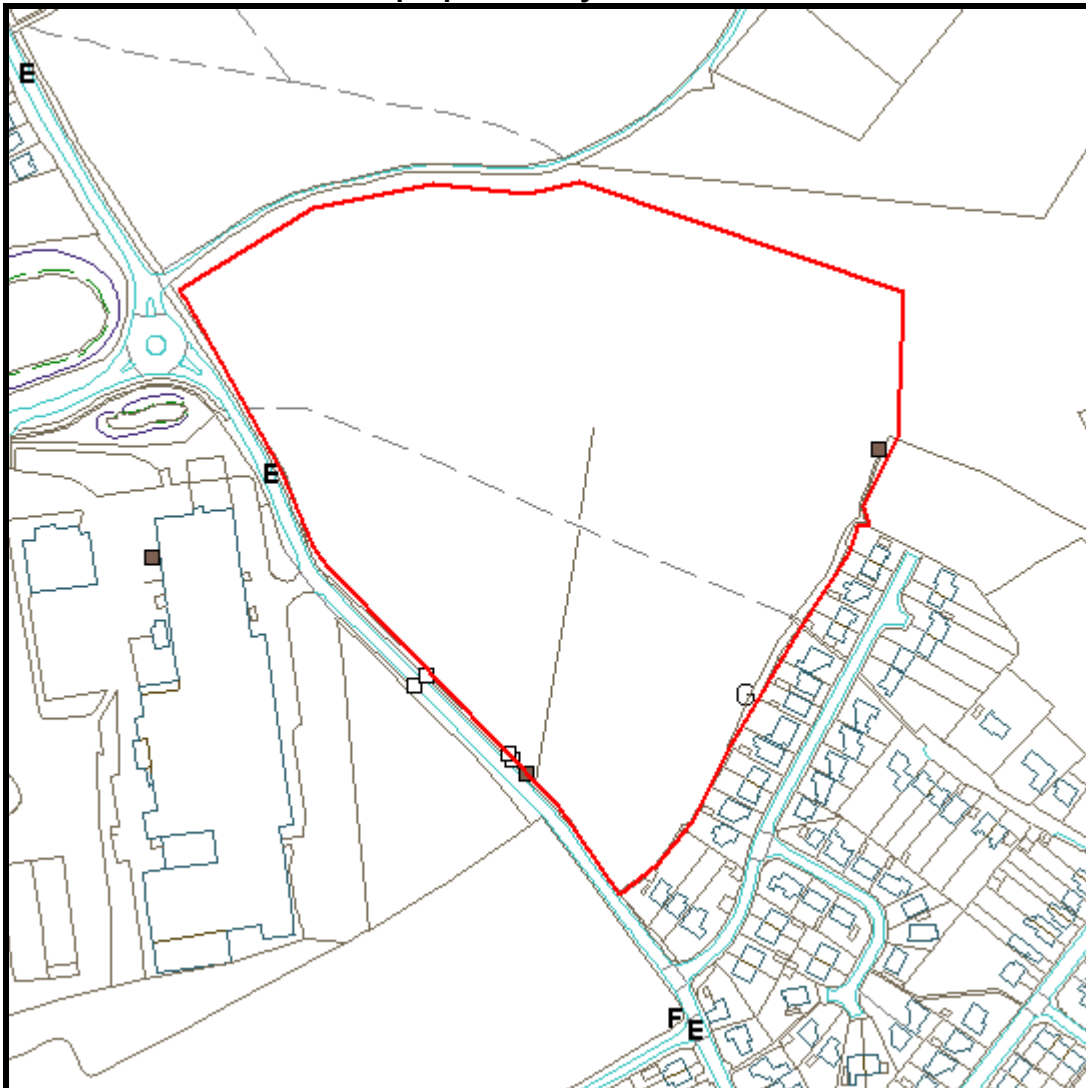
Date Registered
19 May 2014

Case Officer:
Hannah Exley

Target Decision Date
18 August 2014

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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Executive Summary

Call In

The application is reported to the Planning Committee as it is considered to be a matter of local concern.

Proposal

Outline planning permission is sought for the erection of up to 81 residential units. The site is 7.4 hectares and is currently in agricultural use and is situated on the western side of the settlement to the northern side of Butt Lane. The application site is bordered by a public highway to the south-west, open fields to the north/ north-west and by residential development to the south east.

The number of residential units has been reduced since the original submission from 100 dwellings to 81 dwellings. This was following concerns raised by officers about the scale of the proposed development and how this would relate to existing development within the main built up area of Blackfordby.

The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Butt Lane and the centre point of the access would be approximately 30m from the eastern boundary of the site which abuts neighbouring residential development. Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application. However, the extent of the built development on the indicative layout does reflect the submitted parameters plan which is up for consideration and shows the area within which built development is proposed.

Consultations

Members will see from the main report below that 89 letters of representation have been received from members of the public. The objections cover several different issues, broadly but not exclusively relating to the principle and sustainability of the proposal, coalescence between Blackfordby and Woodville, adequacy of existing services/infrastructure, traffic generation, highway safety, impact on nearby residents and the character and scale of the settlement, flood risk and drainage and impact on ecology. Ashby de la Zouch Town Council raises objection to the proposed development.

No objections have been received from any other statutory bodies consulted on the application.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development and as the development proposed would not meet the criteria for development in the countryside, approval of the application would be contrary to the provisions of Policy S3. However, the proposal also needs to be assessed in the context of the presumption in favour of sustainable development outlined in the NPPF and the Council's requirement to provide and maintain a five year housing land supply.

Conclusion

Whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, the site is considered to be a sustainable location for the level of development proposed for the site and the proposal would not result in a significant increase in housing development within the village. The proposal would also contribute to the District Council

maintaining a five year supply of housing.

The proposed development would be acceptable in terms of density, impact on the countryside, character of the area and the historic environment, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, coal mining risk, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION - PERMIT, APPROVE SUBJECT TO SECTION 106 OBLIGATIONS AND THE IMPOSITION OF CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for the erection of up to 81 residential units. The site is 7.4 hectares and is currently in agricultural use and is situated on the western side of the settlement to the northern side of Butt Lane. The application site is bordered by a public highway to the south-west, open fields to the north/ north-west and by residential development to the south east.

The number of residential units has been reduced since the original submission from 100 dwellings to 81 dwellings. This was following concerns raised by officers about the scale of the proposed development and how this would relate to existing development within the main built up area of Blackfordby.

The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Butt Lane and the centre point of the access would be approximately 30m from the eastern boundary of the site which abuts neighbouring residential development. The formation of the new access which measures 10m in width (excluding radii and visibility splays) would require the removal of some of the existing hedgerow along Butt Lane.

Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application. However, the extent of the built development on the indicative layout does reflect the submitted parameters plan which is up for consideration and shows the area within which built development is proposed.

The northern and western boundaries of the site border Blackfordby House Farm and its access drive which are occupied by post and rail fencing. The eastern and southern boundaries of the site (which abut the highway and neighbouring residential properties) are predominantly occupied by hedgerows interspersed with trees, although some neighbouring gardens have other forms of enclosure. The site forms part of a larger field and therefore, the north eastern boundary of the site is currently open. Vehicular access to the site is currently via the existing vehicular access to Blackfordby House Farm off Butt Lane.

Land levels across the site rise in a northerly direction with the lowest land levels being adjacent to the public highway (Butt Lane) in the south eastern corner of the site and the highest being towards the north of the site. Between these two points of the site, the increase in land levels is approximately 11.5 metres.

The site lies within the catchment area of the River Mease Special Area of Conservation and the Blackfordby Conservation Area lies approximately 90 metres to the east of the site and the nearest listed buildings are the Grade II listed Butt Cottage lying approximately 65m to the south east of the site and the Grade 2 listed Well Cottage lying approximately 225 metres to the east. There are no protected trees on the site.

Planning History Summary:
No planning history.

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 10(b) of

Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts, are not considered to be significant and can be considered as part of the planning application.

2. Publicity

64 N. Neighbours have been notified (Date of last notification 6 November 2014)

Press Notice published 12 November 2014

Site Notice posted 17 June 2014

3. Consultations

Ashby de la Zouch Town Council consulted 10 June 2014

County Highway Authority consulted 11 June 2014

Environment Agency consulted 11 June 2014

Severn Trent Water Limited consulted 11 June 2014

Head of Environmental Protection consulted 11 June 2014

Natural England- Within 2k Of SSSI consulted 11 June 2014

NWLDC Tree Officer consulted 11 June 2014

County Archaeologist consulted 11 June 2014

LCC ecology consulted 11 June 2014

NWLDC Conservation Officer consulted 11 June 2014

National Forest Company consulted 11 June 2014

LCC Development Contributions consulted 11 June 2014

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 11 June 2014

Development Plans consulted 11 June 2014

Head Of Leisure And Culture consulted 11 June 2014

Manager Of Housing North West Leicestershire District Council consulted 11 June 2014

Police Architectural Liaison Officer consulted 11 June 2014

LCC/Footpaths consulted 11 June 2014

NWLDC Footpaths Officer consulted 11 June 2014

Coal Authority consulted 11 June 2014

NWLDC Urban Designer consulted 6 November 2014

County Planning Authority consulted 18 June 2014

Derbyshire County Council consulted 11 November 2014

South Derbyshire District Council consulted 20 October 2014

4. Summary of Representations Received

Statutory consultees:

Ashby de la Zouch Town Council raise objection on the following grounds:

- The application is for 100 dwellings which will increase the size of the village by 25% and there are no facilities within the village to support such an increase;
- The application site is outside of the designated village limits and absorbs Blackfordby into Woodville;
- There are serious traffic problems within the village which will be exacerbated by additional car journeys generated by this proposed development. A traffic survey in 2005 identified more than 10,000 vehicles used Butt Lane in the period of the survey;
- The footpaths within the village are very poor;
- The local primary school has no capacity and no room to expand;
- There is a lack of infrastructure generally within the village to support such an expansion: no shop, post office, medical facilities etc;

- There are concerns about flooding of Butt lane from the site and the potential impact upon local properties;
- The ecological report lodged with the application is flawed.

Ashby de la Zouch Town Council have confirmed that none of their original concerns have been addressed by the amended plans.

County Highways Authority has no objections subject to conditions and subject to securing developer contributions through a legal agreement. *

Environment Agency has no objections subject to conditions.

Severn Trent Water Ltd has no objection subject to a drainage condition. STW have also confirmed that there is capacity within the Packington Sewage Treatment Works to accommodate the proposed development.

Natural England has no objections subject to the development according with the requirements of the River Mease Developer Contribution Scheme.

Police has requested a developer contribution of £38,057. Leicestershire Police also advises that policing is not included within the submitted consideration of developer contributions and therefore it raises a formal objection to the application on sustainability grounds and because the development is unacceptable without the necessary policing contribution. *

Coal Authority has no objections subject to a condition.

National Forest Company advises that 20 percent of the site area should be woodland planting and landscaping unless an off-site planting developer contribution is agreed and this will need to be secured through the S106 agreement. *

County Archaeologist has no objections subject to conditions.

County Ecology has no objections subject to conditions.

County Minerals requests that the advice of the Coal Authority be sought to establish whether further information will be required from the applicant.

County Footpaths has no objections to the original or revised plans subject to notes to applicant to ensure the route of public footpaths being maintained.

County Developer Contributions

- Leicestershire County Council - Highway Transportation & Waste Management Authority has not made a request for a contribution towards civic amenity sites.

- Leicestershire County Council Library Services Development Manager have requested a contribution of £4,400 towards additional resources at Ashby de la Zouch library.

- Leicestershire County Council Local Education Authority have requested a contribution of £144,796.98 for the high school sector as there would be a deficit of 80 pupil places (9 created by the development) within high schools within a 3 mile walking distance of the site (Ivanhoe College). A contribution of £148,676.80 is also sought for the upper school sector as there would be a deficit of 136 pupil places (9 created by the development) within upper schools

within a 3 mile walking distance of the site (Ashby School). A contribution of £235,204.75 is also sought for the primary school sector as there would be a deficit of 43 pupil places (23 created by the development) within primary schools within a 2 mile walking distance of the site (Blackfordby St. Margaret's Church of England Primary School and one other school).

NWLDC Head of Leisure and Culture has requested a developer contribution of £112,500 towards Hood Park Leisure Centre. *

NWDLC Head of Housing advises that the rural housing needs survey for Blackfordby identified a need for affordable homes. In line with the Council's Supplementary Planning Document, 30% affordable housing (which equates to 30 units) should be secured. *

NWLDC Footpaths Officer has no objections subject to a note to applicant.

NWLDC Urban Designer is not satisfied that the indicative scheme submitted on the original or amended plan represents a good standard of design as supported by the NPPF and Building for Life 12.

NWLDC Conservation Officer has no objections.

NWLDC Tree Officer has no objections subject to conditions.

NWLDC Head of Environmental Protection has no environmental observations, subject to a contaminated land condition.

South Derbyshire District Council advise that given the proximity of the site to Woodville, (South Derbyshire), it is likely that a scheme of the scale and nature proposed could give rise to cross boundary traffic impacts and mitigation should be considered necessary.

NHS no comments have been received. *

Derbyshire County Council no comments have been received. *

*Revised comments are awaited from these consultees following the reduction in housing numbers to 81 units and these will be reported to Members via the Update Sheet.

Third Party Representations:

89 letters of neighbour representation have been received to the originally submitted proposals for 100 dwellings raising the following comments/concerns:

- Concerns over the capacity of schools to cope with additional residents as a result of the development;
- Concerns over the capacity of healthcare facilities to cope additional residents as a result of the development;
- Increased congestion to Butt Lane;
- Increased through traffic in the village;
- The village infrastructure will not sustain the extra traffic burden created by the development;
- The application does not provide additional amenities such as shops or recreation facilities;
- The proposal is outside the development limits, and would be incongruous to the form of the village resulting in undesirable ribbon development;
- The proposed pedestrian link along Fenton Avenue is subject to flooding and is

- unsuitable as the main pedestrian link into the village and would require the purchase of private land in order to widen the path;
- Butt Lane and the site are susceptible to flooding and flooding from surface water run-off;
 - Concerns over capacity of sewerage and storm water;
 - The site contains a number of historic opencast and underground mining which has since been filled, and would cause contamination to the residents if housing is constructed;
 - The applicants traffic flow modelling is flawed, for example it being undertaken during the middle of the day; local junctions and cumulative impact are ignored, the modelling only assesses the impact of the development upon the A511 road;
 - The applicants flood model evidence is flawed;
 - The applicants ecological report is flawed and does not do enough to protect hedgerows and protect wildlife such as brown hares, badgers, crested newts, owls, yellow hammers, woodpeckers, skylarks, sparrow hawks, bats and foxes;
 - There should be priority given to the development of Brownfield land before Greenfield land;
 - Blackfordby is not a sustainable village for housing development as there are no village amenities or good bus service or appropriate infrastructure in place;
 - The notice period of the planning application is too short to provide comment, and the notice should have been extended to everyone in the village;
 - The development would result in a visual coalescence between Blackfordby and Woodville;
 - The proposal for 100 dwellings is out of scale, poorly sited and out of character for the area;
 - The agricultural quality of the land is good (not poor) and has been growing wheat and crops for a number of years;
 - The development will result in a loss of open countryside;
 - The development will result in a loss of view;
 - The development will decrease property values and increase home insurance;
 - Concerns over the amount of car parking spaces to be provided within the development;
 - Concerns that cycling considerations only cover 5 kms from the site;
 - Increased amenity impacts as a result of noise, fumes, street lighting, pollution, light pollution;
 - The proposal will cause detrimental landscape and visual impact;
 - Approval of the development will lead to a precedent for further development;
 - The development is inappropriate as it is on 'green belt' land and within the National forest;
 - Increased 'dog waste' in the village as a result of the;
 - Concerns over access from Butts Lane, whereas it should be from the roundabout;
 - Highway safety concerns as a result of increased speeding traffic and safe parking during school pick-up and drop-off times;
 - The plans are incorrect and include part of the garden and garage of adjoining properties along Fenton Ave without giving appropriate notice;
 - There is no need or demand for 100 dwellings;
 - Concerns regarding overlooking from the proposed dwellings into rear gardens of existing dwellings along the edge of the proposed development;
 - The development will cause negative impacts upon the operation of the employment site on the opposite site of Butt Lane;
 - The site is unsuitable for the proposed purpose because of past mining, open casting and landfill of a very dubious nature.

5 additional letters of representation have been received in response to the amended plans and reduced number of dwellings, raising the following objections:

- Loss of Greenfield site;
- Loss of agricultural land valuable for food production;
- Loss of village character and coalescence with Woodville;
- Detrimental to the visual amenities on approach to Blackfordby;
- Blackfordby is not a sustainable village and occupiers of the proposed dwellings will need to use the private car to reach services;
- Traffic generation;
- Speeding traffic cutting through the village along unsuitable roads;
- Concern over access from Butt Lane;
- Inadequate infrastructure/services/amenities to accommodate the development;
- Adverse impacts on ecology;
- The locality has had its fair share of development in recent years;
- Lack of information about the proposed community infrastructure improvements proposed elsewhere in the village;
- There is no room for the expansion of Blackfordby Primary School;
- The site cannot be considered as 100% impermeable as it is clay;
- Concerns about flood risk and drainage;
- The proposed changes do not address previous concerns;
- The number of dwellings proposed on the site should be reduced to 30 or less.

The consultation period continues and therefore any further representations received will be reported to Members via the Update Sheet.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document.

The NPPF (paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:

- proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places that the country needs;
- always seek to secure high quality design and a good standard of amenity;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate;
- contribute to conserving and enhancing the natural environment and reducing pollution;
- encourage effective use of land by reusing land that is previously developed;
- conserve heritage assets in a manner appropriate to their significance;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling;
- take account of and support local strategies to improve health, social and cultural wellbeing.

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

"Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted."

"32. ...Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

"47. To boost significantly the supply of housing, local planning authorities should:

- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

"49. Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

"54. Local planning authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs."

"55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities."

"57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"59. Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."

"61. Although visual appearance and the architecture of individual buildings are very important

factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere."

"112. Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

"118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest; ...

...- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"119. The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."

"123. Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

"132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...."

"133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or all of four other criteria apply."

"134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."

"173. Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

"203. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

"204. Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development."

North West Leicestershire Local Plan:

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development plan. The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan.

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy E7 seeks to provide appropriate landscaping in association with new development.

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the River Mease.

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting.

Policy F2 states that the Council will have regard to the existing landscape character of the site and the type of development when seeking new planting.

Policy F3 seeks to secure implementation of agreed landscaping and planting schemes for new development by the imposition of planning conditions and/or the negotiation of a planning agreement.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development. In relation to car parking standards for dwellings, an average of 1.5 spaces off-street car parking spaces per dwelling will be sought.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst other things, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account a number of issues including housing mix, accessibility to centres and design.

Policy H7 seeks good quality design in all new housing development.

Policy H8 provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

Policy L22 provides that major new development will only be permitted where adequate provision is made for open space for formal recreation use.

Other Guidance

Submission Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs).

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System) sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use

planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

River Mease Water Quality Management Plan - August 2011 draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

The River Mease Developer Contributions Scheme (DCS) - November 2012 is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

The Community Infrastructure Levy Regulations 2010 provide a legislative requirement that an obligation must meet the following tests:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development;
- fairly and reasonably related in scale and kind to the proposed development.

The Technical Guidance to the National Planning Policy Framework - March 2012 provides additional guidance relating to flooding.

National Planning Practice Guidance - March 2014 supplements the policies in the NPPF. The Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

NWLDC SPD for Affordable Housing - January 2011

Key Principle AH2 provides that affordable housing will be sought on all sites of 5 or more dwellings in Blackfordby.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Blackfordby.

NWLDC SPG - Play Area Design Guidance - July 2002 sets out the relevant requirements in respect of children's play provision required in association with residential development.

Blackfordby Conservation Area Appraisal and Study SPG identifies individual factors considered to have a positive impact on the character of the Conservation Area. These factors include principal listed buildings and unlisted buildings of interest in the vicinity of the site.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the proposal, visual impact and its impact on the scale and character of the settlement, trees, residential amenities, highway safety, drainage and flood risk, protected species/ecology and on the River Mease Special Area of Conservation, and the provision of affordable housing and developer contributions.

Principle of Development

Insofar as the principle of development is concerned, and 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 (2002 (as amended)).

With regard to the Local Plan, the site lies outside the Limits to Development. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development and as the development proposed would not meet the criteria for development in the countryside, approval of the application would be contrary to the provisions of Policy S3.

Notwithstanding the countryside location, and whilst the proposal would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and National policies.

In terms of the Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
 - the latest urban capacity information;
 - the need to maintain an appropriate supply of available housing land;
 - lead times before houses will be expected to be completed and build rates thereafter;
- and
- other material considerations.

Whether or not this site would be considered "appropriate" is a matter of judgement having regard to its location outside Limits to Development. This policy nevertheless sets out criteria relevant to release of land. In terms of the sustainability credentials of the site, it is located the following (approximate) distances away from a range of services:

The following services are available within Blackfordby:

- Village Hall - 725 metres;
- x2 Public House - 610 metres to the nearest;
- Playing field - 230 metres;
- Primary School - 730m;
- Bus Service - (nearest stop opposite 23 Main Street) - 520metres;

(More direct routes to these services would be available through public footpaths through the settlement which link up with the eastern boundary of the site).

Bus Service 9/9A provides an hourly service between Coalville and Burton on Trent calling at Swannington, Ashby de la Zouch, Blackfordby, Moira, Swadlincote and Brizlincote. This service runs Monday to Friday between the hours of 0659 and 1939 hrs and on Saturdays between the hours of 0719 and 1939 hrs. A slightly reduced hourly bus service 9E runs on Sundays (doesn't stop at Moira) between the hours of 0935 and 1935.

Whilst the services available within Blackfordby are limited, the site is reasonably well related to Norris Hill (Moira) and Woodville and although the latter settlement is outside the District boundary (within South Derbyshire), cumulatively they would provide a good range of services and facilities, which could be used by occupiers of the proposed dwellings. These include:

The following services are available within Norris Hill:

- Primary School - 1200 metres;
- Parade of shops on Blackfordby Lane comprising a convenience store, x2 takeaways, carpet shop and beauty salon - 1500 metres.

There is a continuous footway between the site and the services available at Norris Hill, although being unlit along sections of Drift Side may affect pedestrian access to these services in the evenings when it is dark and the route would be less desirable to pedestrians.

The following services are available in Woodville off the A511:

- Shop (convenience store) x2 - 1140m and 1500m;
- Post Office - 1500m;
- Pharmacy - 1500m;
- Primary School - 1500m;
- Secondary School - 2300m;
- Health Centre - 1800m;
- Library - 1700m.

There is a continuous lit footway between the site and the services available at Woodville.

In terms of the distance to amenities, the inspector in the Moira Road, Ashby appeal referred to DoT statistics which show that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1km, cycling about 4.5km and by bus about 8km.

The now withdrawn submission version North West Leicestershire Local Plan: Core Strategy did identify Blackfordby as a "sustainable village". Having regard to the location of the site, it is considered that residents of the site would have reasonable access to services and facilities by walking and easy access to all the facilities Blackfordby and the neighbouring settlements have to offer by cycling or using public transport. Taking all of the above into account, it is considered that the site is located within a sustainable location in terms of accessibility.

Scale of Development and Cumulative Impacts:

It is appropriate to consider the scale of the proposed development compared to Blackfordby so as to understand its potential impact upon the scale and character of the village.

In terms of likely future needs the GL Hearn Leicester and Leicestershire Housing Requirements Study which was used to inform the housing requirement in the now withdrawn Core Strategy includes information regarding future natural change across the district. This Study projected that a 23.4% increase in housing was required across the District from 2006-2031, which was reflected in the now withdrawn Core Strategy.

It is estimated that there are 399 properties in the village of Blackfordby within its main built up area. This proposal for 81 dwellings would represent a 20.3% increase in the number of dwellings within the village. The 81 proposed dwellings alongside the 1 new dwelling built since 2006 and the outstanding commitments for 1 dwelling would equate to a 20.8% growth in the village since 2006. Therefore, the proposed development would represent a lower level of growth than that for North West Leicestershire as a whole. As such it is considered that the proposal would not result in a significant increase in housing development within the village.

Loss of agricultural land:

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. Whilst the site is currently in use as arable farmland, the development of the site would result in an irreversible loss to a non-agricultural use.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Best and Most Versatile (BMV) agricultural land is defined as that falling within in

Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The Agricultural Land Classification maps indicate that the site falls within Classes 3 and 4 but do not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification. The supporting information accompanying the application confirms that the land would be assigned to Classes 3a and 3b and therefore, would partly be classified as BMV agricultural land. A total of 1.4ha (20% of the site area) would be Grade 3a (BMV) and 6ha (80% of the site area) would be Grade 3b. It is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively). It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. Also relevant is the extent to which change of use of the BMV land is irreversible. In this respect, it is noted that those parts of the site considered to be BMV are located to the north of the site beyond the area as shown to be developed on the parameters plan. Therefore, it is considered, that the proposal would not necessarily preclude its future re-establishment in active agricultural use if circumstances so dictated.

Nevertheless, in terms of agricultural land quality, if the development does impact upon BMV it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of Paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, these concerns would not be so significant as to outweigh the considerations in favour of the scheme. When considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the loss (i.e. 1.4ha).

Housing Land Supply and Limits to Development

In terms of the contribution that this scheme would make towards the Council's five year housing land supply, it is considered that a scheme for up to 81 dwellings would make some contribution towards the Council's five year housing land supply (and maintenance thereof).

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, concluded that the Council's 5 year housing land supply calculation should be based on the "Sedgefield" approach (i.e. an approach requiring planning authorities to deal with any past under-supply within the first 5 years rather than to spread this over the whole plan period) an approach now expressly preferred in the recently published National Planning Practice Guidance, and thus even more likely to be favoured by appeal inspectors going forward. The Moira Road inspector also applied a buffer of 20% for persistent under delivery. As such, officers have recently been advising Members of the Council's inability to demonstrate a five-year supply of deliverable housing sites. The consequence of this has been that the Council has not been able to rely on adopted policies S3 and H4/1 in determining housing applications as they are "relevant policies for the supply of housing" for the purposes of Paragraph 49 of the NPPF which, Members are aware "should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites."

As reported to Committee on the 8th July 2014, however, a recently completed County-wide Strategic Housing Market Assessment (SHMA) has provided the Council with an up-to-date objectively assessed housing requirement, on which basis, the Council is now able to

demonstrate a supply of 5.0 years (when measured against a 5 year + 20% buffer supply requirement).

Members were advised at Planning Committee in November of the recent appeal decision in respect of a site at Lower Packington Road, Ashby de la Zouch. In dismissing that appeal, the Inspector concluded that the District Council was able to demonstrate that it had a five year supply of housing land. In doing so, however, he expressed concerns regarding the inclusion of an allowance for windfall sites of 43 dwellings per annum. As such, the District Council has now recalculated the current supply having excluded this figure, and the revised figure, including resolutions, when allowing for the 20% buffer, would be 6.14 years and 7.4 years without the buffer. The Inspector also considered that, having regard to the fact that the adopted North West Leicestershire Local Plan only included for sufficient housing land to 2006, and the difference in approach between Policy H4/1 and the NPPF, Local Plan Policies H4 and H4/1 are out of date.

As a result of the above, Policy S3 should no longer be considered 'out-of-date' in the context of Paragraph 49 of the NPPF - indeed this is a Development Plan policy to which the Council should again now properly have regard to in determining future planning applications. Whilst the weight to be applied to this policy against other material considerations is a matter entirely for Members, officers would advise Members, in applying weight to any conflict with Policy S3 in the overall planning balance, to bear in mind the fact that the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements only up until the end of the Plan Period (i.e. to 2006).

However, it is accepted that the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development.

In March 2012 the National Planning Policy Framework (NPPF) was published and introduces the presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved without delay and where relevant policies are out of date planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

There are three core strands underpinning the presumption in favour of sustainable development promoted within the NPPF. These are economic, social and environmental. So long as a development is consistent with these criteria, in principle the development should be considered acceptable.

Economic

The NPPF outlines that the economic role should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.

Social

The NPPF outlines that the social role should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future

generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The new population could support and help sustain the local services and facilities that meet local needs and contribute to the creation of sustainable communities. The development would provide both open market and affordable housing, appealing to a wider spectrum with the local market, thus increasing local market choice and appealing to groups whom may have otherwise been excluded from the locality. The proposal would include the provision of informal public open space and financial contributions will be secured towards the provision of local services and facilities including education, libraries, transport and police. Accordingly the site is considered to be consistent with the 'social role'.

Environmental

The NPPF outlines that the environmental role should contribute to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy. The site is located outside the limits to development but is well related to the existing settlement. Furthermore, as set out in the report below, it is considered that the proposal would not be contrary to the aims of protecting or enhancing the natural and historic environment. Accordingly the site is considered to be consistent with the 'environmental role'.

Conclusions in respect of the Principle of Development and Planning Policy

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material consideration and includes a presumption in favour of sustainable development.

The site is outside Limits to Development in the adopted Local Plan and its development for housing would therefore be contrary to Local Plan Policy S3, a policy designed to protect the countryside for its own sake.

However, the site's general suitability for housing (including its proximity to Blackfordby, Woodville and Norris Hill, Moira) is also material, together with the need for the District to release significant areas of land for housing to ensure the provision and maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF). An important consideration is that the Council must demonstrate and maintain a five year supply of housing land (with a 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance.

Having regard to all of the above it is considered overall that the proposed development of the site is acceptable in principle and would represent sustainable development.

Means of Access and Highway Safety

All matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned). The point of access proposed show vehicular access via a new junction onto Butt Lane. Whilst the illustrative layout shows internal access roads, these would be dealt with at the reserved matters stage(s), although their impact on the overall potential accessibility and connectivity of the site still ought to be considered.

The application submission was accompanied by a Transport Assessment which concludes that *"the proposed site access arrangements would comply with the relevant design guidance and*

operate within capacity. The surrounding opportunities for sustainable travel should also satisfactorily accommodate any increases in pedestrian, cycle and public transport trips resulting from the proposed development. The proposed development traffic increases would not have a detrimental impact on the immediate surrounding highway network in terms of capacity or highway safety and hence, no mitigating improvements should be required. . . the proposals could be delivered in accordance with the principles of the NPPF and should therefore, be acceptable to the local highway authority".

The County Highways Authority has been consulted on the application and although concern has been raised by local residents about traffic generation and highway safety matters, the County Highways Authority has raised no objections to the proposed development in respect of highway safety implications.

South Derbyshire District Council advise that given the proximity of the site to Woodville, (South Derbyshire), it is likely that a scheme of the scale and nature proposed could give rise to cross boundary traffic impacts. The submitted transport assessment does not have due regard to the need to maintain the efficient operation of the highway network in South Derbyshire, including the busy and congested A511/A514 Clock Island (Tollgate) Junction. The Emerging South Derbyshire Part 1 Local Plan (submitted August 2014) proposed a number of strategic allocations within the Swadlincote Urban Area which are likely to lead to growth in the volume of traffic using the local highway. South Derbyshire District Council (supported by the Derbyshire County Highways Authority) consider that mitigation of impacts on the local highway network should be sought through a contribution towards the implementation of the Swadlincote Regeneration Route, which will allow traffic to by-pass the congested areas outlined above.

In these circumstances, subject to conditions and S106 contributions, which the applicant has agreed to, it is considered that the development would accord with Policy T3 of the Local Plan.

Public footpaths P11 and P13 are routed through the site from east to west. Footpath P11 enters the site between 17 and 19 Fenton Avenue and exits onto Butt Lane toward the western end of the site frontage. Footpath P13 crosses the northernmost part of the site from east to west. The County Footpaths Officer has been consulted on the application and raises no objection subject to public footpaths being accommodated within the layout of the proposed development. The revised indicative layout does not provide for the retention of footpath P11 along its existing route through the site. It is noted that the revised indicative layout shows that this existing footpath would either be affected by the siting of proposed dwellings or be subsumed by an estate road, which would result in the extinguishment of the Right of Way. The County Footpaths Officer notes advice in Defra Rights of Way Circular (1/09) Version 2, paragraph 7.8 which states that:

"In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic."

Furthermore, County Council's Guidance Notes request that paths to be routed through public open space and segregated from estate roads and footways wherever possible so that they are well overlooked and pleasant to use. It is considered that the site is of sufficient size to accommodate the proposed development and existing footpaths in line with the above-mentioned advice. Subject to a note to applicant to inform the applicant of the comments of the County Footpaths Officer, the proposal is considered acceptable in terms of its impact on existing public footpaths.

Density

Local Plan Policy H6 provides that, for sites of 0.3 hectares and above, residential development should meet a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services, and a minimum density of 30 dwellings per hectare elsewhere. The former advice in PPS3 provided that net dwelling density includes those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas. Whilst this has now been superseded in the NPPF the methodology contained within it for working out net dwelling density would, in the absence of any other guidance in the NPPF or Local Plan, still be relevant.

The part of the application site area that is proposed for housing as shown on the parameters plan is given as 4.5 hectares and the maximum of 81 dwellings proposed by the developers would therefore equate to a maximum density of 18 dwellings per hectare, which would fall short of the requirements set out in Policy H6. However, when considering that parts of the site would be taken up by the creation of landscaping, sustainable urban drainage systems and open space, the net dwelling density would clearly be higher. The agent indicates that a net density of 36.8 dwellings per hectare could be achieved on the site. It is also noted that a reduced density would also allow a lower density of development along the edges of the development area in order to soften its visual impact. Taking all these factors into account, it is considered to be an acceptable density in relation to the advice in Policy H6 of the Local Plan.

Neighbours' and Future Occupants' Amenities

Located on the western eastern edge of the settlement, this area of Butt Lane is not heavily populated with residential dwellings. There are also three routes out of the village and it is not considered that the increased traffic using local roads generally as a result of the proposed development would lead to unacceptable impacts on residents' amenities. It is accepted that vehicles travelling towards settlements to the south and east (eg Moira, Measham and Ashby) would be likely to pass through the village. In coming to this conclusion it is noted that the Council's Environmental Protection Team raise no objections to the proposed development in terms of noise or pollution.

The nearest neighbouring residential dwellings are those fronting the western side of Fenton Avenue which abut the eastern boundary of the site and properties fronting northern side of Butt Lane which also abut the eastern boundary. Blackfordby House Farm lies to the north of the site and opposite the site is an industrial premise. To the west of the site, the nearest residential properties fronting Butt Lane are located approximately 80m away from the site.

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves are concerned, this would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 81 units could not be provided on the site in a manner which would not adversely impact upon neighbouring residential amenities.

It is considered that construction noise is an inevitable temporary, manifestation of any development project, which is not the concern of the planning system unless there would be exceptional amenity harm. When this is the case, a planning condition restricting hours is often applied but in this instance as the Environmental Services Manager raises no issues to the development in this regard, it is not considered necessary. The Environmental Services Manager raises no issues over fumes, noise or any other pollution arising from this residential development.

It is, therefore, deemed that the development would not have any significant detrimental impact upon neighbouring residential amenities and is considered to be acceptable in relation to Policy E3 of the Local Plan.

Character of the Area and Visual Impact

The application submission was accompanied by a preliminary landscape and visual appraisal regarding the existing landscape and character and how the development would assimilate into its environs. Further details would be provided at the Reserved Matters stage should permission be granted. Nonetheless, these matters are pertinent to considerations at the outline stage and should be assessed.

The appraisal identifies that the site lies within the Leicestershire and South Derbyshire Coalfield Landscape character area which is characterised by influences of mining, clay extraction and other industry, along with frequent prominence of settlement edges. The appraisal also notes that the site lies within the National Forest and within a preferred area for new planting, where smaller tree belts and copse plantings are considered appropriate around village and settlement edges. The report concludes that "the site's location on lower ground provides the opportunity for development with limited and localised visibility from the surrounding area, which would avoid extending prominent, skyline housing. Appropriately designed blocks or belts of new forest planting could be used to give additional containment and enhance the local landscape by providing improved visual links with other existing areas of tree cover. This would enable a more clearly defined and consistent edge to be established and would achieve an enhanced landscape setting to the north of Blackfordby."

Blackfordby is located within an undulating agricultural landscape, and the site along with the adjoining arable fields provide the rural setting for the village when travelling along Butt Lane from the west, as well as forming part of the edge to the village's main built up area. The site forms part of a larger field, which extends to the north east of the site. The southern (highway) boundary of the site is bordered by mature hedgerows interspersed with trees and, therefore, is afforded some existing natural screening. The land levels generally rise across the site in a northerly direction and therefore, the site (along with the open countryside beyond), are clearly visible from the public highway to the south/south-west and from public footpaths which pass through the site. Some of the hedgerow along the site's frontage would be lost to allow for the formation of the vehicular access, therefore, opening up views into the site further. Longer distance views of the site are also available from public vantage points to the west of the site.

To the west of Butt Lane is an industrial complex comprising large, conspicuous and unattractive buildings and to the north of the site is Blackfordby House with a group of large scale buildings. Further small groups of residential development also exists along Butt Lane to the west of the site but due to distances and the scale of intervening development, it is not considered that the proposal would give rise to the visual coalescence of Blackfordby and Woodville. The application site abuts the settlement boundary of Blackfordby and development on the site would be viewed against the backdrop of existing development or adjacent to existing built development and therefore, would not appear an isolated development in the countryside.

Following the provision of a parameters plan (setting out the extent of built development within the wider application site), the extent of the application site would relate reasonably well to the boundaries of existing residential properties fronting Fenton Avenue. Whilst the site contributes to the form and setting of the village and its semi-rural character in this location, in close and long range views the sensitivity of the site is limited, as it is effectively a large open field with no

particularly distinctive characteristics.

Therefore having regard to all of the above considerations (including the proximity of the site to existing development and the settlement boundary, the topography of the surrounding landscape, existing soft landscaping and the scope for mitigation in the detailed layout, design and landscaping of the scheme), whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the character of this locality and the countryside.

Overall, therefore, subject to a Section 106 to secure National Forest planting, and subject to the extent of built development being agreed and an appropriate form of development being proposed at the reserved matters stage(s), it is considered that the landscape and visual effects of the proposed development are acceptable for the purposes of Policies E4 and H7 of the Local Plan and the provisions of the NPPF.

Historic Environment:

The Blackfordby Conservation Area lies approximately 90m to the east/north-east of the site at its closest point, and the nearest listed building is the Grade 2 listed Butt Cottage lying approximately 60m metres to the south east of the site. Other nearby listed buildings are also Grade 2 and are located between 600-800m to the south of the site. These include Norrishill Farmhouse and Boothorpe Farmhouse and barn and Boothorpe Farm Cottage. The Conservation Area and listed buildings are designated heritage assets as defined in the NPPF. The site may also contain buried archaeological remains (discussed in the archaeology section below) and these would also form a heritage asset.

The site does provide a rural setting for the village but is well separated from the Conservation Area by intervening residential development/agricultural land. The site would be visible within views of the Blackfordby Conservation Area, and some glimpses of the site would also be available within views from the edge of the Conservation Area through gaps in landscaping. When having regard to the distances involved, the relationship between the site and the Conservation Area and the intervening land uses/development, it is not considered that the development of the site for housing would adversely affect the setting of the Blackfordby Conservation Area.

The proposal would not affect the built fabric of the nearest listed buildings but consideration needs to be given to the impact of the proposed development on the setting of these heritage assets. Norrishill Farmhouse and Boothorpe Farmhouse and barn and Boothorpe Farm Cottage are located some distance from the site and it is not considered that the site forms part of the setting of these heritage assets and therefore, would be unlikely to be adversely affected by the proposed development.

Butt Cottage lies 60m to the south west of the site and is separated from the site by modern development. Although the site may be visible within views of this listed building, when having regard to the distance involved and the intervening development, it is not considered that the proposed would result in any significant adverse impact on the setting of Butt Cottage.

It is therefore considered that the proposal could be harmful to the significance of the heritage assets but that this would be unlikely to involve substantial harm or total loss of significance for the reasons set out above. Therefore, the proposals amount to less than substantial harm to the significance of the heritage assets and would not result in significant detriment to the special architectural or historic interest, character or setting of the nearby listed building and would not

adversely affect the character and appearance of the Conservation Area, thereby sustaining the significance of these heritage assets.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal, including securing its optimum viable use. The harm to the heritage assets is in this case considered on balance to be outweighed by the provision of new homes which includes affordable homes, contributions towards improving capacity within existing public services/infrastructure and under the River Mease DCS which will improve the quality of the River Mease SAC.

Archaeology:

Paragraph 129 of the NPPF requires local authorities to identify and assess the particular significance of heritage assets that may be affected by a proposal, and this assessment should inform the consideration of the impact of the proposal on a heritage asset in order to avoid or minimise conflict between the heritage assets conservation and any aspect of the proposal.

A desk-based archaeological assessment accompanying the application submission found that the site has low potential to contain significant archaeological remains and any remains, that have survived the destructive impact of quarrying, will have been heavily truncated/ damaged by modern ploughing, the combined impacts of which have removed the ridge and furrow earthworks once known to have extended across the site.

The County Archaeologist has been consulted on the application and advises that their assessment of the site follows the conclusions offered in the report accompanying the application submission. Aerial photographic evidence strongly indicates that the northern two fifths of the site have been extensively damaged by nineteenth and twentieth century mining/extraction for coal and clay. Ridge and furrow surviving at the end of WW2 have since been flattened by modern agricultural activities. Whilst this is likely to have detrimentally impacted upon the survival of archaeological remains, as mentioned by the applicant's consultant, evidence from numerous archaeological projects demonstrates that significant preservation of archaeological deposits can occur in these circumstances.

The County Archaeologist advises that the archaeological interest of the development area is hard to determine, largely due to the lack of previous structured investigation of the area. Very little evidence for prehistoric or Roman activity has been recorded; outside the villages there is little to indicate the location or character of early medieval or later activity. The western half of the development area is unlikely to have experienced damage as a result of coal or clay extraction, and has the potential for buried archaeological remains to be preserved. The County Archaeologist has therefore recommended that the applicant be required to undertake a post-determination programme of archaeological investigation to establish the presence and character of any surviving remains. It is noted that this work should inform any Reserved Matters submission.

Buried archaeological evidence (potential yet unidentified heritage assets) could be present within the development area. Paragraph 141 of the NPPF states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development. Therefore, the County Archaeologist has no objections to the proposal subject to the imposition of conditions for an appropriate programme of archaeological investigation and recording in order to safeguard any important archaeological remains potentially present on the site. Subject to conditions, it is considered that the proposal would comply with the provisions of the NPPF.

Design:

The need for good design in new residential development is outlined not only in Local Plan Policies E4 and H7 but also Paragraphs 57, 60 and 61 of the NPPF with Paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 requires new development to respect the character of its surroundings.

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABI's new Building for Life criteria which scores on the basis of red/amber/green rather than being a point based scoring system. The Council's Urban Designer reviewed the original proposals and considered that the indicative layout would fail to meet the Building for Life criteria. The comments of the Urban Design can be summarised as follows:

The indicative scheme fails to promote site opportunities, the form and layout does not observe local distinctiveness, internal connectivity is frustrated by the blockage of a pedestrian route in the centre of the site, the layout is defined by highways as opposed to built form, densification/built form and building lines do not reinforce a street hierarchy and focal spaces, it is unclear how structural landscaping will be used and how parking will be integrated into the scheme. Following the submission of a revised scheme, the Council's Urban Designer is not satisfied that all the previously raised concerns have been addressed in the revised indicative layout.

When having regard to the outline nature of the scheme and that it is considered that the site is of sufficient size to accommodate an acceptable form of development, it is not considered that it would be appropriate to seek further revised drawings in this case as these matters could be dealt with by appropriately worded condition which requires a Design Code to be agreed based on Building for Life 12 and a note to applicant providing the comments of the Urban Designer.

Subject to these requirements, it is considered that an acceptable design solution for the development of the site could be achieved and therefore, the proposal is considered acceptable for the purposes of Policy E4 and H7 of the Local Plan and the design provisions of the NPPF.

Trees

An arboricultural report accompanied the application submission, which considers the implications of the development of the site on trees and hedgerows on the site, including along the site frontage around the proposed access position.

With the exception of one Oak Tree (T6), the majority of the trees within the site are located along the site boundaries, particularly the south (highway) boundary where individual trees intersect the hedgerow. Groups of trees and individual trees also occupy parts of the eastern boundary. There is an existing field hedgerow interspersed with trees which extends approximately 170m northwards into the site from the southern boundary approximately 30m to the north west of the proposed access position.

With the exception of the hedgerow that would need to be removed to allow for the formation of the access, due to the location of the existing trees on the site, it is considered that the site could be developed without resulting in the loss of any healthy trees on the site. It is accepted that some of the existing trees on the site are in poor condition and therefore, may not be suitable for retention in the long term and this would need to inform any detailed Reserved

Matters submission.

The Council's Tree Officer has been consulted on the application and considers the submitted Arboricultural Report to be thorough. Subject to all structures being outside the Root Protection Areas of the trees to be retained (unless demonstrated to be necessary and acceptable by the consulting arborist), and subject to conditions, the Council's Tree Officer raises no objection to the proposed development.

Protected Species/Ecology

The application submission was accompanied by an Ecology Report which found that the site provides opportunities for breeding birds (typically associated with hedgerow habitat) and therefore, recommendations are proposed by the consulting ecologist. There is a low to negligible risk of Great Crested Newts being present within the proposed development site and therefore, precautionary measures are recommended by the consulting ecologist. The site provides negligible opportunities to support legally protected reptile species due to the dominance of arable habitat and the relatively narrow field margins associated with hedgerows and residential curtilages and, therefore, are not considered to be a significant constraint to the development. Recommendations for the provision of habitat opportunities for this species-group are suggested by the consulting ecologist. No evidence of badgers was identified within the site during the course of the field survey and the site provides only limited opportunities for badger foraging in relation to any population that may exist locally. Although given that badgers are mobile species, precautionary measures are recommended by the consulting ecologist. There are a number of bats records, including confirmed roosts for found within a distance of 4km from the site. Some of the trees on the site were noted as having potential to support bat roosts and there is potential for bat activity within hedgerows on the site and, therefore, recommendations are made by the consulting ecologist. Subject to the retention of hedgerows and trees and the delivery of the recommendations, the consulting ecologist concludes that there is no major or significant ecological constraint to the development of the site.

Concern has been raised by local residents about the adequacy of the protected species information accompanying the application submission. The County Ecologist has been consulted on the application and advises that the land is currently arable, of limited ecological value, and the only habitats of significance are the hedgerows, which are all largely retained in the indicative layout. She advises that the indicative layout presented is excellent in ecological terms, with substantial buffer along boundary features, and a large area of open space. There are opportunities for biodiversity enhancement in the SUDs features, and overall the County ecologist considers that biodiversity is likely to be enhanced as a result of this development.

The County Ecologist considers that the ecology report accompanying the application is satisfactory. Although the field survey was done in January 2014, outside the optimum season for such surveys, the County Ecologist advises that this is acceptable given the habitats on site, which can be adequately assessed at this time.

The County Ecologist has one concern regarding Great Crested Newts. There is a colony to the west of the site, within 300m of the site boundary. There is a recently constructed drainage basin close to the site boundary (within 50m), associated with the newly constructed road, which has never been surveyed for GCNs. Records show GCNs in ponds close to this basin, from 2004, when surveys were carried out for a housing scheme over the boundary in Derbyshire.

The County Ecologist notes that the consulting ecologist did not survey this balancing pond/drainage basin, on the basis that it was separated by a road from the development site, and was partially fenced with newt-proof fencing. However, the County Ecologist considers that

it should be assumed that this pond supports GCNs, as the known colony is so close, and from ecology survey it is clear that the habitat is suitable and that the pond is not entirely enclosed with newt-proof fencing. This fencing is likely to degrade or become breached in time, such as through vegetation growth around it, and therefore, can't be relied upon as an exclusion measure. Although there are roads all round the drainage pond, the County Ecologist does not consider that these present an insuperable barrier to colonising GCNs.

There are few habitats on the development site that are suitable for GCNs, and by and large these will be retained (hedges and drainage ditches), and therefore, the County Ecologist does not consider that GCNs pose a constraint to development. In the long-term they may benefit from the development's created habitats. However, the County Ecologist has some concerns about potential impacts during construction, when GCNs may colonise new aquatic and terrestrial habitats on site. Therefore, the county Ecologist considers that some mitigation/precautionary working will be required through the life of this development, to keep GCNs off site during phases of construction. Subject to an appropriately worded condition, the County Ecologist has no objections to the proposed development.

Coal Mining Risk

The site lies within the Coal Authority Referral Area and accordingly a Coal Mining Risk Assessment accompanied the application submission which identifies that the site is located within an area where unrecorded underground coal mining activity may have taken place at shallow depth. It recommends that further investigation works be undertaken to confirm coal mining conditions and to enable the design of any necessary mitigation measures prior to development commencing on site. The Coal Authority has been consulted on the application and concurs with the recommendations of the Coal Mining Risk Assessment and considers that the applicant has sufficiently demonstrated that the application site is or can be made safe and stable for the proposed development, for the purposes of the NPPF. Subject to the imposition of conditions, the proposed development is considered acceptable in terms of coal mining risk.

In addition, the site lies within a Mineral Consultation Area because it contains potential near surface coal resources. The need to safeguard valuable mineral resources is recognised in the National Planning Policy Framework (see paragraph 143) and the Development Plan for the area also contains policies to safeguard mineral resources. The County Planning Authority has been consulted on the application and advised that the views of the Coal Authority should be sought. The Coal Authority recommends that the extraction of coal in advance of the surface development proposed as a remedial measure should be considered in order to accord with the Leicestershire Minerals Development Framework Core Strategy and Development Control Policies DPD - Policies MDC 8 and MDC 9. It is considered that this matter can be dealt with by an appropriately worded condition.

Flood Risk and Drainage:

Concerns have been raised by residents in relation to the capacity of the local drainage network and the proposal contributing to existing flooding problems in the area.

The site lies within Flood Zone 1 and as it is over one hectare in size, a Flood Risk Assessment (FRA) has been submitted. With regard to flooding of the land, the FRA provides that as the site is not at risk of fluvial flooding in storm events up to 1 in 100 years which means that the site has an estimated annual probability of flooding of less than a 0.1% chance in any given year and is appropriate for development.

With regard to flooding from the land, the FRA provides that the primary flood risk generated by the new development is most likely to be the risk posed to others by surface water run-off and

from local watercourses (which are not defended). There is a system of local watercourses within and adjacent to the southern and eastern boundaries of the site, which is culverted within Butt Lane.

The existing site is greenfield with no hard surfaced areas and the proposed development will significantly increase the impermeable area and subsequently the run-off from the site will increase. It is proposed to ultimately discharge any surface water flows generated by the development of the site which cannot drain via infiltration to the culverted local watercourse. The drainage strategy utilises attenuation ponds with a restricted rate of discharge into the existing local watercourse. The rate of discharge into the watercourse will vary depending on the severity of weather conditions. The FRA provides that it is expected that during extreme weather events, there would be considerable betterment as the system is likely to restrict flows to a lesser rate than estimated at present.

The Environment Agency have been consulted on the application and considers the development to be at low risk of flooding and has no objections to the proposal subject to conditions concerning surface water drainage based on sustainable drainage principles, contamination and infiltration soakaways. Severn Trent Water has been consulted on the application and has no objection subject to a drainage condition.

Consideration of the capacity of STW's treatment works is set out below in the section relating to impact on the River Mease SAC. Natural England has no objections to the application proposals. Given the lack of objection from the Environment Agency it is considered that a reason for refusal relating to flood risk and capacity of the drainage system could be not justified.

River Mease:

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water in the river are met by potential developers. The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

Local concern has been raised about the capacity of Severn Trent Water's receiving treatment works at Packington to accommodate the proposed development. The flows from the new dwellings will need to be taken into account against the existing headroom at Packington Treatment Works, which serves the town. At March 2014 capacity as available for 533

dwellings but this is reduced by the number of dwellings that have consent and/or are under construction whilst also considering those which are pending consideration which at the time of writing totaled 233. Taking these into account, assuming all would be approved, the capacity available at the treatment works is reduced. However, it has been confirmed that there is capacity available at Packington Treatment Works to accommodate the proposed development, especially given the closure of the Arla site in Ashby which adds approximately 1900 additional houses to the headroom figure in the 2014 capacity report, and as such raise no objection to the proposal in this respect.

When having regard to the existing use of the site, the proposal for up to 81 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The application proposes that foul drainage would be dealt with via the mains sewer system and therefore, will be required to pay the contribution under the DCS. However a condition requiring that only a mains connection is used at the site would be required as the use of other means for foul drainage discharge could adversely affect the SAC.

It is proposed that surface water from all elements of the proposal will discharge into an engineered sustainable urban drainage scheme on site to ensure that unnecessary water volume does not go to the sewage treatment plant and this can be required by condition. Subject to the imposition of conditions concerning the storage and disposal of surface water run-off from the site, the Environment Agency are satisfied with the proposal.

Natural England has no objections in relation to impact on the SAC/SSSI subject to a condition. Therefore, it can be ascertained that the erection of 81 dwellings on the site will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Developer Contributions:

Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the proposed development.

Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.

Libraries

Leicestershire County Council is seeking a contribution of £4400 to provide additional capacity at Ashby de la Zouch Library, which is the nearest library.

Education

Leicestershire County Council is seeking the following contributions to provide additional places at the nearest schools where there is no capacity:

- a contribution of £144,796.98 is sought for the high school sector as there would be a deficit of 80 pupil places (9 created by the development) within high schools within a 3 mile walking distance of the site (Ivanhoe College).

- a contribution of £148,676.80 is sought for the upper school sector as there would be a deficit of 136 pupil places (9 created by the development) within upper schools within a 3 mile walking

distance of the site (Ashby School).

- a contribution of £235,204.75 is sought for the primary school sector as there would be a deficit of 43 pupil places (23 created by the development) within primary schools within a 2 mile walking distance of the site (Blackfordby St. Margaret's Church of England Primary School and one other school).

Play Area/Open Space

Under the District Council's Play Area Supplementary Planning Guidance, on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 81 dwellings are proposed, this would require a play area of not less than 1620 square metres. The indicative masterplan shows that provision is proposed to be made for public open space on site. This would need to include a children's equipped play area. Taking into account the overall size of the recreation area, a suitable sized children's equipped play area could be provided at the reserved matters stage. Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the Play Area Design Guidance SPG.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG requires that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity, as well as a "kickabout" area. In addition, formal recreation open space (e.g. sports pitches) should also be provided for. Whilst on-site "kickabout" and recreational open space provision is not proposed, the applicant has advised that 2.5ha of open space can be accommodated within the development site and has the potential to be used for use as a formal area of play.

Leisure

NWLDC Head of Leisure and Culture has requested a developer contribution of £112,500 towards Hood Park Leisure Centre.

Affordable Housing

Under the Council's Affordable Housing SPD, 30% affordable housing is required on sites of 5 dwellings or more, and this would equate to 30 dwellings for the current proposal. The Council's Strategic Housing Team have been consulted on the application and have advised that there is a need for affordable housing and that the full 30% should be secured through the proposed development.

The Council's preferred position is to seek delivery on site through a Registered Provider. However, as this site is in one of our smaller rural settlements, the Council's Strategic Housing Team considers that a proportion of this requirement could be provided as an offsite financial contribution to support the provision of affordable housing anywhere in the district where a need has been identified. The Council's Strategic Housing Team would seek to secure 15% on-site and 15% as an off-site contribution.

In terms of tenure split for on-site provision, the District Council's Affordable Housing Enabler advises that a tenure split of 79% social rented and 21% low cost home ownership would be sought. The Rural Housing Needs Survey for Blackfordby identified a need for the following:

- Rented - 1 x 2 bed bungalows and 2 x 2 bed houses
- Low cost home ownership - 1 x 2 bed bungalow

The Strategic Housing Team would expect that the mix identified by the rural housing need survey would form part of this requirement along with an element that would meet our wider lettings register. The District Council's Strategic Housing Team would currently be seeking the

following mix:

- 2 x 1 bed homes
- 8 x 2 bed house
- 1 x 3 bed house
- 4 x 2 bed bungalows

However, it is accepted that the current requirements are likely to change over time, and it is considered appropriate for the Section 106 agreement to secure a minimum of 30% comprising 15% as an off-site contribution and 15% on-site (and including the tenure split suggested above) with the actual contribution in terms of unit types to be agreed by the District Council.

Highways Contributions

The County Highway Authority has also requested the following contributions to encourage sustainable travel to and from the site, achieve modal shift targets, and reduce car use:

- (i) Travel Packs - to inform new residents from first occupation what sustainable travel choices are in the surrounding area;
- (ii) Six-month bus passes, two per dwelling (2 application forms to be included in Travel Pack and funded by the developer) - to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car;
- (iii) Improvements to the two nearest bus stops (including raised and dropped kerbs to allow level access) - to support modern bus fleets with low floor capabilities - £3263.00 per stop;
- (iv) Contribution towards equipping the nearest bus stop(s) and suitable bus route with Real Time Information (RTI) system, at total of £5,840;
- (v) Travel Plan and monitoring fee (£6,000/£11337) to enable LCC to provide support to the Travel Plan Coordinator, audit performance reports and enforce the Travel Plan if necessary.

The Highway Authority has previously advised that the contributions are related to the new development as they seek to make bus services more attractive and encourage their use by future residents of the development, and to encourage behavioural shift in terms of travel choice at an early stage before car use becomes ingrained. Furthermore, the Highway Authority has considered that development would not be acceptable without these measures, as without them there is likely to be less use of buses and more car journeys. Consequently the development will be less sustainable, congestion on the network would increase, and the policies in LTP3 would not be complied with.

The Highway Authority also requests agreement of a construction traffic route which is considered to be necessary in this case given the site's proximity to residential areas and the village centre. The routing agreement will enable the Authority to prevent construction traffic from using unsuitable routes in the interests of highway safety.

South Derbyshire District Council (supported by the Derbyshire County Highways Authority), seek a contribution towards the implementation of the Swadlincote Regeneration Route.

River Mease DCS

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage (although the maximum amount would be £28,674) as the number of bedrooms in each dwelling would not be finalised until the reserved matters stage.

National Forest Company

The application site extends to 7.4ha and the National Forest Planting Guidelines require 20%

of the site area to be for woodland planting and landscaping. This would equate to an area of 1.48 ha and would need to be secured through a Section 106 agreement as either on-site or off-site. The application submission indicates that the development site could accommodate 2.5ha of open space including National Forest planting. The NFC is satisfied that the site could accommodate the required woodland planting and landscaping.

Areas of strategic planting are shown on neighbouring land outside the application site within the Design and Access Statement. Whilst the National Forest Company are supportive of these elements of the proposal, the parameters plan shows 2.9 hectares of open space which already exceeds requirements for landscaping, and therefore, it is not considered that a requirement for additional off-site strategic planting could be justified in this case.

Police

Leicestershire Police requests a developer contribution of £38,057 in respect of policing as set out in the consultation response above. This money is requested in relation to equipment, police vehicles, improving force communications, CCTV, contribution towards additional premises in Coalville, Enderby and Loughborough.

The policing contributions listed above remain under consideration as to whether they meet the tests pursuant to CIL Regulation 122.

Other Contributions

No requests for contributions have been received from the NHS and the County Council has advised that a contribution towards civic amenity sites is not required.

With the exception of the requested leisure and police contributions (where CIL compliance is questioned), the applicant has confirmed their agreement to the payment/inclusion of the above-mentioned developer contributions/requirements within a legal agreement.

With respect to the Police contribution, as the District Council is considering its position on this matter, the applicant is prepared to accept a clause within the agreement which requires payment should the Authority take the view that the Police contribution is CIL compliant. As for the proposed Leisure contribution, the Head of Leisure has been re-consulted and Members will be updated on this matter via the Update Sheet.

Insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations.

Other Matters:

Concern has been raised by local residents about the development site encroaching onto land that is not in the ownership of the applicant. The applicant has provided land title details which show the full extent of the application site to be within the ownership of the applicant.

As for concerns about increased dog waste, this is covered by separate Environmental Health legislation and is not a material planning consideration. Concern has also been raised about the development setting precedent for further development but it is a fundamental tenet of planning legislation that each application should be assessed on its own planning merits.

With regard to concerns about loss of view and loss of property values, these are not planning matters to be considered in the determination of this application. With regard to comments about inadequate time for neighbours to provide comments, consultation was undertaken in

accordance with statutory requirements.

Conclusion:

Whilst the site is outside the Limits to Development in the adopted Local Plan and constitutes greenfield land, the site is considered to be a sustainable location for the level of development proposed for the site and the proposal would not result in a significant increase in housing development within the village. The proposal would also contribute to the District Council maintaining a five year supply of housing.

The proposed development would be acceptable in terms of density, impact on the countryside, character of the area and the historic environment, impact on trees, residential amenities, transportation and highway safety issues, flood risk and drainage, coal mining risk, ecological impacts and impact on the River Mease SAC and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services.

The proposed development would, overall, therefore be considered to constitute sustainable development as defined in the NPPF and, as such, benefits from a presumption in favour of such development as set out in that document. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

RECOMMENDATION - PERMIT, subject to section 106 obligations and the imposition of conditions:

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason- to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 Approval of the details of the access (save for the details of vehicular access into the site from Butt Lane), layout, scale and appearance of the development and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason- this permission is in outline only.

- 3 The reserved matter application(s) shall include precise details of finished ground levels across the site and the finished floor levels of all buildings in relation to an existing datum point.

Reason - to ensure a satisfactory relationship with the adjacent dwellings/the streetscene, as insufficient details have been provided.

- 4 Notwithstanding Conditions 1, 2 and 3 above, the first reserved matters application shall include a masterplan for the whole of the site setting out indicative details of site layout, areas of open space / children's play, surfacing and width of footpaths through the site, landscaping, density parameters and scale, as well as details of any proposed phasing

of development. All subsequent reserved matters applications shall be in accordance with the approved masterplan unless any alteration to the masterplan is first agreed in writing by the Local Planning Authority. All development of the site shall thereafter be undertaken in accordance with the agreed phasing and timetable details (or any alternatives subsequently agreed in writing by the Local Planning Authority).

Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner.

- 5 The first reserved matters application shall be accompanied by a further Building for Life 12 assessment.

Reason - to provide evidence that demonstrates detailed compliance with Building for Life 12.

- 6 The first reserved matters application in respect of the matter of landscaping shall provide for an ecological / landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), together with a timetable for its implementation. The development shall be carried out in accordance with the landscape management plan, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the protection of wildlife and supporting habitat, to secure opportunities for the enhancement of the nature conservation value of the site in line with National planning policy and to provide for an appropriate form of development.

- 7 The proposed development shall be carried out strictly in accordance with the following drawings, unless otherwise required by a condition of this permission:
- Drawing number F13152/02 RevB (Proposed Site Access Layout) received by the Authority on 19 May 2014;
 - Drawing number 891 Rev O (Topographical Survey) received by the Authority on 19 May 2014;
 - Drawing number C9772.13.001 Rev A (Site Location Plan) received by the Authority on 02 July 2014;
 - Drawing number C9772.14.900 (Parameters Plan- showing Extent of Development Area) received by the Authority on 05 November 2014.

Reason- To determine the scope of this permission.

- 8 A total of no more than 81 dwellings shall be erected and built development shall be limited to the area identified as 'Current Extent of Development' as set out on the parameters plan (drawing number C9772.14.900).

Reason - To define the scope of this permission.

- 9 No demolition/development shall take place/commence until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:
- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation

- scheme)
- The programme for post-investigation assessment
 - Provision to be made for analysis of the site investigation and recording
 - Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - Provision to be made for archive deposition of the analysis and records of the site investigation
 - Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

Reason - To ensure satisfactory archaeological investigation and recording.

- 10 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (9) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason - To ensure satisfactory archaeological investigation and recording.

- 11 No development shall commence on site until a full and detailed site investigation and assessment has been carried out, at the developer's expense, and as set out in the Coal Mining Risk Assessment by Smith Grant LLP (dated March 2014), and submitted to the Local Planning Authority. In the event that the site investigations confirm the need for remedial works to treat the mine workings, and/or any other mitigation measures to ensure the safety and stability of the proposed development, no development shall commence on site until details of such works have been submitted to and agreed in writing by the Local Planning Authority and implemented at the site.

Reason - To ensure the stability of the development, having regard to the comments of the Coal Authority and good engineering practice.

- 12 No work shall commence on site until trees on and adjacent to the site have been securely fenced off with protective barriers to form a construction exclusion zone in accordance with BS 5837:2012 Tree in relation to design, demolition and construction. A Tree Protection Plan shall have been submitted to and approved in writing by the Local Planning Authority. Within the protected areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and no service trenches shall be dug unless first agreed in writing by the Authority.

Reason- To ensure the existing trees are adequately protected during construction in the interests of the visual amenities of the area.

- 13 No development shall commence on site until a detailed scheme of pruning works to be carried out in accordance with BS3998:2010 Tree Work - Recommendations have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme.

Reason- in the interests of health and safety and amenity value of the trees.

- 14 No works or development shall take place until an auditable system of arboricultural site monitoring by the appointed project arboriculturist has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)
- a. Induction and personnel awareness of arboricultural matters
 - b. Identification of individual responsibilities and key personnel
 - c. Statement of delegated powers
 - d. Timing and methods of site visiting and record keeping, including updates
 - e. Procedures for dealing with variations and incidents.
 - f. The scheme of supervision shall be carried out as agreed.
 - g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

Reason- To ensure that the tree protection plan is adequately implemented in the interests of the visual amenities of the area.

- 15 No development shall commence until details of design for off-site highway works being the upgrading of Public Right of Way P11 to a 2m wide tarmaced surface where it passes along the un-metalled part of Elstead Lane have been submitted to and agreed in writing by the Local Planning Authority. The development hereby permitted shall not be occupied until such time as the agreed scheme has been provided in accordance with the approved details.

Reason - To provide an attractive and direct pedestrian route to school and bus services.

- 16 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

Reason - To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users.

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

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

- 18 No part of the development as approved shall be brought into use until details of an updated Residential Travel Plan has been submitted to and agreed in writing by the Local Planning Authority. The Plan, once agreed, shall be implemented in accordance with the approved details, and thereafter, the implementation of the proposals and the achievement of targets of the Plan shall be subject to regular monitoring and review reports to the LPA and, if invoked, to the implementation of the specified additional measures.

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

- 19 Before first use of the development hereby permitted, visibility splays of 2.4m metres by 46/48m metres shall be provided at the junction of the access with Butt Lane in general accordance with Bancroft Consulting plan F13152/02 revB. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

Reason - To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

- 20 No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

- BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
 - BS 8576 Year 2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
 - BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
 - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.
- The Verification Plan shall be prepared in accordance with the requirements of:
- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
 - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.

- 21 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
 - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
 - Demonstrate the effectiveness of the approved Remedial Scheme; and
 - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

Reason - To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.

- 22 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

Reason- to reduce the impact of the proposal on nesting birds, which are a protected species.

- 23 No development shall commence on the site until an additional survey of Great Crested newts of the adjacent drainage basin (as referred to in EDP's report) together with precise details of any associated mitigation measures and a timetable for their implementation, has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with any agreed mitigation measures and timetable.

Reason - In the interests of nature conservation, and to comply with the NPPF.

- 24 No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage scheme should demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed

design of the surface water drainage system is undertaken.

- A minimum 4m wide watercourse corridor/easement protection to existing ditch course/surface water flow routes to the south eastern (rear of properties on Fenton Avenue) and south western (adjacent to Butt Lane) boundaries within the site - including trash screens to existing surface water culvert inlets (where necessary) designed in accordance with the trash/security screen guide 2009.
- Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

Reason - The permanent retention of a continuous unobstructed area is an essential requirement for the preservation of the water course corridor, wildlife habitat and amenity. To prevent the increased risk of flooding, both on and off site, to improve and protect water quality and ensure future maintenance of the surface water drainage system.

- 25 The development hereby approved shall only use the mains sewer system for its foul drainage discharge.

Reason - Any other means of dealing with foul discharge could have an adverse impact on the River Mease Special Area of Conservation.

Notes to applicant

- 1 Outline planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The Council's Urban Designer recommends a note to applicant to highlight that there would be an expectation from the Local Planning Authority that the scheme draws inspiration from the positive and distinctive characteristics of the village through layout, form and appearance (including materials). Specifically, the applicant is advised as follows:
 - The Council may seek to take any RM scheme to independent design review for consideration, with OPUN currently supplying these services with the region.
 - The Council will expect the scheme to perform positively against BfL12, with 12 greens considered as appropriate target for a scheme on this site.
 - The indicative layout is not considered appropriate. A revised layout to be developed in accordance with the BfL based Design Code.
 - A minimum of two spaces will be required per dwelling, regardless of tenure, increasing

to three spaces for homes of four bedrooms or more. Garages will not be counted as a parking space.

- 3 The applicant's attention is drawn to the following notes of the County Archaeologist:
-The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
-The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.
- 4 The applicant's attention is drawn to the attached comments of the County Footpaths Officer dated 11 November 2014.
- 5 The applicant's attention is drawn to the attached comments of the Coal Authority dated 01 July 2014.
- 6 The applicant's attention is drawn to the attached comments of the Environment Agency dated 04 September 2014.
- 7 The applicant's attention is drawn to the following advisory notes of the County Highways Authority:
-Your attention is drawn to the requirement contained in the Highway Authority's design document to provide Traffic Calming measures within the new development.

All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001).

-A public footpath / bridleway crosses the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.

-You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.

-If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

-Please be aware that Leicestershire County Council as Lead Local Flood Authority (LLFA) are currently not a statutory consultee to the planning process for drainage matters. When Schedule 3 of the Flood and Water Management Act 2010 is implemented Leicestershire County Council will become the SuDs Approval Body (SAB) and also a statutory consultee of the planning process. You will need to contact Leicestershire County Council if you have an aspiration for us to adopt any SuDs features associated with the development. Please e-mail roadadoptions@leics.gov.uk if you wish to discuss further.

- 8 With respect to condition 4, the applicant is advised that in order to provide attractive and direct pedestrian and cycle routes from the development to school and bus services, and services in Swadlincote, the site masterplan, should:
- include an upgrade of PROW P11 to provide a 2m tarmaced surface between the new internal roads and the existing footpath between numbers 17 and 19 Fenton Avenue;
 - include an upgrade of PROW P11 to provide a 3m tarmaced surface between the internal estate roads and Butt Lane.
- 9 In relation to Condition 6, the Local Planning Authority would expect the ecological / landscape management plan to specify the retention of hedgerows and include buffer zones of at least 5m from natural vegetation along the boundaries of the site except for the proposed vehicular access point.
- 10 This application is subject to a Section 106 Agreement with respect to:
- Provision of affordable housing;
 - National Forest Planting on-site/or a combination of on-site planting and an off-site contribution;
 - Financial contribution in respect of primary school education;
 - Financial contribution in respect of high school education;
 - Financial contribution in respect of upper school education;
 - Financial contribution in respect of libraries;
 - Financial contribution towards Leicestershire Police Constabulary;
 - Provision of children's play area and recreational open space;
 - Travel Packs - to inform new residents from first occupation what sustainable travel choices are in the surrounding area;
 - Six-month bus passes, two per dwelling (2 application forms to be included in Travel Pack and funded by the developer) - to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car;
 - Improvements to the two nearest bus stops (including raised and dropped kerbs to allow level access) - to support modern bus fleets with low floor capabilities;
 - contribution towards equipping the nearest bus stop(s) and suitable bus route with Real Time Information (RTI) system;
 - Travel Plan and monitoring fee;
 - Construction traffic routeing;
 - River Mease DCS contribution
 - Section 106 monitoring.
- 11 The applicant should be aware that, if any of the public footpaths crossing the site are to be diverted because the development crosses a footpath making the footpath unviable for use or the footpath would not be there once the development is completed then a footpath diversion application will need to be made to the District Council at the Reserved Matters stage. This is required under Section 257 of the Town and Country Planning Act 1990 and further information and application forms can be obtained from Julia Harley, Footpaths Officer by calling 01530 454604 or emailing julia.harley@nwleicestershire.gov.uk .