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Erection of one detached self build dwelling (Outline application - all matters reserved)

Report Item No  
A4

Land Off Townsend Lane, Donington Le Heath, Leicestershire

Application Reference  
23/01241/OUT

Grid Reference (E) 441867  
Grid Reference (N) 312356

Date Registered:  
9 October 2023  
Consultation Expiry:  
26 January 2024  
Determination Date:  
4 December 2023  
Extension of Time:  
12 February 2024

Applicant:  
Mr A L Morely

Case Officer:  
Chris Unwin-Williams

Recommendation: **PERMIT**, subject a S106 agreement

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Site Location - Plan for indicative purposes only



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The application is referred to the Planning Committee given the receipt of a call-in request from the local ward member (Cllr Johnson) which outlined the following reasons:

- Outside limits of development and in the Countryside in the Local Plan which is contrary to policy S3 and the requirements of the Hugglescote & Donington le Heath Neighbourhood Plan
- The proposals would result in encroachment upon and erosion of the open space of the Conservation area.
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**RECOMMENDATION - PERMIT subject to a S106 which relates to the following requirements:**

- agreement limiting the occupation of the dwelling as a self-build property

**and subject to the following conditions:**

1. Time Limit for Submission of Reserved Matters (Application for approval of the reserved matters to be made before the expiration of three years and the development to begin before the expiration of two years from the date of approval of the last of the reserved matters).
2. Reserved Matters (prior to commencement of development, approval of reserved matters shall be obtained).
3. Approved Plans (location plan only)
4. Levels details including details of finished ground levels across site to be submitted at Reserved Matters
5. Submission of a Risk Based Land Contamination Assessment for approval by the Local Authority (prior to commencement). Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, no development shall commence on site until a Remedial Scheme and a Verification Plan have been prepared, and submitted to, and agreed in writing by the Local Planning Authority.
6. No development shall take place/commence until the necessary programme of archaeological work has been completed which shall commence with an initial phase of trial trenching. Each stage will be completed in accordance with a written scheme of investigation (WSI), which shall be submitted to and approved by the local planning authority. For land that is included within the WSI, development shall take place other than in accordance with the agreed mitigation WSI, which shall include the statement of significance and research objectives, and: i) programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works and; ii) The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material.
7. Prior to occupation and following completion of groundworks of the completed development, or part to be occupied, either; 1) if no remediation was required, a statement from the developer or an approved agent confirming that no previously unidentified contamination was discovered is submitted to the Planning Authority for approval, or; 2) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for all works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to the whole development, or part to be occupied, shall be submitted to and approved in writing by the Local Planning Authority.

## PLANNING APPLICATIONS- SECTION A

8. The first reserved matters application in respect of the development shall be accompanied by a detailed biodiversity net gain assessment and improvement / management plan, including full details of all measures proposed in respect of the enhancement of the biodiversity of the area (to include native planting and integrated bird and bat boxes into the dwelling), details of future maintenance and a timetable and phasing for the implementation of the relevant measures. The submitted details shall demonstrate that the development shall achieve biodiversity net gain of at least 1% as measured by DEFRA metric 3.1. The development shall thereafter be undertaken and maintained in accordance with the agreed measures and timetable.
9. Sustainable drainage solution to be installed prior to external materials to the roof are installed.
10. Permitted development rights removal (Classes A, AA, B, C and E).

## MAIN REPORT

### 1. Proposals and Background

The application seeks outline planning permission with all matters reserved for the erection of 1 no. self-build dwelling.

The application site is located to the western edge of the village on the southern side of Townsend Lane, adjacent to an industrial unit. The site adjoins the boundary with Donington Le Heath Conservation Area (to the north) and is located outside of the Limits to Development. There is open countryside to the north, south and west of the site.

The application site is located outside limits to development, being situated adjacent to the limits to development of Donington-Le-Heath which is defined as a Principal Town which is a “primary settlement in the district which provides an extensive range of services and facilities including employment, leisure and shopping and which is accessible by sustainable transport from surrounding areas and to other large settlements outside the district. The largest amount of new development will be directed here.”

The designated Conservation Area lies to the north, the section of Townsend Lane to the north of the site is within the Conservation Area, as such the proposal may affect the setting of the Conservation Area.

Precise measurements of the proposal are available to view on the submitted plans.

#### **Site Location Plan and Aerial Image**



#### **Planning History**

- 16/00698/FUL - Erection of three detached dwellings with ancillary garages and associated works – Refused 06.11.17.
- 21/00801/FUL - Erection of stable block and barn and the formation of an access track and hardstanding – Application Permitted 21.07.21.

## Planning history background

To provide context in relation to the assessment of the current application, in 2017, the Local Authority refused full planning application for the erection of three detached dwellings with ancillary garages and associated works on the land subject to the current two separate applications for 1 no. self build dwellings. In the assessment of this application, the officer noted that *“There is an existing industrial workshop to the eastern boundary however the land is currently open undeveloped pasture land which is visually linked with the wider agricultural fields and open countryside area to the west and south of Donington Le Heath. The location of the site outside the defined limits to development in both the adopted and submitted Local Plans signals the intent that this land should be protected from unnecessary development. On this basis the proposed residential development would diminish and erode this present open character by an urbanisation of the site and would represent an incongruous encroachment into the rural environment given the position outside the settlement boundary. The proposal would also extend the built form of development westwards on Townsend Lane and would represent an inappropriate form of ribbon development which conflicts with the aims of Policy S3 of the submitted Local Plan.”*

Additionally, in relation to the adjacent Conservation Area, the officer noted that *“Development of the application site would sever the historic settlement from its rural setting (to an extent) and obstruct one of the five “important views out from the hamlet”. In these respects, development of the application site would harm the setting and significance of the conservation area; the harm would be less than substantial.”*

As such, this original application was refused on the grounds of visual impact, heritage grounds as well as non-compliance with the defined limits to development. Additionally, since this initial refusal, it is noted that an additional permission (under 21/00801/FUL) has been granted for the erection of a stable block and barn and the formation of an access track and hardstanding which permitted an access track to the eastern boundary of the site which has since been laid down.

In comparison to this previous application (16/00698/FUL) which was for 3 no. market houses which were two storey in scale, in this case, the application seeks permission for the erection of 1 no. dwelling at outline stage, with an additional application for 1 no. dwelling directly adjacent to this site (under application reference 23/01241/OUT) also being sought at outline stage with all other matters including scale and layout being considered at later relevant reserved matters stages. As such, there is a reduction in 1 no. dwelling compared to the previous proposals on the site (under application 16/00698/FUL).

Further, and crucially, whilst the previous proposals were for market housing, the current applications seek permission for self-build dwellings where there is, at the time of writing, an unmet need for self-builds, which changed in October 2022 (where the Local Authority is failing to meet its statutory obligations under the Self Build Act).

The District Council has a duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), to give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in North West Leicestershire arising in each base period and the current application would make a contribution (of 1 no. dwelling) in addressing this existing and future shortfall.

## 2. Publicity

10 Neighbours have been notified.

Site Notice displayed 18 October 2023.

Press Notice published Leicester Mercury 25 October 2023.

## 3. Summary of Consultations and Representations Received

**Hugglescote and Donington Le Heath Parish Council** - Objects to the application given that the application site is located outside limits to development, would result in encroachment into the countryside, access to local services and facilities via walking would be difficult and notes general inconsistencies and contradictions within the submitted planning statement.

**LCC Highways** – No objections.

**LCC Ecology** – No objections.

**LCC Archaeology** – No objections subject to the imposition of a condition for a programme of archaeological work.

**LCC Minerals** - No objections.

**NWLDC Tree Officer** - No objections.

**NWLDC Conservation Officer** – Identifies less than substantial harm to the setting of the adjacent Donington le Heath Conservation Area.

**NWLDC Environmental Protection** - No objection

**NWLDC Contaminated Land Officer** – No objections subject to conditions.

**Ward Member** - requests that the application be called-in to the planning committee due to highways impacts, the development being outside the limits to development, contrary to policy S3 of the local plan and the Hugglescote and Donington le Heath Neighbourhood Plan. The proposals would result in encroachment upon the countryside and would impact upon the adjacent Conservation Area.

**NWLDC Waste Services** – No comments at the time of writing.

### Third Party Letters of Representation

Neighbouring properties were consulted during the lifetime of the application and 7 no. objections have been received raising the following comments –

- The development is outside limits to development as outlined in the Hugglescote and Donington Le Heath neighbourhood plan and local plan.
- The proposal would be contrary to Policy S3.
- Concerns that local services and facilities would not be able to cope with additional demand resulting from the developments.

- There have been previous refusals on the land and so the application should be determined as such.
- There are limited public transport options nearby and limited facilities and services for the occupants of any new dwellings.
- The proposal would result in the loss of agricultural land.
- The proposals would not recognise the intrinsic character and beauty of the countryside.

All responses from statutory consultees and third parties are available to view in full on the Council's website.

#### **4.Relevant Planning Policy**

##### **National Policies**

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

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. The following sections of the NPPF are considered relevant to the determination of this application:

Paragraphs 7, 8, 9, 10, 11, 13 and 14 (Achieving sustainable development);  
Paragraphs 38, 47, 55, 56 and 57 (Decision-making);  
Paragraphs 70, 82, 83 and 84 (Delivering a sufficient supply of homes)  
Paragraphs 85, 87 and 88 (Supporting a prosperous rural economy);  
Paragraph 96 (Promoting healthy and safe communities);  
Paragraphs 108, 109, 114, 115 and 116 (Promoting sustainable transport);  
Paragraphs 123, 124, 126 and 128 (Making effective use of land);  
Paragraphs 131, 135, 136, 139 and 140 (Achieving well-designed and beautiful places);  
Paragraphs 157, 159, 162, 165 and 173 (Meeting the challenge of climate change);  
Paragraphs 180, 185, 186, 189, 190 and 191 (Conserving and enhancing the natural environment);  
Paragraphs 195, 200, 201, 203, 205, 206, 208, 211, 212 (Conserving and enhancing the historic environment); and  
Paragraphs 215 and 217 (Facilitating the sustainable use of minerals).

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

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

S2 - Settlement Hierarchy  
S3 - Countryside  
D1 - Design of New Development  
D2 – Amenity  
He1 – Historic Environment  
En1 - Nature Conservation  
En3 – The National Forest  
IF1 - Development and Infrastructure  
IF4 - Transport Infrastructure and New Development

IF7 - Parking Provision and New Development  
Cc2 - Water - Flood Risk  
Cc3 - Sustainable Drainage Systems

### **Hugglescote and Donington Le Heath Neighbourhood Plan (2021)**

Policy G1 – Limits to Development  
Policy G3 – Design  
Policy H1 – Housing Mix  
Policy Env 6 – Biodiversity and habitat connectivity  
Policy Env 7 – Protection of the Rural Setting  
Policy T2 – Residential and Public Car Parking

### **Other Policies/Guidance**

The Community Infrastructure Levy Regulations 2010  
The Conservation of Habitats and Species Regulations 2017  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System  
National Planning Practice Guidance  
Good Design for North West Leicestershire SPD - April 2017  
National Design Guide - October 2019  
Leicestershire Highways Design Guide (Leicestershire County Council)  
National Forest Strategy 2014-2024  
The Self-Build and Custom Housebuilding Act 2015

## **5. Assessment**

### **Principle of Development**

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

As of 21st November 2022, the adopted Local Plan became five years old and therefore an assessment is required as to whether the most important policies in the determination of the application are up to date having regard for their consistency with the National Planning Policy Framework. The most important policies in the determination of the matter of principle are Policies S2 and S3 as they relate to the provision and distribution of housing. The Council can demonstrate a five-year housing land supply and has performed well against the Government's Housing Delivery Test. It is considered that Local Plan Policies S2 and S3, are effective, not out of date and carry significant weight.

The site is located within land falling outside the defined limits to development, designated as countryside within the adopted Local Plan and Neighbourhood Plan. On sites falling outside the defined limits to development, residential development is not a form of development that is permissible by Policy S3 save for limited exceptions as specified in the policy (e.g. re-use or adaptation of an existing building or the redevelopment of previously developed land). The proposal does not fall within any of these exceptions.



Further, Policy G1 of the Hugglescote and Donington Le Heath Neighbourhood Plan states that land outside the settlement boundary will be treated as open countryside, where development will be carefully controlled, or supported as appropriate, in line with local and national strategic planning policies.

The NPPF defines '*Previously Developed land*' (PDL) as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. However, this excludes land in built-up areas such as residential gardens. In this instance, the application site is an existing greenfield site and would not fall under the NPPF's definition of PDL. As such, this development would not be supported under Policy S3 (e).

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within paragraphs 7 and 8 of the NPPF. Policy S2 is consistent with the core principle of the National Planning Policy Framework (the Framework) to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

The site is located adjacent to the defined limits to development of Donington Le Heath. It is also noted that whilst Policy S2 identifies Donington Le Heath as a Principal Town, this specifies that any 'growth' should be proposed on land within the Limits to Development. As such this proposal would not accord with the details listed in the hierarchy of settlements as per Policy S2 of the Local Plan.

For the reasons set out above, the proposal would not accord with the provisions of Policies S2 and S3 of the adopted Local Plan and Policy G1 of the Hugglescote and Donington Le Heath Neighbourhood Plan.

Development on land within the countryside is also required to be assessed against subparagraphs (i) - (vi) of Policy S3. An assessment of these subparagraphs is listed below:

**(i) The appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern...;**

The application site would be located outside of defined limits to development, outlined both in the local plan and adopted neighbourhood plan. The application site is an existing greenfield site located to the southwest of Townsend Lane, on land to the west of an existing workshop.

The existing site is an existing greenfield site comprising largely of grassland with a mix of post and rail, and natural boundaries including trees and brambles. It was also noted that an access track in respect of the approved proposals under application reference 21/00801/FUL had been laid to the eastern boundary of the site. However, the application site maintains a rural character of undeveloped pasture land which is visually linked with the wider agricultural fields and open countryside area to the west and south of Donington Le Heath and would be publicly visible from the adjacent public footpath (N67).

The site is not located within the Donington Conservation Area, although the site is located directly adjacent to the boundaries of the Conservation Area.

In relation to the Conservation Area, it is noted that "*Buildings do not make an important contribution to the character of the conservation area.*" Rather, the adopted character appraisal highlights the importance of "*a matrix of lanes ... enclosed by walls and hedges*" and "*the*

*presence of fields and open recreational land round the hamlet*". Regarding the former, the character appraisal notes *"the absence of pavements"* and the way in which *"several of the lanes head out into the countryside as unmade tracks"*. Regarding the latter, the character appraisal identifies five *"important views out from the hamlet"* that are *"significant in establishing the rural feel and setting of the settlement"*. At the end of the appraisal, a map identifies elements that contribute positively to the character of the area. The map indicates a *"view to countryside"* from Townsend Lane across the application site.

It is proposed to develop one self build dwelling on the application site in the current application, the site of which is in use as a paddock. Development of the application site would sever the historic settlement from its rural setting (to an extent) and obstruct one of the five *"important views out from the hamlet"*. In these respects, development of the application site would harm the setting and significance of the conservation area; the harm would be less than substantial. Nevertheless, it is considered that this harm would be to a minimal degree given that the application is for one dwelling only and noting that details such as scale, layout and landscaping could be controlled through the use of appropriate conditions and/or for discussion at later reserved matters stage(s).

Whilst less than substantial harm has been identified, it is considered that in this case (as outlined in further detail in the below heritage section), this limited harm would be outweighed by the public benefits resulting from the scheme which include to a lesser extent, economic benefits associated with employment in the construction trade and future residents helping to maintain local services in the area as well as to a greater extent, through the social benefits of contributing to the provision of a mix of housing types in the local area through the provision of a self-build dwelling which could be secured by way of condition.

Nonetheless, in the case of a harm assessment, overall, the introduction of a self build dwelling on the application site would be inconsistent with the established pattern of development and therefore, would cause harm to the character and appearance of the surrounding area. However, this would be to a reduced degree when compared to the previous refusal under application reference 16/00698/FUL due to the current applications only proposing one dwelling (or two dwellings when considered in conjunction with application reference 23/01240/OUT) and noting that the current application is at outline stage only, where further details such as scale, landscaping, appearance and layout could be controlled at later reserved matters stages to minimise any resultant harm.

Overall, the proposal would result in a suburban form of development that would fail to respond to or enhance the built and natural character of the settlement thus would harm its immediate and wider landscape setting.

**Existing viewpoints with application site outlined in red**



**(ii) It does not undermine, either individually or cumulatively with existing or proposed development, the physical and perceived separation and open undeveloped character between nearby settlements...;**

The proposed self-build dwelling, along with the additional self-build dwelling under consideration under application reference 23/01240/OUT would result in the infilling of an undeveloped greenfield site, outside the defined limits to development. Given that the proposals would result in encroachment into the countryside and would result in an extension of built development which would likely front onto Townsend Lane (as demonstrated within the provided illustrative plans), it is considered that the proposals would undermine the physical and perceived separation and open undeveloped character between nearby settlements.

**Site location (outlined in red) overlaid on existing aerial view**



**(iii) it does not create or exacerbate ribbon development;**

It is noted that the Planning Portal defines 'ribbon development' as "development, usually residential, extending along one or both sides of a road but not extended in depth" with the dictionary definition being "the building of houses along a main road, especially one leading from a town or village."

The proposals would result in additional development along this section of Townsend Lane and would extend the built form of development westwards on Townsend Lane. As such, whilst the plans at this stage are only outline, with all matters for consideration at later reserved matters stages, it is considered likely that the self build dwelling, considered alongside the additional self-build dwelling under application 23/01240/OUT would result in the exacerbation of ribbon development along this section of Townsend Lane.

**Site location (outlined in red) overlaid on existing aerial view with direction of ribbon development indicated**



**(iv) built development is well integrated with existing development and existing buildings;**

Given that the proposal would be adjacent to an existing factory building and existing dwellings on this section of Townsend Lane, it is considered that a form of development could be secured at reserved matters stage that would be well-related to existing development along Townsend Lane and the wider settlement of Donington-Le-Heath.

**(v) the development will not seriously undermine the vitality and viability of existing town and local centres;**

Given the residential nature of the proposal, this criterion is not considered to be relevant.

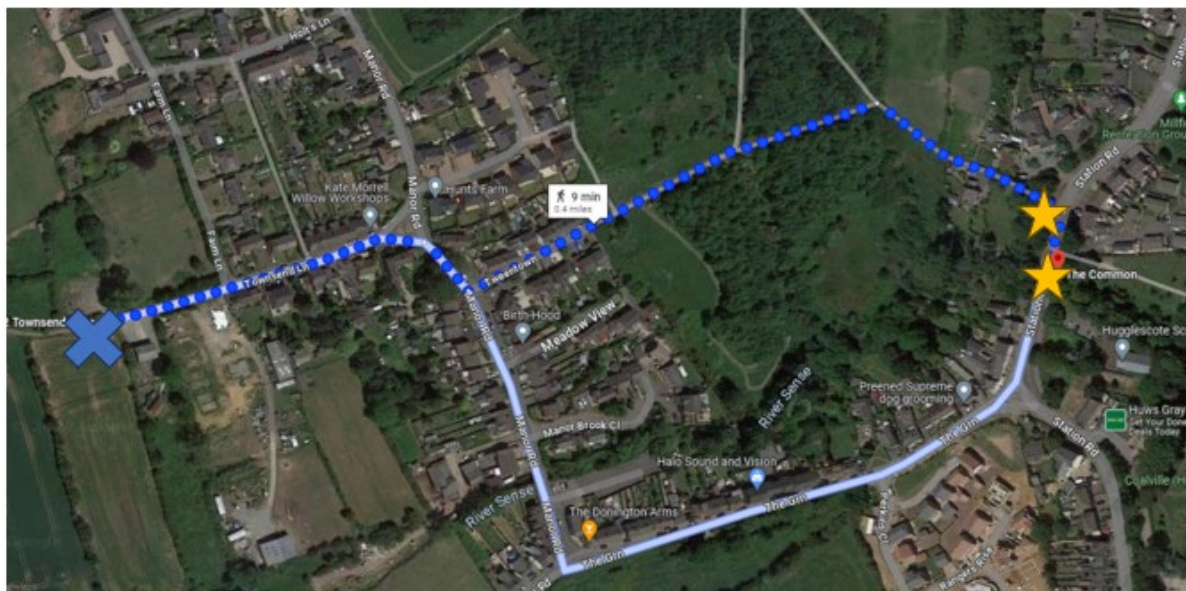
**(vi) the proposed development is accessible, or will be made accessible by a range of sustainable transport**

The application site is located approximately 25m away from the defined limits to development of Donington Le Heath which is defined under Policy S2 as a Principal Town.

Donington Le Heath is located within the Greater Coalville Area which benefits from a range of public services and facilities including convenience stores, public houses, local schools, recreation grounds and community centres among other things, many of which can be accessed within the preferred maximum walking distance.

Future occupants of the application site would also have access to public transport including being able to access regular bus services from Station Road where the No. 15, 28 and 125 services are based.

***Location of application site (marked with a blue x) and location of nearest bus stops (starred in yellow)***



Consequently, future occupants of the property would not necessarily be dependent on the private car to access the most basic of services and would support the approach to a low

carbon economy. The provision of this dwelling would also assist in sustaining these services, which is a key intention of Paragraph 79 of the NPPF. As such, it is considered that the proposed development would accord with the aims of Policy S3 (vi).

The site is not considered to be in an isolated location given its proximity to other dwellings and development, as well as having consideration to the distance from services and facilities in Donington-Le-Heath. There would also be some limited economic benefits associated with employment in the construction trade and future residents helping to maintain local services in the area.

Whilst the development is compliant with three of the criteria set out under the second part of Policy S3, it conflicts with the criteria (i), (ii) and (iii). The development is also not supported in principle by Policies S2 and S3. The proposal would therefore conflict with the broad objective of containing new residential development within the settlement limits.

### **Self-Build and Custom Housing**

It is recognised that self-build and custom housebuilding is a key element of the government's agenda to increase the supply of housing, both market and affordable and gives more people the opportunity to build their own homes as set out in Paragraph 62 of the NPPF.

The applicant has provided arguments in support of a self-build unit, including but not limited to that the Council has not satisfactorily demonstrated that it has granted enough permissions to meet the identified need.

The Council's Planning Policy Team has confirmed that the applicant is currently on the Council's self-build register.

Self and custom build is defined as the building or completion by individuals, an association of individuals or persons working with or for individuals, of houses to be occupied as homes by those individuals. This is an outline application for the erection of 1 no. self-build dwelling, and the proposal would meet this 'definition' and would contribute towards the delivery of self-build and custom housebuilding in the district.

The District Council has a duty under Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended), to give suitable development permissions in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the area of North West Leicestershire arising in each base period. This District Council's Self-Build Register was established in April 2016. As of 17.01.2024 there are 137 individuals on the self-build register. For the area of North West Leicestershire, this demand equates to providing a specific number of permissions for plots.

The demand is split into different base periods. As of October 2022, there was a shortfall of four self-build permissions. Five applications have been granted (22/01054/FUL, 22/01547/FUL, 23/00782/FUL, 23/00776/OUT and 23/00292/OUT) and two application have resolutions to permit subject to the signing of a S106 agreement and so the permissions have not yet been issued.

However, this shortfall has increased by the need to provide a further 20 plots by October 2023, which therefore means to October 2023 there is a current deficit of 19 dwellings needed for the Council to meet its self-build obligation as contained in the 2015 Self Build Act. Therefore, it is acknowledged that this proposal (subject to a legal agreement securing it as a self-build

dwelling) would contribute to addressing this existing and future shortfall and this is a material consideration in the determination of the application to be given significant weight.

**Current self-build demand and shortfall based on 17.1.24 figures**

Date the demand is to be met	Demand	Current shortfall?
October 2019	6 plots	0
October 2020	10 plots	0
October 2021	8 plots	0
October 2022	14 plots	0
October 2023	20 plots	<b>19</b>
October 2024	14 plots	<b>33</b> if no further self-build dwellings are granted by October 2024
October 2025	20 plots	<b>53</b> if no further self-build dwellings are granted by October 2025
October 2026	34 plots	<b>87</b> if no further self-build dwellings are granted by October 2026

The adopted Local Plan is silent on the matter of self-build housing and in these circumstances, Paragraph 11 of the NPPF would apply which states that *'plans and decisions should apply a presumption in favour of sustainable development'*.

For decision taking, it sets out in criterion (d) that *"where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. 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."*

The application site falls within none of the areas identified within paragraph 11(d)i of the NPPF and therefore the test to be applied in this case is that set out in paragraph 11(d)ii above that planning permission should be granted 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."*

Paragraph 14 of the NPPF also states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is "likely" to significantly and demonstrably outweigh the benefits, provided all of the following apply;

- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and*

*b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-68)*

In this case, the Hugglescote and Donington Le Heath neighbourhood plan was adopted in November 2021 and therefore became part of the development plan five years or less before the date on which the decision is made. However, part (b) also specifies that the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-68).

Whilst the Neighbourhood Plan refers to the District Housing Need under the “approach to future residential growth” the Neighbourhood Plan does not provide specific allocations to provide for more residential units during the current planning period to 2031 other than through Windfall development. On this basis, it is not considered that the neighbourhood plan contains specific policies **and** allocations and as such, the policies in the plan cannot carry significant weight in decision making relating to residential development as it fails part 14(b) of the NPPF and therefore the requirements of paragraph 11d still apply where the presumption in favour of sustainable development applies.

Therefore, in light of this shortfall that derives from the Self Build Register, this need has to be balanced against planning considerations in coming to a view on the suitability of the proposal. This balancing exercise will be undertaken upon completion of the consideration of all planning matters at the end of this report.

### **Loss of Agricultural Land**

In terms of environmental sustainability the proposal would result in the loss of agricultural land. Furthermore, consideration has been given to footer 62 which states that the availability of agricultural land used for food production should be considered, alongside the other policies in this Framework, when deciding what sites are most appropriate for development. 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). It is not clear what class of agricultural land the site falls within. Whilst the NPPF does not suggest that the release of smaller BMV sites is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost.

Therefore, given the relatively limited extent of the potential loss of the site, at 0.1 hectares, it is considered that this is not sufficient to sustain a reason for refusal in this case.

### **Heritage Impacts**

The site is not located within the Donington-Le-Heath Conservation Area, although the site is located directly adjacent to the boundaries of the Conservation Area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

Policy He1 of the Local Plan (2021) states that proposals should “*conserve or enhance the significance of heritage assets within the district, their setting, for instance significant views within and in and out of Conservation Areas.*”

Paragraph 201 of the NPPF states that “*Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by*



*development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal."*

Further, paragraph 205 states that *"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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."*

The Conservation Officer was consulted throughout the course of the application who referred to previous comments provided under application reference 16/00698/FUL and identified less than substantial harm.

In relation to the Conservation Area, it is noted that *"Buildings do not make an important contribution to the character of the conservation area. Rather, the adopted character appraisal highlights the importance of "a matrix of lanes ... enclosed by walls and hedges" and "the presence of fields and open recreational land round the hamlet".* Regarding the former, the character appraisal notes *"the absence of pavements"* and the way in which *"several of the lanes head out into the countryside as unmade tracks"*. Regarding the latter, the character appraisal identifies five *"important views out from the hamlet"* that are *"significant in establishing the rural feel and setting of the settlement"*. At the end of the appraisal, a map identifies elements that contribute positively to the character of the area. The map indicates a *"view to countryside"* from Townsend Lane across the application site.

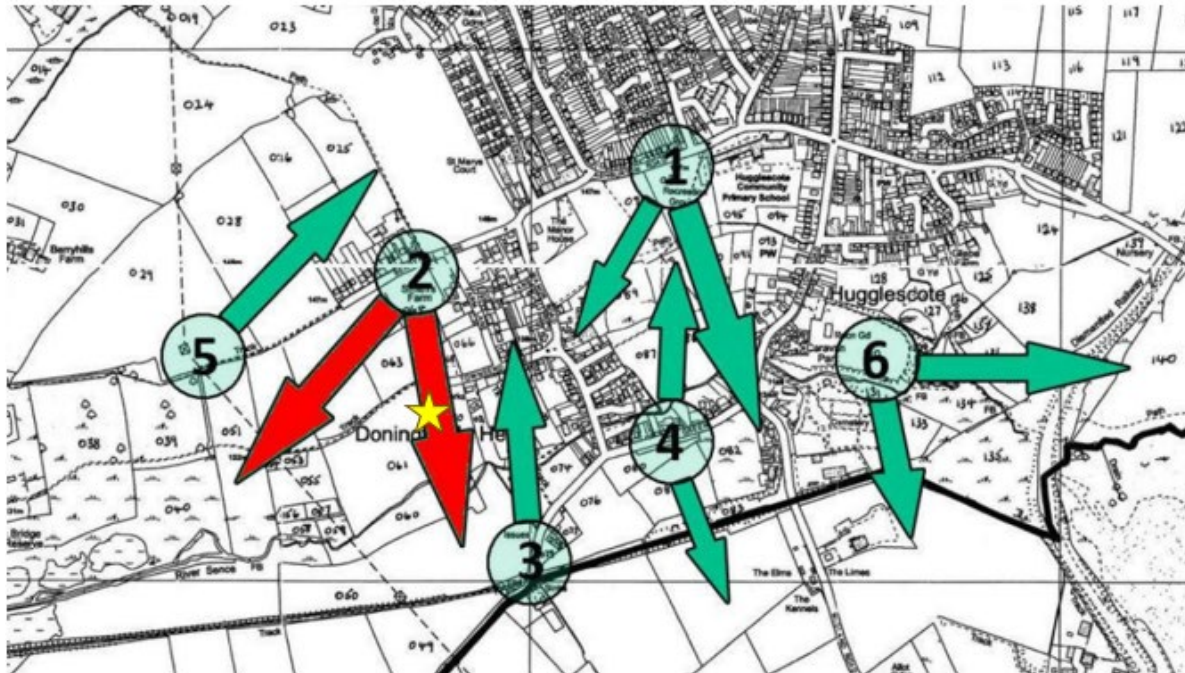
It is proposed to develop one self build dwelling on the site which is the subject of the current application, the site of which is in use as a paddock. Development of the application site would sever the historic settlement from its rural setting (to an extent) and obstruct one of the five *"important views out from the hamlet"*. In these respects, development of the application site would harm the setting and significance of the conservation area; the harm would be less than substantial. Nevertheless, it is considered that this harm would be to a minimal degree given that the application is for one dwelling only and noting that details such as scale, layout and landscaping could be controlled using appropriate conditions and/or for discussion at later reserved matters stage(s).

Paragraph 208 of the NPPF states that *"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, where appropriate, securing its optimum viable use"*.

Whilst less than substantial harm has been identified, it is considered that in this case (as outlined in further detail in the below heritage section), this limited harm would be outweighed by the public benefits resulting from the scheme which includes to a lesser extent, economic benefits associated with employment in the construction trade and future residents helping to maintain local services in the area as well as to a greater extent, through the social benefits of contributing to the provision of a mix of housing types in the local area through the provision of a self-build dwelling which could be secured by way of condition.

As such, overall, it is considered that the proposals would accord with policy He1 of the Local Plan, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as relevant paragraphs of the NPPF.

***Important view 2 referred to within the Hugglescote and Donington-Le-Heath Neighbourhood Plan and approximate position of application site (starred in yellow below)***



### **Character and Appearance Impacts and Impacts to the Countryside**

Policy D1 of the Local Plan (2021) requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal. It also requires that new residential developments must positively perform against Building for Life 12 and that developments will be assessed against the Council's adopted Good Design SPD.

The recently updated NPPF includes several new measures to improve design quality. This includes a test at paragraph 139 which directs that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

The Council's Good Design SPD and the government's National Design Guide/National Model Design Code therefore carry substantial weight. The site is also located within the National Forest and is therefore subject to the requirements of Policy En3.

The application does not seek approval of the access, layout, scale, appearance, or landscaping therefore the submitted plans (other than the site location plan) show indicative details only.

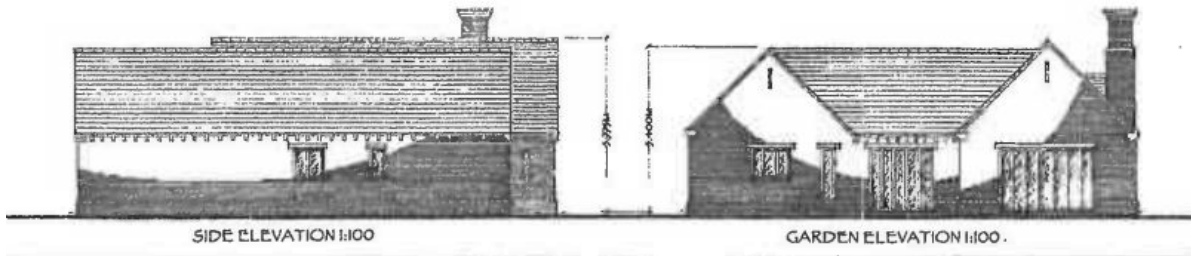
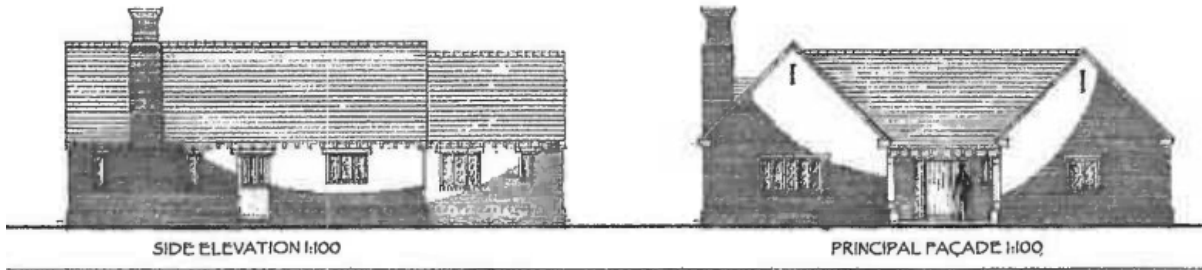
The existing site is an existing greenfield site comprising largely of grassland with a mix of post and rail, and natural boundaries including trees and brambles. Officers also note that an access track in respect of the approved proposals under application reference 21/00801/FUL had been laid to the eastern boundary of the site. The application site maintains a distinct rural character of undeveloped pasture land which is visually linked with the wider agricultural fields and open countryside area to the west and south of Donington Le Heath and would be publicly visible from the adjacent public footpath (N67).

In this case, it is considered that the introduction of a self build dwelling on the application site would be inconsistent with the established pattern of development and therefore, would cause harm to the character and appearance of the surrounding area. However, this would be to a reduced degree when compared to the previous refusal under application reference 16/00698/FUL due to the current applications only proposing one dwelling (or two dwellings when considered in conjunction with application reference 23/01240/OUT) and noting that the current application is at outline stage only, where further details such as scale, landscaping, appearance and layout could be controlled at later reserved matters stages to minimise any resultant harm.

The submitted illustrative plans show one large detached single storey dwelling limited to single storey in height. It is considered that the site could accommodate all of the necessary requirements (private garden, parking/turning space, bin storage and collection) for one dwelling without being too cramped. Furthermore, given the site's location within the National Forest adjacent to open countryside there would be a need for reinforcement of the landscaping of the site, which could also be accommodated.

With the above in mind, whilst it is considered the loss of the site to built development would result in some harm to local character and the area's countryside setting, when the overall context of the scheme is considered (outline with all matters reserved at this stage) and that the impacts of such a development could be controlled through appropriate use of conditions and during any further reserved matters applications, on balance, it is considered the proposals would accord with policy D1 of the Local Plan and Policy G3 of the Neighbourhood Plan as well as relevant paragraphs of the NPPF.

*Illustrative elevations and site plan (to provide context for the potential design, scale, and layout)*



**Impact upon residential amenity**

Policies D2 of the Local Plan (2021) requires that proposals for development should be designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents within the development and close to it.

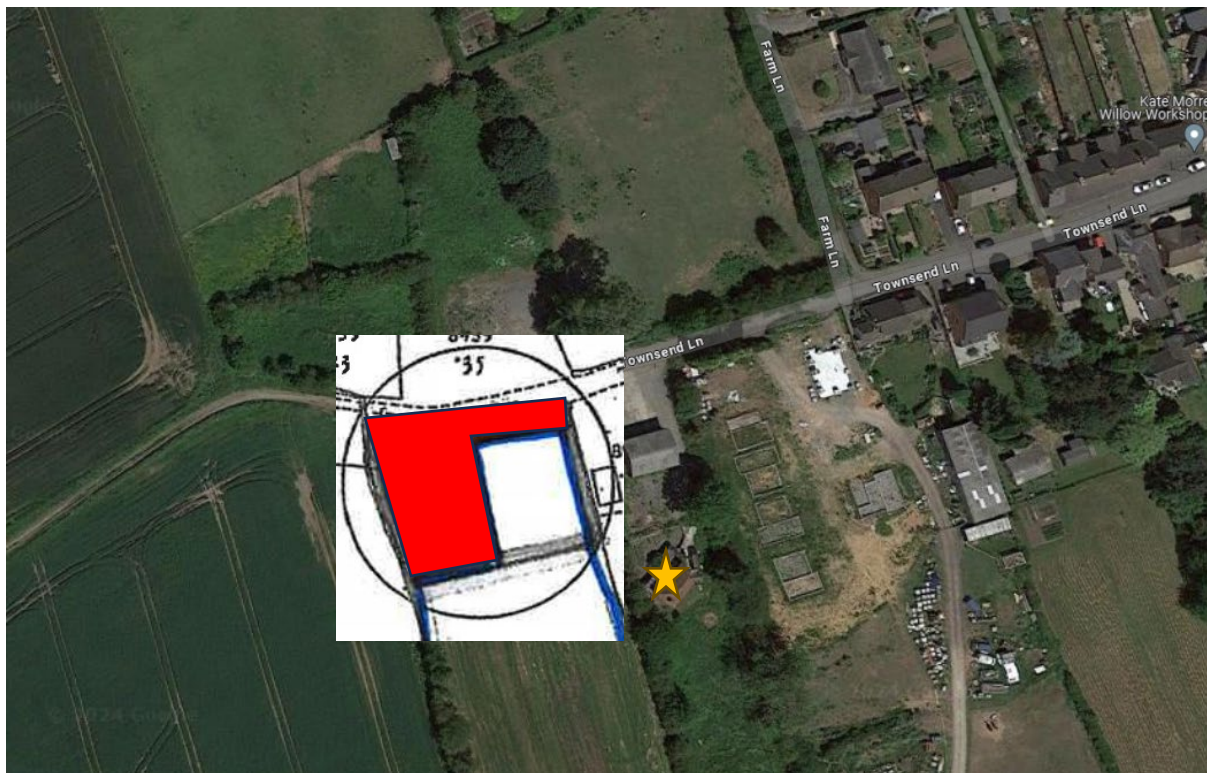
Given that the submitted plans provided are indicative, it is not possible to assess the impacts upon the residential amenity of surrounding dwellings in detail. Impacts, particularly in terms of privacy, loss of sunlight and daylight and overbearing impacts would be a primary consideration at the reserved matters stage, when details of the scale and appearance of the proposal are presented for approval. How the proposed landscaping, including details of proposed ground levels and boundary treatments will impact or preserve amenity will also be considered carefully at the reserved matters application stage. However, the submitted layout and indicative plans provide a high degree of confidence that a scheme is capable of being delivered that would accord with policy D2.

Furthermore, it is considered that the future occupiers of the proposed units could be provided with a high standard of amenity in terms of light, outlook, noise and private amenity space.

Overall, the proposal is not considered to result in significant impacts upon existing surrounding or future occupier residential amenity.

Therefore, the proposal is considered to be in accordance with Policy D2 of the adopted Local Plan, Policy G3 of the Neighbourhood Plan, the Council's Good Design SPD, and relevant sections of the NPPF.

***Application site (outlined in red) and nearest neighbour at Long Acres (yellow star)***



***View to the southeast with the nearest neighbour (Longacres) shown in the background***



### **Highway Considerations**

Policy IF4 of the Local Plan (2021) requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses, and employees.

Policy IF7 of the Local Plan (2021) requires that development incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

The site lies off Townsend Lane which is an adopted unclassified road subject to a 30mph speed limit. In the vicinity of the site frontage, the road is a single track road on the northern boundary of the site and immediately turns into a public right of way in the form of a Byway Open To All Traffic (BOTAT).

LCC Highways was consulted throughout the course of the application who noted that *“Whilst no information has been provided regarding the proposed access, the LHA have reviewed the submitted 'Site Layout Plan' (drawing number HMD/PD/0521/01) and note that the red line boundary fronts the entire length of the northern boundary of the site connecting to Townsend Lane. The red line boundary would allow the Applicant to provide an access width in accordance with Figure DG17 of Part 3 of Leicestershire Highway Design Guide (LHDG) which is available at <https://resources.leicestershire.gov.uk/lhdg>.”*

In relation to visibility, *“the LHA is satisfied that appropriate vehicular visibility splays can be provided to accord with Table DG4 of Part 3 of the LHDG and the LHA is satisfied that a safe and suitable access to the site is achievable.”*

Regarding the internal layout, *“the LHA advise that the internal layout should be designed in accordance with the LHDG and ensure that sufficient parking and turning facilities have been provided within the site.”*

In terms of parking and turning, the site is large enough to provide sufficient space, which would be subject to a later reserved matters application. The site is also considered to be accessible in terms of local amenities and with access to public transport links to meet day to day needs. Notwithstanding this, the access is considered safe and suitable, and therefore the proposal accords with policy IF4 and IF7.

In relation to impacts on the Public Rights of Way, *“The LHA note that Public Footpaths N67 and N70 run adjacent to the proposed development, as does BOTAT N66. The LHA is satisfied that the use and enjoyment of Public Footpaths N67 and N70 and BOTAT N66 will not be significantly affected.”*

As such, the Local Highway Authority Advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe (as outlined by paragraph 111 of the NPPF) and therefore a refusal of the proposal on highway safety grounds would not be defensible.

Overall, the application is considered to be in accordance with the guidance set out within the Leicestershire Highway Design Guide and the application is considered to be acceptable when having regard to Local Plan Policy IF4 and IF7, Policies G3 and T2 of the Neighbourhood Plan and relevant paragraphs of the NPPF.

***Viewpoint facing westwards along Townsend Lane***



***Viewpoint facing eastwards along Townsend Lane***



**Ecology and Trees**

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district.

The application is not accompanied by a Preliminary Ecological Appraisal or a completed biodiversity net gain metric.

LCC Ecology were consulted throughout the lifetime of the application who confirmed that the habitats are of low ecological value and there is no evidence of protected species present. However, it was recommended that a Reserved Matters Stage, biodiversity enhancements are sought including native planting and integrated bird and bat boxes into the dwelling.

Additionally, the Council's Tree Officer was consulted throughout the course of the application and raised no objections to the proposals.

The mandatory requirement for 10 percent BNG has now been enacted through the Environment Bill and for applications of the size and type as this one it comes into force on April 2<sup>nd</sup>, 2024. As such, mandatory BNG will only apply to applications submitted on or after April 2<sup>nd</sup>, 2024. In this case, whilst according to current guidance, self-build developments are exempt from Biodiversity Net Gain paragraph 180(d) of the NPPF sets out a requirement to minimise impacts on and provide net gains for biodiversity and paragraph 185(b) still requires a measurable net gain for biodiversity.

Whilst a completed metric has not been provided as part of the application documents given that one isn't required with planning applications which have been submitted prior to the 2<sup>nd</sup> of April 2024, a biodiversity net gain condition could be applied as part of any decision on the application in order to secure measurable net gains on the proposal which would be in line with paragraph 180(d) of the NPPF.



Subject to the securing of the above conditions, the proposals would secure enhancements to local biodiversity and would therefore accord with Policy En1 of the Local Plan, Policy Env6 of the Neighbourhood Plan and relevant paragraphs of the NPPF.

***Viewpoints to the east and west of the site***



**Archaeology**

Paragraph 200 of the NPPF states that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Where proposals are likely to have a detrimental impact upon any heritage assets present, NPPF paragraph 211, 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, and to make this evidence (and any archive generated) publicly accessible.

During the course of the application, the County Archaeologist was consulted who noted the following in relation to the site:

*“The Leicestershire and Rutland Historic Environment Record (HER) notes notes that the site lies on the boundary of the medieval and post-medieval historic settlement core of Donington le Heath (HER ref.: MLE4576), close to earthwork remains which represent the medieval village settlement (MLE4565). Further earthworks to the west are thought to represent the remains of a platform for a substantial medieval house (MLE8329). The application area has not undergone extensive previous ground disturbance, and has good potential for the presence of significant archaeological deposits, which are likely to be well-preserved and close to the ground surface.*

*Based upon the available information, it is anticipated that these remains whilst significant and warranting further archaeological mitigation prior to the impact of development, are not of such importance to represent an obstacle to the determination of the application.*

*Local Planning authorities should require developers 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, and to make this evidence (and any archive generated) publicly accessible.*

*In that context it is recommended that the current application is approved subject to conditions for an appropriate programme of archaeological mitigation, including an initial phase of exploratory trial trenching, followed, as necessary by intrusive and non-intrusive investigation and recording. The Historic & Natural Environment Team (HNET) will provide a formal Brief for the latter work at the applicant’s request.*

*If planning permission is granted the applicant must obtain a suitable written scheme of Investigation (WSI) for both phases of archaeological investigation from an organisation acceptable to the planning authority. The WSI must be submitted to the planning authority and HNET, as archaeological advisors to your authority, for approval before the start of development. They should comply with the above-mentioned Brief, and with relevant Chartered Institute for Archaeologists “Standards” and “Code of Practice”. It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.*

*While the current results are sufficient to support the planning decision, further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme.”*

Subject to the inclusion of an archaeological mitigation condition, the LPA is satisfied that, the proposal would be acceptable for the purposes of paragraphs 200 and 211 of the NPPF.

### **Flood Risk and Surface Water Drainage**

The site is situated within Flood Zone 1 and is not in an area at risk of surface water flooding, as defined by the Environment Agency’s Surface Water Flood Maps.

The proposal would result in a material increase in hard surfacing thus surface water will need to be managed on site via a sustainable drainage solution. Although no details of drainage have

been submitted at this stage, subject to conditions that require such details as part of the reserved matters application, it is considered that the proposal would not result in flooding or surface water drainage issues and consequently would accord with the aims of Policies Cc2 of the adopted Local Plan, as well as the guidance set out within the NPPF.

### Land Contamination

It is noted that Environmental Protection were consulted during the course of the application who confirmed that they have no objections subject to agreement to pre-commencement conditions in respect of contamination due to the use of the neighbouring land as a workshop.

Subject to suitably worded conditions, it is considered that the development would have an acceptable impact and would accord with Paragraph 180 and 189 of the NPPF.

### Conclusions and Planning Balance

As set out above, the proposed development would contribute towards the supply of self-build plots when there is an identified shortfall and the Local Planning Authority is failing in its statutory duty to provide enough self-build plots in order to meet demand. It should also be acknowledged that, in terms of technical matters, the scheme would be acceptable. Nevertheless, the scheme would result in residential development on land located outside the limits to development.

The most important policies in the determination of this application are Policies S2 and S3 of the Local Plan and Policy G1 of the neighbourhood plan which support development within the settlement limits and restrict development in the countryside. As set out earlier in this report, these policies are of greatest importance in this case, and are effective, not out of date and carry significant weight.

However, the adopted Local Plan is silent on the matter of self-build housing and in these circumstances, as set out earlier in this report, paragraph 11(dii) of the NPPF would apply which states that *'where there are no relevant development plan policies, or the policies which are most important for determining the application 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.'*

*Additionally, whilst regard has been given to Paragraph 14 of the NPPF which states that any conflict arising with the neighbourhood Plan, where criteria (a & b) are met, would "likely" constitute significant and demonstrable harm, the relevant criteria would not be met and as such, this paragraph would not be engaged in the assessment of the self-build scheme and policy G1 of the Hugglescote and Donington-Le Heath Neighbourhood Plan has to carry limited weight in the determination of this residential scheme.*

Limited harm would arise from the loss of greenfield land located within the countryside. The proposals would result in some character and appearance impacts including ribbon development contrary to criteria (i), (ii) and (iii) of the second part of Policy S3.

Moderate harm would arise from the granting of a permission that is in conflict with Policies S2 and S3 of the Local Plan and Policy G1 of the Hugglescote and Donington-Le Heath Neighbourhood Plan.

Balanced against the harms, the provision of additional housing in a sustainable location is afforded positive weight, with additional significant positive weight given to the provision of a self-build plot where there is currently an identified district wide shortfall. The benefits of the self-build dwelling can be secured by way of a legal agreement that requires the self-builder to occupy the property for the first three years following construction. In addition, the economic expenditure both during construction and through additional expenditure by future occupants within the local area which is of benefit to the local economy is a benefit.

The application site is located approximately 25m from the settlement boundaries of Donington Le Heath which is defined under Policy S2 as a Principal Town which benefits from a range of services and facilities, with readily available access to public transport provision in the form of bus services. Whilst the application site itself is located outside of the defined limits to development, this location is more acceptable when compared to remote locations in the countryside where there would be more adverse environmental and social sustainability impacts. In this case, the proposal would not be an 'isolated' dwelling, and it would be close to other dwellings services.

Therefore, whilst the previous reasons for refusal for residential development for three dwellings under application reference 16/00698/FUL, the current application seeks permission for the erection of one dwelling at outline stage with all other matters including scale and layout being considered at later relevant reserved matters stages. As such, there is a reduction in the number of dwellings proposed compared to the previous proposals (under application 16/00698/FUL). Further, and crucially, whilst the previous proposals were for market housing, the current application seek permission for a self-build dwelling where there is, at the time of writing, an unmet need for self-builds, which changed in October 2022 (where the Local Authority is failing to meet its statutory obligations).

As such, in this instance, whilst harm in relation to criteria (i), (ii) and (iii) of the second part of Policy S3 has been identified, it is considered that this harm would be outweighed by the benefits of providing a self-build property.

Therefore, on balance it is not considered that the harms identified above, when considered individually or cumulatively, would significantly and demonstrably outweigh the identified benefits.

It is therefore recommended that planning permission be granted subject to a Section 106 obligation and subject to the suggested planning conditions.