

UPDATE SHEET

PLANNING COMMITTEE – 2 December 2014

To be read in conjunction with the
Head of Planning and Regeneration's Report (and Agenda)

This list sets out: -

- (a) Additional information received after the preparation of the main reports;
- (b) Amendments to Conditions;
- (c) Changes to Recommendations

MAIN REPORT

A1 14/00460/OUTM – Land at Butt Lane, Blackfordby

Third Party Representations:

19 additional letters of representation have been received and can be broken down as follows:

- The reduction in numbers does not address previous concerns;
- Volume of traffic and congestion throughout the village leading to conflict between vehicles and vehicles and pedestrians/cyclists/horseriders;
- Inadequate infrastructure (schools, doctors, drainage, roads, and other local amenities);
- Outside limits and in an unsustainable location;
- Development is too large;
- Flood risk and drainage;
- Existing flooding has resulted in the erosion of rear boundaries to Fenton Avenue due to floodwater occupying the ditch along this boundary and this needs to be addressed as part of any surface water scheme for the site;
- Surface water run-off needs to be properly addressed;
- No details of the proposed dwellings are provided;
- Significant development has already occurred within the Parish,
- Inadequate access onto a narrow and winding section of road and the access could be relocated to a better position;
- Internal access roads would facilitate future development on neighbouring land;
- Inappropriate development in the National Forest and loss of green buffer;
- Coalescence of settlements;
- Adverse impact on character of the village;
- The proposal will set a precedent for further development;

- Details of S106 discussions/agreements is required to enable further comments to be made on this matter;
- Lack of consideration of local knowledge;
- Loss of productive agricultural land;
- Contamination of water;
- Inadequate publicity and inappropriate time given to make comments on the amended scheme.

Officer comments:

With respect to comments about the adequacy of S106 discussions, the report sets out the S106 requirements which have arisen from consultee responses and from Local Policy. No detailed discussions with the applicant have occurred, other than to confirm their agreement with the requested contributions/requirements. Any detailed discussions would occur post determination, should permission be granted.

As for comments about the adequacy of publicity associated with the revised proposals, letters were issued on 06 November 2014 giving 14 days for comments. Whilst it would appear from the comments of residents, that the dates on which letters were received by residents varied, it is considered that sufficient time was available to make comments given the time available between the end of the consultation period and the date of the Planning Committee.

Other issues have previously been addressed in the report in the Main Agenda. However, following additional consultation on a number of issues, further comments have been received from statutory consultees on some of the issues raised above and these are set out below.

Letter of support from applicant's agent:

A copy of a letter from the agent sent to a local member has been received. This does not raise any additional issues that have not already been covered in the officer report.

Consultation Responses:

The following additional consultee responses have been received in response to the amended plans showing a reduction in the number of dwellings:

National Forest Company has no objections subject to a S106 obligation to secure National Forest planting and Strategic forestry planting, as per previous comments.

Derbyshire County Council (Highways Authority) 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.

County Highways Authority has no further comments to make on the revised proposals, noting that previous observations still apply.

Following comments raised by a local resident about suggested condition 15 and the a 2m wide footway not being capable of being achieved due to neighbouring residential boundaries, the County Highways Authority has recommended a revised wording of the condition, which provides scope for a footpath of lesser width to be agreed in this case.

Environmental Protection Officer advises notwithstanding local information about land contamination, their previous comments still apply; no objections subject to contaminated land conditions.

Coal Authority advises notwithstanding local information about past land uses and mining, their previous comments still apply; no objections subject to conditions. The Coal Authority advise that they would not dispute the substance of information provided by local residents (ie that at present, the site may be unsuitable for the proposed development) but the Mining Risk Assessment submitted with the application proposes intrusive site investigations to confirm ground conditions and to identify any necessary remedial measures, which following their implementation may render the site suitable for development.

Having reconsidered the comments of the Coal Authority, it is considered that a further note to applicant should also be added to address comments about the sterilisation of potential coal resources.

Environment Agency (EA) has provided an additional response following consideration of local comments about past uses of the site, land/water contamination and the treatment of the ditch along the eastern boundary.

The Environment Agency advise that they have no in-principal flood risk objections to the proposed development of the above site. However, the EA we would like to make an observation to inform the preparation of any subsequent Reserved Matters or a Full application. Following consideration of the current proposed indicative site layout, the EA would request that sufficient space be secured for the existing watercourse/surface water flow routes to ensure no resultant increase in flood risk to existing properties and Butt Lane. The Environment Agency confirms that it has no objections subject to two additional conditions and the condition as set out in the report within the Main Agenda.

With regard to specific concerns about the treatment of the ditch along the eastern boundary of the site, the Environment Agency has advised that the existing surface water run-off from the site to the ditch should be reduced as a result of the development. This is because the rainfall run-off will be captured, diverted and conveyed within the site's surface water drainage system. The treatment of the bank will not be dealt with, as requested by the local resident, as part of the suggested surface water condition. This is because the condition is designed to retain existing watercourses in open channel, and to facilitate their maintenance and inspection, thereby preventing an increase in flood risk to existing properties. If the landowner can demonstrate that the ditch has been eroded and migrated into their land holding, then there may be a case for it to be re-located back to any original position. However this and/or piping of the ditch will require the prior consent of the Local Lead Flood Authority. This is because piping/culverting of watercourse is often the cause of flooding as it significantly reduces the flow capacity of the ditch when compared to an open channel, and therefore needs to be regulated.

The Environment Agency has advised in making their comments that they were not in possession of photographic evidence of flooding. A copy of a letter of representation has been sent to the Environment Agency which shows flooding on and the off site. The response of the Environment Agency

on this matter was awaited at the time of preparing the update sheet, therefore, it is considered appropriate to revise the wording of the recommendation to permit, subject to no contrary representations being received by the Environment Agency within a 14 day period.

NWLDC Head of Housing advises that under the Council's Affordable Housing SPD, 30% affordable housing is required on sites of 5 dwellings or more, and this would equate to 24 dwellings for the current proposal. It is recommended that a 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) should be sought with the actual contribution in terms of unit types to be agreed by the District Council.

Other Consultee Responses:

No comments have been received from Ashby de la Zouch Town Council, NHS and Police in response to the submission of amended plans:

No comments were previously received from the NHS and whilst a revised observation has not been received from the Police, the developer contribution would need to be reduced on a pro-rata basis to reflect the reduction in residential units proposed on the site.

No comments have been received from the Head of Leisure and therefore, further discussions would be required with respect to a leisure contribution as part of any S106 negotiations.

RECOMMENDATION: NO CHANGE TO RECOMMENDATION, SUBJECT TO THE FOLLOWING AMENDED/ADDITIONAL CONDITIONS AND AMENDED NOTES TO APPLICANT, AND SUBJECT TO NO CONTRARY REPRESENTATIONS BEING RECEIVED BY THE ENVIRONMENT AGENCY BY 16 DECEMBER 2014.

Conditions to be Amended:

Condition 15

Development shall not begin until details of design for off-site highway works being the upgrading of Public Right of Way P11 to a 2m wide tarmaced surface (unless evidence is provided which demonstrates to the satisfaction of the local planning authority that a lesser width applies) where it passes along the un-metalled part of Elstead Lane have been approved in writing by the local planning authority, and no dwelling in the development shall be occupied until that scheme has been constructed in accordance with the approved details.

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

Conditions to be Added:

No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and

approved, in writing, by the local planning authority:

1. A site investigation scheme, based on the findings of the contamination assessment (report ref. R1956-R01-v2, dated February 2014) and mining risk assessment (letter ref. R1956-L02/afs, dated 13th March 2014), both prepared by Smith Grant LLP, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason - To protect and improve the quality of 'Controlled Waters' receptors on and in the vicinity of the site.

No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason - To protect and improve the quality of 'Controlled Waters' receptors on and in the vicinity of the site.

Note to applicant to be Amended:

Note 5

The applicant's attention is drawn to the attached comments of the Coal Authority dated 01 July 2014. Furthermore, the applicant is advised that, in producing a strategy for addressing any risk associated with further workings, the Local Planning Authority will expect regard to be had to the advice on page 2 of the Coal Authority's response and, in particular, to the need to ensure that any mitigation proposed maximises the opportunities to extract unworked near surface resources so as to ensure that, where possible, no existing resources are sterilised.

Note 6

The applicant's attention is drawn to the attached comments of the Environment Agency dated 01 December 2014.

A2	14/00578/OUTM	<p>Development of up to 275 dwellings with associated access, landscaping, open space and drainage infrastructure (outline all matters reserved apart from access from Burton Road and Moira Road)</p> <p>Land between Burton Road and Moira Road, Shellbrook, Ashby de la Zouch</p>
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Representations

An email from the agent has been submitted with additional information in relation to the sustainability aspects of the site along with clarification on a number of other points. These can be summarised as follows:

- **Neighbour Representations (Rear Access)**
Rear access would be provided for residents on Atkinson Road but it is appreciated that the 2m access may not be immediately visible on the applications plan to residents. Residents were contacted by letter (by the agent) in October 2014 highlighting the new rear access to properties 8-32 Atkinson Road which was requested at the public exhibition.
- **Number of Neighbour Representations**
The number of residents consulted was 288 and the number of representations received was 14. Two of which were received from the same property and related to an existing farm access which the residents use informally to access the rear of their property. The applicants have confirmed to those residents that access to their properties will be retained as part of the scheme which satisfies those initial concerns. Three of the representations relate to the rear access discussed above.
- **Affordable Housing**
The applicant would accept the requisite 30% affordable housing onsite as set out in the report. This will deliver as much as 82 affordable units including bungalows and 2, 3 bed homes onsite in comparison to a number of recently approved schemes with lower quantum's of provision.

In addition, the scheme will secure a local connections criteria for the affordable housing. This works by providing first refusal to the affordable units to people (and their family members) within the local parish / ward and other parish / wards of Ashby which is clearly a huge benefit to the town.
- **S106**
The report refers to a number of developer contributions including NWLDC Leisure Services and the Leicestershire Constabulary. The applicants would like to confirm that they are agreeable to the contributions should they be considered CIL compliant.
- **Sustainable Development/Location**
Within the committee report the site has been considered as sustainable development. The applicants have, since the publication of the report, prepared a Sustainability Technical Note, attached, which provides clarification and detail with respect to the sustainability of the site and the

improvements proposed as part of the overall development scheme. In addition, it also provides a comparison with other application sites in Ashby-de-la-Zouch.

Overall, it can be concluded that the proposed Burton Road/Moira Road development site has comparable accessibility and sustainability to the Holywell Spring Farm and Moira Road development sites; both of these were approved (the latter allowed at Appeal).

It can also be concluded that the proposed Burton Road/Moira Road development site is significantly better in terms of accessibility and sustainability when compared to the Lower Packington Road site, which was recently dismissed at Appeal.

The proposed bus diversion through the site and the potential local facilities that will come forward as part of the approved Holywell Spring Farm site will further enhance the accessibility and sustainability credentials of the Burton Road/Moira Road development site.

The report also concludes that the site is in a sustainable location and will offer significant opportunities for future residents to access the local facilities and employment areas within Ashby-de-la-Zouch by sustainable means of transport. This also includes the amount of new and existing public open space improving accessibility which is a major benefit to existing residents as well as new residents.

The agent suggests that there will have been little time for Members to consider the Sustainability Technical Note and as such, if Members are minded to refuse the proposals on locational sustainability grounds then perhaps Members should consider deferral of the application in order to more fully consider the additional information we have submitted.

- **Supply of Housing**

Richborough is an experienced promoter who have a strong track record of working with development partners to bring sites forward and it is the intention to bring forward the site in the soonest timescales achievable.

There is keen interest from the development industry and the nature of the site would be able to work with two developers alongside each other thus ensuring that a significant contribution towards the 5 year housing supply can be provided and defend against unsustainable development elsewhere in Ashby and the wider district.

Richborough are also fully agreeable to a shortened period to submit a reserved matters application if Members felt necessary.

- **Summary**

Further to the officer's report recommending approval of the scheme we would request Members reach the same conclusion assisting NWLDC in its continued supply of housing, with the provisions of numerous public benefits arising from the scheme.

Officer Comments

The comments of the agent are noted. In addition, the Sustainability Technical Note contents are noted.

As set out by the agent above, the Technical Note includes comparisons of other sites which have been determined and concludes that site has comparable accessibility and sustainability to the Holywell Spring Farm and Moira Road development sites; both of these were approved (the latter allowed at Appeal).

The report also concludes that the proposed Burton Road/Moira Road development site is significantly better in terms of accessibility and sustainability when compared to the Lower Packington Road site, which was recently dismissed at Appeal.

These conclusions are not significantly different to those set out in the report to Members.

RECOMMENDATION- PERMIT AS RECOMMENDED (subject to S106 and conditions as set out in the main report)

A3 **14/00893/FULM** **Demolition of public house and construction of
14 new one bed flats**
The Pick N Shovel, 2 High Street, Coalville

Additional information received:

The applicants state that the scheme as submitted would not comply with condition 9 which has been recommended by the County Highway Authority as the bay windows at 1st floor level would overhang the highway.

Officer comment:

Following discussion with the County Highway Authority a revised condition is recommended which would allow for the 1st floor bay windows to overhang the highway without being in breach of the planning permission

RECOMMENDATION: Amend Condition 9

Excluding the proposed projecting bays on the High Street elevation, no part of the development, its supports, or foundations shall be positioned in, on, over, upon, or within any part of the public highway.

Reason - In the interests of general highway safety including pedestrian safety.

A4	13/00956/OUTM	<p>Development of up to 2,700 dwellings, up to 2 Ha for a new local centre including up to 2,000sqm for A1, A2, A3, and A5 uses, up to 499sqm for public house restaurant, up to 400sqm for children's day nursery and up to 500sqm for new medical centre; new primary school, on-site National Forest planting and areas of public open spaces, new bus routes and bus infrastructure and associated highways and drainage infrastructure (outline - all matters reserved)</p> <p>Land off Grange Road, Hugglescote</p>
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Applicant Comments

A copy of a statement forwarded direct to members of the Planning Committee has been provided setting out what, the applicant considers, are the benefits of the scheme including:

- Compliance with the approved South East Coalville Development Brief;
- Compliance with the Strategic Economic Plan;
- Regeneration of Coalville town centre;
- Job creation;
- New Homes Bonus;
- New primary school;
- Contribution to off-site highway improvements; and
- New public open space

The applicants also draw attention to the limited number of letters of objection received in respect of the application.

In addition, a letter has been received from the applicants' agent in respect of the proposed transportation infrastructure contributions, making the following points:

- The District Council's strategy for prioritising financial contributions for infrastructure provision sets out the anticipated costs of delivering highway improvements necessary to deliver 4,300 dwellings and 25ha of employment land, ranging from £19m to £21m, with a cost of between £4,419 and £4,884 per dwelling
- Resolutions to grant planning permission on eight sites elsewhere would contribute £6.64m in financial contributions, at a rate of between £1,111 and £4,500 per dwelling for residential schemes – South East Coalville would contribute over £12.9m at a rate of £4,800 per dwelling, by far the most per dwelling, and at the very upper range of the approved policy document
- In addition, Growth Deal funding has been secured for £4.64m, thus totalling over £24m (i.e. when including South East Coalville and other sites with resolutions to permit)
- As the contributions strategy is formulated to include South East Coalville, there is uncertainty as to where the strategy would be without the South East Coalville contribution
- Funding can be targeted to schemes such as the Bardon Link Road, Hugglescote Crossroads or other schemes as per the Local Planning Authority's discretion in consultation with the County Council
- Unspent highway improvement monies will go directly towards affordable housing provision and not returned to the developer

Additional Consultee Responses

County Highway Authority has provided additional comments, further to the proposed distribution of contributions as set out in the main report (i.e. including the provision of £12.96m towards transportation infrastructure contributions, having been reduced from £13.5m). In particular, the County Council advises that it has consistently stated that it is concerned that the cost estimates for the highways schemes as set out in the contributions strategy are unlikely to cover the full cost of all of the infrastructure, and the proposed reduction in Section 106 contributions from this development would therefore increase the potential shortfall, and delivery of the infrastructure would be likely to require additional funding sources from elsewhere. The County Highway Authority also points out that the fundamental change brought about by the introduction on the Local Growth Fund has had a significant effect on the funding available to the County Council to contribute to the delivery of development-related infrastructure; for 2015/16 and beyond the integrated transport element of the County Council's Local Transport Plan block allocation from the Department for Transport has been reduced by 45% and, as this is a flat allocation from 2015/16 to 2020/21, having regard to inflation, this equates to a real terms reduction of 56%. Furthermore, the County Highway Authority advises, the match funding requirements for Local Growth Fund projects will reduce the amount of capital funding for highway schemes outside of the Local Growth Fund process to a minimal amount, and this is likely to continue going forward beyond the next 3 years if the County Council is to continue to support future Local Growth Fund Projects. Therefore, the County Highway Authority advises, any shortfalls would need to be met from future Local Growth Fund bids or other funding routes rather than by the County Council.

If the Local Planning Authority is minded to agree to the proposed level of infrastructure contributions, the County Highway Authority requests that the following be taken into account:

- The County Highway Authority has reviewed transport assessments for all development in this area on the basis of the District Council's contributions strategy which seeks to deliver the wider transport mitigation for the wider area. If the level of funding is reduced as proposed and potentially reduced further, it sets a precedent for other development proposals in the area. This would call into question the robustness of the transport assessment that has been carried out and the procedure that the County Council followed in order to form its observations on the application and consequently may have led to different observations by the County Highway Authority.
- The Highways Agency has lifted its holding directions because of reasonable certainty in relation to funding of the strategic junction improvements being delivered. If this were to set a precedent for reduced highway contributions the County Highway Authority queries whether the Local Planning Authority is content that this would not reduce the certainty of these schemes being delivered and the match funding required being secured, particularly with regard to the District Council being the scheme promoter for these junction improvements.

The County Highway Authority also comments in respect of the main report that, where the report states that the County Council suggests that contributions could also be put towards the Bardon Link Road (page 147 of the main report in the agenda booklet), this should read that the County Council considers that contributions *should* also be put towards the Link Road.

In terms of the additional sensitivity analysis undertaken by the applicants in respect of the need or otherwise for the Bardon Link Road in the event that the potential site

access via No. 104 Forest Road were provided, the County Highway Authority confirms that it has not commented on this in its response to the application as it is not something that it has been consulted on as part of the application (i.e. whilst this sensitivity work undertaken by the applicants' transportation consultants has been shared with both the District and County Councils, it does not form part of the formal application submissions). The County Council advises that, if this access strategy were to be promoted, it would be concerned that the redistribution of traffic from other committed sites in the area which were determined on the basis of the link road being delivered would also need to be taken into account.

Officer Comments

Transportation Infrastructure Contributions:

As set out in the main report, an appropriate balance needs to be reached between transportation infrastructure and other contributions, whilst ensuring that the development remains both viable and sustainable. It is also noted that the overall transportation contribution proposed (equating to £4,800 per residential unit) would be towards the upper end of the range of likely contributions envisaged in the District Council Cabinet report of 15 January 2013 (although it is also noted that the proposed development includes a significant element of non-residential development as well). Whilst the County Highway Authority has not provided an updated list on the number of schemes that the level of contribution previously proposed for transportation infrastructure (i.e. £13.5m) would be anticipated to support in the light of the amended figure (£12.96m), it would appear unlikely that significant changes to this list would result, and the most important schemes of mitigation as identified by the County Highway Authority would still appear likely to be able to be delivered, and there is no evidence to indicate that the impact of the reduced contribution would render the most significant impacts unable to be mitigated such that a severe impact would result. On this basis, and whilst it is agreed that the reduced level of contribution is regrettable, the resulting implications of this reduction (i.e. increased contributions elsewhere whilst not rendering the development unviable) would, in officers' view, represent an appropriate balance and, overall, assist in ensuring the proposed development remains sustainable.

NO CHANGE TO RECOMMENDATION

A6 **14/00862/FULM** **Temporary change of use of land from agriculture to a solar farm with continued agriculture and associated infrastructure**
Site opposite Ashby Rugby Club, Nottingham Road, Ashby de la Zouch, Leicestershire

Representations

- Condition 12 – This does not seem necessary since Condition 9 already requires a pre-commencement badger survey. Can it be removed?
- Condition 11 – the submitted great crested newt survey concluded (para. 4.3) that “No great crested newts were located during any of the surveys of the seven ponds. It is therefore considered unlikely that this species is breeding within these ponds located to the north of the Site, and the proposed development is unlikely to have an adverse impact on this species. No further survey work or mitigation is considered necessary in relation to great crested newt.” In our view, therefore, this condition is not necessary and should be removed.
- Condition 15 – there seems to be a duplication with parts of Condition 17. Can I suggest that Condition 15 be removed in favour of Condition 17 since decommissioning methods may change over 25 years?

Officer Comments

The agent correctly points out that Conditions 9 and 12 are effectively the same and it is recommended that Condition 12 be deleted. The County Ecologist has confirmed that a newt condition is not required for this site and it is recommended that Condition 11 be deleted. It is recommended that the requirements of conditions 15 and 17 are merged to form one condition for clarity.

RECOMMENDATION- PERMIT AS RECOMMENDED subject to conditions as set out in the main report and subject to no objections being received prior to the expiry of the site notice on 7 December 2014.