

UPDATE SHEET

PLANNING COMMITTEE – 8 April 2025

**To be read in conjunction with the
Report of the Head of Planning and Infrastructure to Planning
Committee**

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

A1 23/01712/FULM The construction and operation of a ground-mounted solar farm with a generation capacity of 7.15MW together with access, landscaping and associated infrastructure.

Donington Park Service Area, Junction 23A, Ashby Road, Castle Donington.

Additional Information

Comments from Leicestershire County Council – Ecology

At the Committee Technical Briefing on 3 April 2025, Members requested that the County Council Ecologist be consulted on the additional information supplied by the applicant in relation to the biodiversity and enhancement of the part of the candidate Local Wildlife Site (cLWS) located outside of the application site (i.e. within the blue lined land). This additional information is referred to on pages 16 and 17 of the Planning Committee report.

The County Council has made the following comments in respect of this additional information submitted by the applicant:

- The overall development demonstrates a net gain in line with the NPPF, this application is prior to 10% BNG and therefore I consider this aspect to be satisfied
- There is a considerable increase in linear habitat and the connectivity across the site is maintained as a result of maintaining existing hedgerows and stand-off at the field margins and corners, valuable additional biodiversity opportunities.
- Other protected species issues have been addressed, including a re-submission of the District Level Licensing information for Great Crested Newt.
- There is currently BRE good practice guidance for solar developments in relation to agricultural and biodiversity; this recommends the approach of increasing biodiversity opportunities across the site with respect to existing retained features such as hedgerows, ponds, field edges and corners.
- The justification provided for the chosen habitat type as other neutral grassland and its distinctiveness is acceptable.
- The justification provided for the percentage vegetated (80%) and the percentage “not counted” (20%) and therefore treated as unvegetated bare ground is acceptable; this is above the recommendation in the BRE report and in the absence of further guidance it cannot be further defined. The subsequent monitoring of the vegetation post-development will inform this process going forward and a condition assessment/adjustment is not necessary given that this pre-dates mandatory BNG.
- In considering the remaining issue of the status of the site as a candidate LWS it is a significant consideration that any grassland habitat requires favourable management, this development will provide some not insignificant wider biodiversity benefits if properly managed (see conditions below); and in this case the nature of the development is defined as “temporary” with a decommissioning stage. In order to secure this land in favourable management going forward, I would recommend the following measures to be agreed between determining authority and the applicant:

- A condition for a Construction Environmental Management Plan (CEMP) to address the construction impact. The wording of this condition should include: submitted details to be provided of the avoidance and mitigation measures in relation to cable trenching and installation drilling for panel supports; details on plan of the permanent stand-off from the hedgerow, pond and field margins. A separate section should include decommissioning of the solar panels.
- A condition for a Biodiversity Management Plan- the wording of this condition should include: submitted details of the proposed restoration seeding of trenched or damaged areas and proposed species for seed mixes for shade/non-shade areas; ongoing ecological management (through rotational cutting, conservation grazing regime or a combination) of all ecological features including the hedgerow, field margins and corners, and the pond; the monitoring of all habitats including the grassland sward, in particular the shade and non-shade areas should both be monitored to inform the ongoing management; details of post-decommissioning restoration and monitoring.

Officer Comment

The County Council set out above that the level of net gain required by the NPPF is satisfied, there is a considerable increase in linear habitat and the connectivity across the site is maintained, other protected species issues have been addressed, the justification provided for the chosen habitat type as other neutral grassland and its distinctiveness is acceptable, the justification provided for the percentage vegetated (80%) and the percentage “not counted” (20%) and therefore treated as unvegetated bare ground is acceptable (this is above the recommendation in the BRE good practice guidance for solar developments). The County Council also advise that in considering the remaining issue of the status of the site as a candidate LWS it is a significant consideration that any grassland habitat requires favourable management, this development will provide some not insignificant wider biodiversity benefits if properly managed, and the nature of the development is defined as “temporary” with a decommissioning stage.

The County Council also suggests two conditions: a Construction Environmental Management Plan and a Biodiversity Management Plan.

Officers have proposed conditions for a biodiversity construction management plan and a landscape and ecological management plan, as well as conditions relating to soft landscaping and a scheme of ecological enhancements. Therefore the detailed requirements set out in the final bullet point of the County Council’s comments could be incorporated into these conditions.

The primary reason for requesting that the applicant commit to the ecological and biodiversity enhancement of the part of the candidate Local Wildlife Site (cLWS) outside of the application was to provide further compensation for the loss of the part of the cLWS within the application site. It is considered that such a commitment, along with the other ecological and biodiversity enhancements on the application site, would enable a biodiversity ‘gain’ to be delivered as part of the development. The long-term enhancement and management of the part of the cLWS outside the application site would also prevent such land going into succession, by ensuring that the habitats which allow the designation of such land as a cLWS are retained and enhanced.

The Committee report concludes that there is conflict with criterion (d) of Part (2) of

Policy En1, along with criterion (c) of Policy Cc1 and criterion (a) of Paragraph 193 of the NPPF, due to the loss of the part of the cLWS within the application site.

The '*Overall Planning Balance, Contribution to Sustainable Development and Conclusion*' section of the Committee Report assesses the conflict with the aforementioned policies and determines that the impacts would be significantly outweighed by the substantial benefit associated with the delivery of a renewable energy scheme.

Communication sent to members

Since publication of the committee report, Members of the Planning Committee have received a communication from the applicant's agent, which relates to a briefing note for Members of the Planning Committee.

Officer Comment: No comments in respect of the submitted briefing note.

Additional Officer Comments

The updated Committee Report refers to consultation on the submission Long Whatton and Diseworth Neighbourhood Plan (LW&DNP) being undertaken between 31 March 2025 and 4 April 2025, and that once such consultation was undertaken limited weight could be attributed to the relevant policies of the submission LW&DNP in the determination of the application, in line with the terms of Paragraph 49 of the NPPF.

The consultation on the submission LW&DNP has not yet started. Therefore the policies to be used in the assessment of the application would be those of the pre-submission LW&DNP. These policies are as listed in the '*Relevant Planning Policy*' section of the Committee Report (on pages 31 and 32) and in line with Paragraph 49 of the NPPF only very limited weight could be given to such policies in the determination of the application.

RECOMMENDATION – NO CHANGE TO RECOMMENDATION.

A2 24/00888/REM Reserved matters of layout, scale, appearance and landscaping to outline planning permission ref. APP/G2435/W/23/3314972 which granted the erection of a building and the erection of three lodges to be used for tourist accommodation (outline application including details of access

Roseville, Outwoods Lane, Coleorton

Communication sent to members

Since the publication of the committee report, members of the Planning Committee have received communication from the ward member, Councillor Morris, which sets out various reasons why the Committee should not grant planning permission for the proposal.

These reasons include that the proposal is not in accordance with the Planning Inspector's recommendations made at outline stage, and that the proposal conflicts with Policies D1 and D2 of the North West Leicestershire Local Plan (2021) and the Council's Good Design for North West Leicestershire SPD in respect of separation distances from 'The Firs.' The communication also states that no credible Biodiversity Net Gain information has been submitted and that the proposal has insufficient parking, an adverse effect on neighbouring amenity (privacy, overbearing impacts and light pollution due to glazing), and insufficient information in relation to waste collection and disposal, access for emergency vehicles and noise management.

Officer comment: The matters raised by Cllr Morris have all been addressed in the Planning Committee report.

Letter sent to members

Since the publication of the committee report members have received a letter from solicitors Shakespeare Martineau acting on behalf of the applicant. The letter sets out the history of the outline planning application and the Planning Committee's refusal of that application. It also states that it is not open to the Council to revisit matters of principle at this reserved matters stage as the Court of Appeal made clear in *Paul Newman New Homes v. Secretary of State* [2021] EWCA Civ 15.

The letter also advises Planning Committee members that the Appeal Inspector did not determine the outline application on the basis that the lodges would not exceed 3m nor did (or could) the Inspector make any 'recommendations' as to how the reserved matters should come forward. The letter confirms that the Inspector imposed condition 15 upon the outline planning permission limiting the height of the lodges to single storey only, and not to a maximum of 3 metres in height.

The letter also refers to the amendments made to this reserved matters application which includes reducing the height of the lodges and submitting a Landscape and Visual Appraisal (LVA). The letter strongly urges members to prefer the independently evidenced professional conclusions of the LVA, together with those of officers, regarding harm to character and appearance to the views expressed by local objectors.

The letter concludes by advising that officers have been careful and thorough in dealing with all matters raised in objections and strongly urges members to accept the recommendation to approve the reserved matters and to allow development that has been 4 years in the making finally to be delivered.

Officer comment: No comments to the submitted letter.

Additional officer comments

The use and amount of development was known at outline stage at the point at which the Planning Inspectorate granted outline planning permission for the development. Noise and disturbance issues arising as a result of activity associated with the tourism lodges, including those associated with any hot tubs which could be sited on site in the future, are matters to be dealt with at the outline stage of a proposal.

The Planning Inspectorate considered noise impacts in the assessment of the appeal (re. APP/G2435/W/23/3314972) and did not impose a planning condition to secure a Noise Mitigation or Noise Management Plan, nor to restrict the installation of hot tubs on site. As the Council are not considering the use or amount of development proposed on site under this application, officers advise that to impose conditions to the control these matters at this reserved matters stage would fail to meet the tests for imposing conditions set out at paragraph 57 of the National Planning Policy Framework (December 2024).

Other legislation, including the Environmental Protection Act 1990 and the Anti-Social Behaviour Act 2003, is available to enable the Council to deal effectively with any noise nuisance matters, should they arise.

RECOMMENDATION – NO CHANGE TO RECOMMENDATION.

Irish Farm, Warren Hills Road, Coalville

Additional Information

An additional consultation response has been received from the aerodrome safeguarding authority for East Midlands Airport dated 4th April 2025. No objection is raised.

An additional representation has been received from Astill Planning Consultants Ltd on behalf of 6 named neighbouring occupiers. The additional comments and concerns raised are as follows:

- The report does not adequately set out or justify the essential need for a rural worker
- The advice provided to the Local Planning Authority by the appointed agricultural consultant does not consider the relevant tests.
- There are financial uncertainties as part of the applicant's case that are being accepted as evidence of business viability.

An additional separate neighbour representation has been received from one of the occupiers named on the above late representation. The comments and concerns raised are as follows:

- The business is in breach of planning conditions
- The site is in an untidy condition
- The unlawful use of the site generates large volumes of traffic
- The committee report states that living on site will reduce trips but makes no reference as to how the occupier will have to travel to reach daily services.

During the site visit, members enquired about the drainage arrangements for the proposed dwelling.

Members also enquired about the proposed access track and queried the need for this given access could be readily available from the existing livery yard.

An error should be noted on page 129 of the committee report. Section 2 should state that 6 neighbouring properties were consulted on 24th January 2025, a site notice was displayed at the site on 6th February 2025 and no press advertisement was necessary for this application.

Officer Comment

The report explains the policy tests relevant to the determination of the application. The advice provided by the Council's appointed agricultural consultant is considered to be robust and based on the most up-to-date and relevant planning policies and

guidance as well as other material planning considerations. The consultant used by the Local Planning Authority is a Fellow of the British Institute of Agricultural Consultants and a Practitioner Member of the Institute of Environmental Management and Assessment and is therefore bound by a high standard of professional knowledge, expertise and code of conduct and can therefore be relied upon for decision making and accordingly is given substantial weight when determining the essential need for a worker to live at or near the site. The independent advice received is publicly available on the Council's website. The five relevant tests that should be considered are contained within the Planning Practice Guidance (PPG) which supplement paragraph 84a of the NPPF (these are also listed on page 132 of the committee report). It is considered that the application and the committee report adequately sets out the essential need for a rural workers' dwelling.

The financial uncertainties of the business are explained in the committee report, however it must be acknowledged that there is a degree of estimation and uncertainty with the financial projections of any enterprise. In response to this, the applicant is seeking a temporary permission for a period of three years. The 24-hour on-site presence of the applicant will satisfy the essential need to have a permanent presence on site in the interests of animal safety and security but would also provide the best opportunity to realise the commercial aspirations set out in the submitted financial information, thus, enabling the business to become financially sustainable to the point where it can sustain a rural dwelling in accordance with the relevant planning policy requirements. While not relevant to the determination of the current application, should the applicant seek to apply for a permanent dwelling in the future, financial evidence to robustly justify and support a permanent dwelling would be expected as part of any application.

Enforcement matters are investigated and remedied separately from the application and in reaching a decision on the application, the Local Planning Authority or elected members cannot take in to account any previous or alleged breaches of planning control. The application must be considered and determined on its own merits. As the decision maker, the Local Planning Authority cannot assume that the applicant will breach any pre-existing or recommended conditions. Notwithstanding this, the applicant's agent has explained the oversight that occurred in respect of any previous breaches of planning control which was limited in scope and timeframe. The alleged breaches related to the use of onsite facilities by horses that are not permanently kept on site as part of the livery which failed to accord with the conditions imposed on permission 23/01496/FULM. The applicant has subsequently confirmed that the breach of conditions occurred six times over a six-month period and generated minimal income and therefore the projected income of the business is not reliant on the use of such facilities by third parties. The alleged unlawful use of the site has not been formally reported to the council's enforcement team and there are no previous or ongoing enforcement investigations related to the site since the applicant took control of the livery yard over two years ago. Objectors with concerns about possible breaches of planning control have been urged to report these concerns via the formal channels.

Vehicular traffic associated with the existing use is beyond the control of the Local Planning Authority in the determination of the application. When determining the application, consideration of the proposed development and how this will impact on traffic is a consideration. In this case, the proposed development relates only to a rural workers' dwelling. As set out in the report, it is considered that the number of vehicular trips associated with the existing use is likely to reduce as a result of the permanent presence of the applicant on site, removing the need to travel to and from the site numerous times a day. It is acknowledged on pages 134 and 135 of the report that the site is in the countryside and is not located in close proximity to local services and

facilities. However, this should be balanced against the essential need for the applicant to live on the site as an exception to the usual policies that apply in relation to the location of housing. Furthermore, it is a significant material consideration in the determination of the application that, overall, the number of vehicular trips on the highway network is likely to reduce as a result of the development which is significant material consideration in the determination of the application.

The submitted application form confirms that the foul drainage will be disposed of via septic tank. The proposed static caravan will connect into the existing septic tank that serves the livery yard which has capacity to accommodate the additional flows generated by the development. Given the temporary nature of the proposed development, this is considered acceptable and does not give rise to concerns in respect of noise and odour considerations. Surface water is to be disposed of via a rainwater harvesting tank to compensate for the hardstanding created for the static caravan. The existing livery buildings are also served by rainwater harvesting tanks with water regularly emptied and used as drinking water for the on-site horses. The proposed access track is to be surfaced with a permeable gravel therefore would not increase surface water flood risk or require an alternative drainage system.

In respect of the need for the proposed access track to serve the dwelling, it would remove the need for additional residential traffic to pass through the livery yard and eliminate increased parking pressures and any other risks associated with the livery yard. It also provides the applicant means to separate their work from the personal living arrangements. The shorter access route as proposed would also reduce the need for vehicles to pass in closer proximity to the neighbouring residential occupiers. Notwithstanding this, the access is proposed on a temporary basis and the application has been considered on its merits as submitted, and it is not considered that the access as proposed would give rise to any justification to refuse or defer the application.

RECOMMENDATION – NO CHANGE TO RECOMMENDATION.