

**Retention of 3 no. underground LPG gas tanks to serves the approved residential development scheme for 28 houses at Home Farm**

**Report Item No**  
**A1**  
**Application Reference:**  
**24/01236/FUL**

**Land At Home Farm , 25 Main Street, Oakthorpe,**

**Grid Reference (E) 432263**  
**Grid Reference (N) 312986**

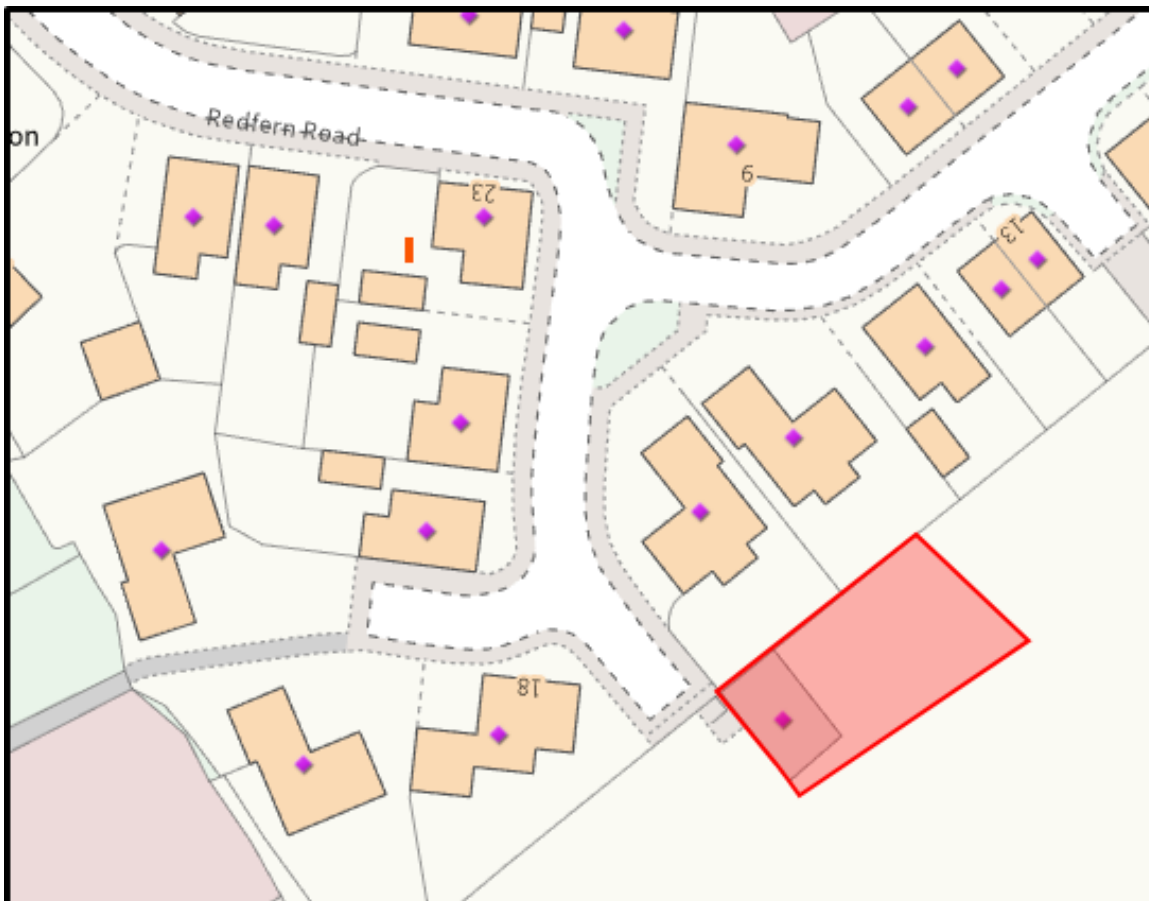
**Date Registered:**  
**3 October 2024**  
**Consultation Expiry:**  
**10 October 2025**  
**Determination Date:**  
**21 October 2025**  
**Extension of Time:**  
**21 October 2025**

**Applicant:**  
**Andrew Fort Estates Ltd**

**Case Officer:**  
**Sarah Booth**

**Recommendation:**  
**PERMIT**

## Site Location



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**Reason the case is called to the Planning Committee:**

The application is brought to the Planning Committee for determination under the requirement of the constitution as the agent for this scheme is related to an Elected Member of the Council and objections have been received in relation to the application.

**RECOMMENDATION - PERMIT, subject to the following conditions:**

- 1 Approved plans
- 2 Materials as per the approved details.
- 3 Fencing – timescale to ensure the new fencing is erected in a timely manner for public safety reasons.
4. Retention of permeable surfacing

# MAIN REPORT

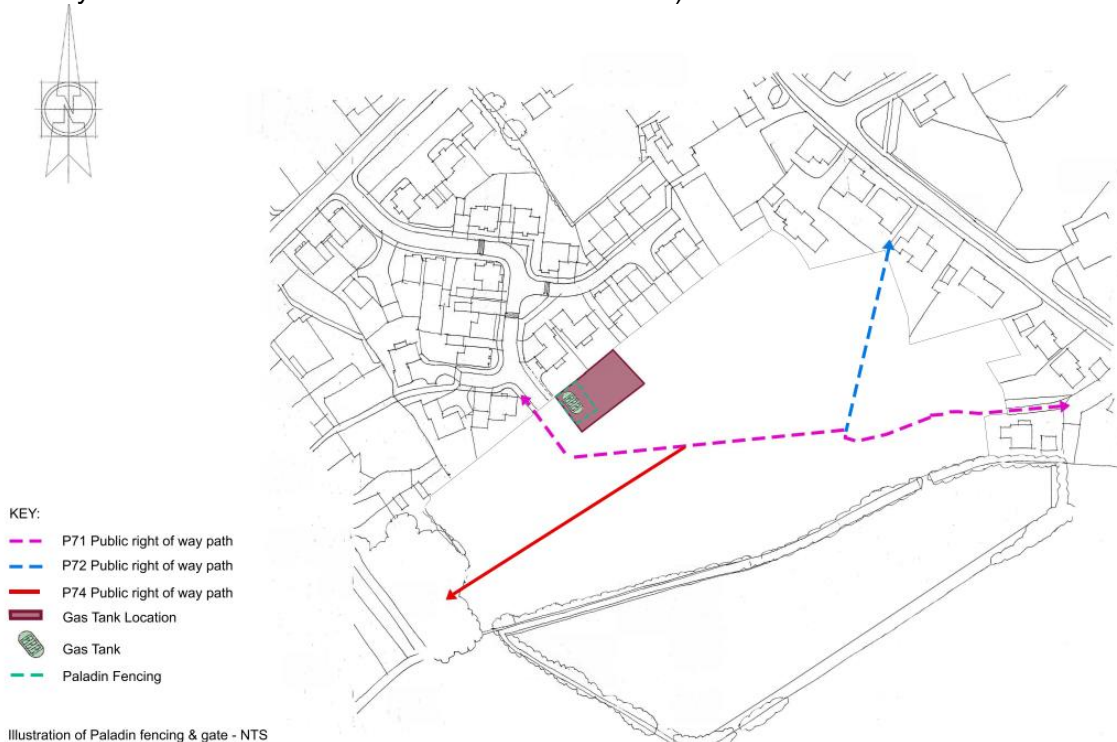
## 1. Proposals and Background

Planning permission is sought for retention of 3 no. underground LPG gas tanks. These are required to serve an approved residential development that has been constructed for 28 houses on land at Home Farm, Main Street in Oakthorpe. The gas tanks are on land to the rear (south) of this housing site. Green paladin fencing would be erected around the tanks and a small green utility box is located within the site. Gravel has been laid on top of the tanks within the fenced off area.

The development in this application was not included in the original outline and reserved matters applications. This application is retrospective, with the works being completed in July 2024. This application has been submitted in a response to an enforcement investigation by the Council's Enforcement Team.

The site is located outside Limits to Development, as defined by the Policy Map to the adopted Local Plan. The application site is located within the River Mease Special Area of Conservation and is within the Coal Mining High Risk Development Area.

The site is within close proximity to existing public rights of way consisting of P71, P72 and P74, all of which are located within the wider field where the application site is situated. Some of the rights of way are in the process of being diverted to accord with the details approved for the recently constructed new housing estate, however this process has not yet been completed. The site location plan is shown below, including the locations of the diverted public rights of way (as they will be once the orders have been confirmed):



The below image is an aerial photograph of the application site:





A recent Officer site photo is included below which shows the development at present:



There is no relevant planning history for the application site itself, However, there is site history for the adjacent housing development to the north and this development serves the adjacent housing site. This is listed below.

**Site history for adjacent housing site:**

- 20/00950/VCUM - Variation of conditions 2 and 3 of reserved matters approval ref: 18/01383/REMM to amend and extend Plot 1 and amend the materials - Approved 30.09.2020.
- 18/01383/REMM - Erection of 28 dwellings, garages and associated works (Reserved matters to outline planning permission reference 14/00244/OUTM) - Approved - 13.09.2019
- 14/00244/OUTM - Erection of 29 dwellings with new access, woodland planting and landscaping (Outline - Access included) - Approved - 27.08.2015

## **2. Publicity**

27 Neighbours have been notified.  
Site Notice displayed 11 October 2024.

## **3. Summary of Consultations and Representations Received**

**Leicestershire Footpath Association** - advise that the Local Planning Authority consider the safety of the public footpath users.

**No objection from:**

NWLDC Environmental Protection  
LCC Ecology  
Natural England  
County Highway Authority  
Coal Authority  
Health and Safety Executive (HSE)  
Environment Agency

**No comments from:**

Oakthorpe And Donisthorpe Parish Council  
National Grid (Cadent Gas)  
LCC Minerals and Waste Team

### Third Party Representations

Two letters of representation have been received. These can be summarised as follows:

Grounds of Objections	Description of Impact
Safety Concerns	- Safety concerns.
	- Concerns for large vehicles accessing the site.
	- Concerns over historic contamination of the site.
Other Matters	- Neighbour considers that the tanks are above ground not below.
	- Development is retrospective.

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

## 4. Relevant Planning Policy

### National Planning Policy Framework (2024)

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

Chapter 2 - Achieving sustainable development;  
Chapter 8 - Promoting healthy and safe communities;  
Chapter 9 - Promoting sustainable transport;  
Chapter 11 - Making effective use of land;  
Chapter 12 - Achieving well-designed places;  
Chapter 14 - Meeting the challenge of climate change, flooding and coastal change; and  
Chapter 15 - Conserving and enhancing the natural environment.

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

The following policies of the adopted local plan are consistent with the policies of the NPPF and should be afforded full weight in the determination of this application:

Policy S2 - Settlement Hierarchy;  
Policy S3 - Countryside;  
Policy D1 - Design of New Development;  
Policy D2 - Amenity;  
Policy IF4 - Transport Infrastructure and New Development;  
Policy IF7 - Parking Provision and New Development;  
Policy En1 - Nature Conservation;  
Policy En2 - River Mease Special Area of Conservation;  
Policy En3 - The National Forest;  
Policy En6 - Land and Air Quality;  
Policy Cc2 - Water - Flood Risk; and  
Policy Cc3 - Water - Sustainable Drainage Systems.

### **Leicestershire Minerals and Waste Local Plan (2019)**

This plan was adopted on the 25th September 2019 and as such the following policies would be considered relevant to this application:

Policy M11: Safeguarding of Mineral Resources.

### **Other Policies**

National Planning Practice Guidance

Leicestershire Highways Design Guide (LHDG)

National Design Guide (2019)

Good Design SPD (2017)

The Conservation of Habitats and Species Regulations 2017

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System

River Mease Water Quality Management Plan - August 2011

Natural England - Advice for development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites - March 2022

## **5. Assessment**

### **Principle of Development**

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan, which in this instance, includes the adopted North West Leicestershire Local Plan (2021) and the Leicestershire Minerals and Waste Local Plan (2019).

The application site is located on the edge of the settlement of Oakthorpe and is just outside of the defined Limits to Development. The site is located on land within the Countryside, as per Policy S3 of the adopted Local Plan.

This scheme is for the retention of 3 no. underground LPG gas tanks to serve the approved residential development scheme for 28 houses at Home Farm, immediately to the north of the site. This type of development does not fall under the categories listed under Policy S3 of the adopted Local Plan.

In this case the development is ancillary to existing dwellings and similar in nature to development undertaken by statutory undertakers or public utility providers which is supported under Policy S3, although it does not strictly fit within either of these categories. On this basis, it is considered that the development would not sufficiently conflict with the aims of Policy S3 to justify a reason for refusal.

Policy S3 is also subject to further considerations set out in criteria (i) to (vi) of the Policy being met, this is considered below.

(i) The appearance and character of the landscape, including its historic character and features such as biodiversity, views, settlement pattern, rivers, watercourses, field patterns, industrial heritage and local distinctiveness is safeguarded and enhanced.

For the reasons discussed later in this report, it is considered that the character of the landscape would be safeguarded.

(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, either through contiguous extensions to existing settlements or through development on isolated sites on land divorced from settlement boundaries.

(iii) It does not create or exacerbate ribbon development.

The proposed development would not create or exacerbate ribbon development, nor undermine the physical or perceived separation between nearby settlements.

(iv) Built development is well integrated with existing development and existing buildings, including the reuse of existing buildings, where appropriate.

The proposed development would be located immediately adjacent to the existing housing development to the north.. As such the proposal would accord with this part of Policy S3.

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

Given the nature of the proposal, this criterion is not relevant

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

Due to the nature of this development it does not significantly generate comings and goings to the site therefore there would be no further impacts on transport sustainability when compared to the existing situation on site.

In view of the above assessment, it is considered that this development would not be so contrary to the aims of the first part of Policy S3 to warrant refusal of the application on this basis. The proposal would also accord with the provisions of sub-paragraphs (i) - (vi) of Policy S3. This proposal also complies with provisions within the NPPF which aims to protect the intrinsic character of the countryside. Accordingly, on balance, the proposal is considered to be acceptable in principle, subject to all other planning matters being adequately addressed.

## **Design and Visual Impact**

The need for good design in new development is outlined not only in adopted Local Plan Policy D1, but also in the Council's adopted Good Design for NWLDC SPD, and also the NPPF. Policy En3 requires development in the National Forest to be appropriate to its Forest setting. Pictures of the site are below.

The photos below show the view from the eastern side of the field looking towards the west:



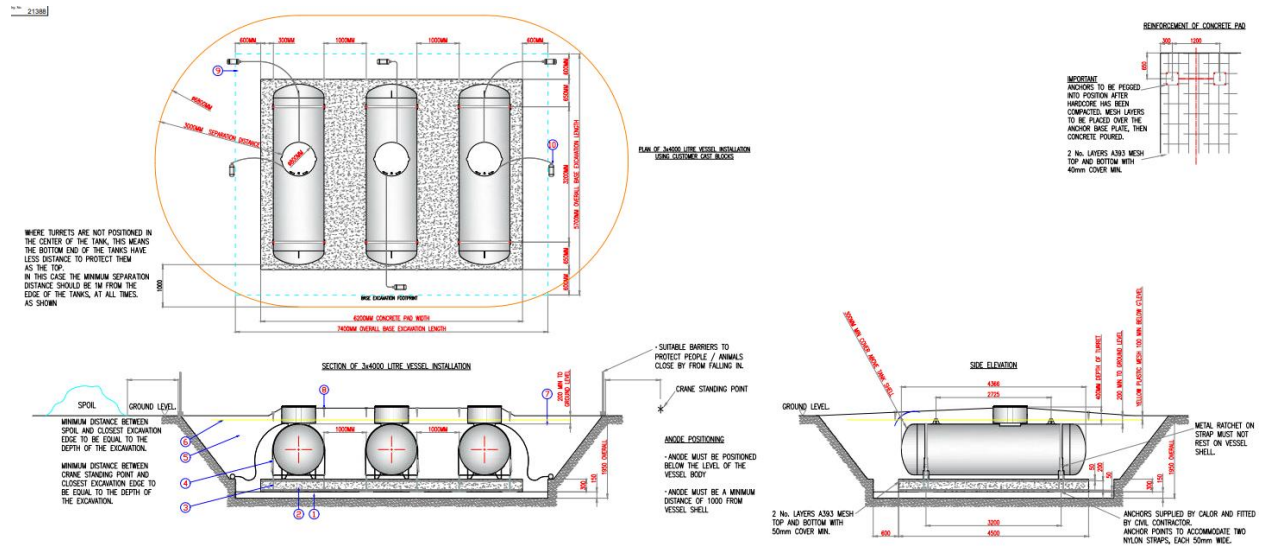


Photos below are taken from gate access at Redfern Road:





The application relates to tanks that are underground and as such there are limited external visual impacts. The only elements visible on site would be the boundary fencing, the lids of the gas tanks and the small green utility box. The details of the tanks are shown on one of the submitted technical drawings, as per the below image, which shows an overhead view of the tanks in their entirety (although only the lids are visible on site) and two cross-sections:



Whilst the development is located in the Countryside and in the National Forest it is directly adjacent to some recently constructed new dwellings. Given the close proximity of the development to the existing built development the location of the tanks has been sensitively located so that it would not adversely detract from the visual amenity of the countryside.

Amended plans have been received during the course of the application to secure green paladin fencing around the site instead of the post and rail fencing in order to improve the security of the site in particular given its proximity to public rights of way. The green fencing will help the development to assimilate well into its rural setting. Given that this type of fencing is often seen in similar locations on edge of settlement settings it is not considered that it would significantly detrimentally impact on the character of the countryside or the National Forest.

Overall the development has the appearance similar to that of other small scale utility development, and as such it is not considered to be overly prominent within the landscape or in views from the public rights of way given its scale and close proximity to residential development.

Taking the above into account, it is considered that the works are not significantly harmful to the character and visual amenities of the countryside and would comply with Policies S3, D1 and En3 of the Local Plan and the NPPF.

## Residential Amenities

Policy 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.

Neighbours have raised concerns with regard to public safety, and this is considered in more detail in the safety section later in this report.

A neighbour has stated that the tanks are above ground rather than below. A recent Officer site visit has confirmed that the tanks are underground with only the access points for refilling being above ground. This is shown per the image below:



The closest neighbouring properties to the application site are to the north of the application site, as shown on the map below:



The closest neighbouring properties are Nos. 16, 17 and 18 Redfern Road to the north of the site. The rear garden boundary of No.17 Redfern Road shares its boundary with the application site.

The only visible elements of the proposal are the proposed paladin green fencing, the lids of the underground tanks and a green utility box. Given the siting of the proposal, and the minimal built development, it is not considered that the proposal would result in any adverse overbearing, overlooking or overshadowing impacts on neighbouring residential properties.

There are other neighbouring properties on Redfern Road and School Street that back on to the field in which the application site is located, however given the distances from the application site it is not considered that these neighbours would be adversely affected by the proposal.

The Council's Environmental Protection team has been consulted on the application and they have no objections to the application.

Overall, it is considered that this development would not result in significant impacts upon residential amenity of neighbouring properties. Therefore, the proposal is considered to be in accordance with Policy D2 of the adopted Local Plan, the Council's Good Design SPD, and relevant sections of the NPPF.

### **Highway Considerations**

Neighbour objections have been received with regard to highway safety issues including the accessing of large vehicles to the site, this will be considered further below.

The site access is located on Main Street which serves the adjacent housing development. The applicant proposes to utilise an existing point of access from the housing development and there is a field gate entry to the field where the tanks are located.

The access to the site would be via Main Street which is an adopted unclassified road subject to a 30mph speed limit. The County Highways Authority (CHA) has been consulted on this application and they have advised that the internal road to the estate would remain private, therefore, the development proposal is unlikely to impact on the public highway. The CHA also advises that all vehicles associated with the storage tanks should only access the site via Main Street and must make sure they can leave the site in a forward gear. There is sufficient space to do this prior to vehicles returning to Main Street, therefore this is considered to be acceptable. There is also space within the internal road to park a vehicle whilst refilling the tanks. As such the CHA has no objections to the development.

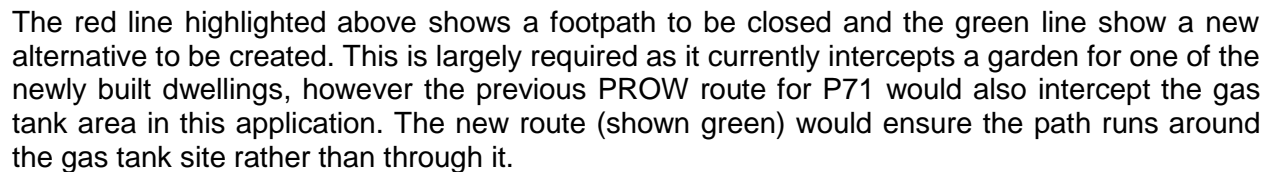
It is considered that the scheme would comply with Policy IF4 of the adopted Local Plan, Paragraph 115 of the NPPF and the Leicestershire Highways Design Guide.

### **Public Rights of Way (PROW)**

The site is within close proximity to existing public rights of way consisting of P71, P72 and P74, all of which are located within the wider field where the application site is situated.

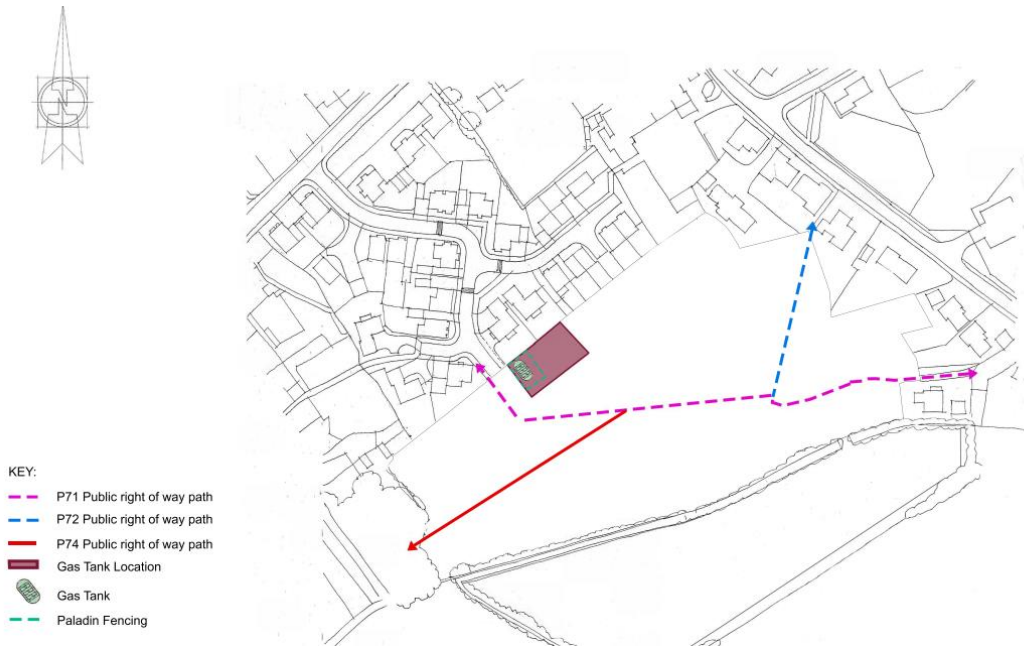
A public footpath diversion order is currently in the process of being confirmed which would divert some of these footpaths. Whilst these have not been confirmed yet they will be completed soon. This is a process separate to the application and therefore the principle of the diversion of

The image below shows the public footpaths in this area and the key below explains whether they are being changed or created:



The plan below has been submitted with the application and shows the new PROW routes in the context of the application site. On this basis the new development would not be built over PROW P71.





The County Footpaths Team has advised the Local Planning Authority to consider the safety of users of the public footpath and this will be considered in the section below regarding safety matters.

The CHA has also confirmed that they are satisfied that the use and enjoyment of the public footpaths will remain unaffected given that they are in the process of being diverted.

Therefore it is considered that the proposal would not adversely affect the public rights of way.

### **Biodiversity Net Gain, Ecology and Trees**

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for small sites as required by the Environment Act came into force on 2 April 2024. However, as this application is retrospective it is exempt from the need to provide mandatory BNG.

Notwithstanding this, Paragraphs 187(d) and 193 of the NPPF (2024) set out a requirement for developments to minimise their impacts on and provide net gains for biodiversity. It would generally be required for some additional landscaping to be provided, however if this is in close proximity to the application site the roots of the landscaping have the potential to interfere with the development underground. Therefore given the small scale of the development it is not considered necessary to secure landscaping on this occasion.

No concerns have been raised by the County Ecologist with regard to impacts on any protected species. Furthermore, no protected or substantial trees have been removed to facilitate the development.

It is considered that the proposals would comply with the provisions of Paragraphs 187(d) and 193 of the NPPF. Further, it is not considered that the scheme proposal would result in any adverse impacts to protected species or biodiversity in accordance with Policy En1 of the Local Plan, the NPPF, the Habitat Regulations and Circular 06/05.

## **Flood Risk**

The site lies within Flood Zone 1 which is the lowest risk area for flooding from watercourses. No parts of the site are identified by the Environment Agency's Flood Map for Planning to be at low to high risk from surface water flooding. The proposal has used gravel as its surfacing which is a permeable material. Whilst fencing would also be sited this would be minimal and would not adversely impact on surface water on site. As such the proposal is unlikely to result in an increase in flooding on the site or elsewhere and would comply with Policies CC2 and CC3 of the Local Plan.

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

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

As a result of the proposed development there could be an impact on the River Mease SAC, which may undermine its conservation objectives, from an increase in foul and surface water drainage discharge as well as due to its proximity to a tributary of the River Mease. Therefore, an appropriate assessment of the proposal and its impacts on the SAC is required.

Natural England issued updated advice regarding nutrients in the River Mease catchment, dated 16th March 2022. Among other things, this advice outlines that developments which will not give rise to additional overnight stays within the catchment do not need to be considered in terms of any nutrient input, except in exceptional circumstances.

This application would not increase any foul drainage on site. Natural England has been consulted on this application and have raised no objection to the application, and have advised that the proposal is unlikely to have a significant effect on the River Mease SAC.

In relation to surface water drainage, the development has used permeable surfacing which is an acceptable and sustainable method of drainage. It is recommended that a condition is attached to ensure the permeable surface is retained to protect the River Mease in the long term.

On the above basis, it is considered that the integrity of the River Mease SAC would be preserved, and the development would accord with Policies En2 (River Mease Special Area of Conservation) and Cc3 (Water - Sustainable Drainage Systems) of the Local Plan (2021).

Therefore, it can be ascertained that the proposal on the site will, either alone or in combination with other plans or projects, have no adverse effect on the integrity of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

## **Coal and Land Contamination**

Neighbour objections have been received with regard to impacts regarding historic contamination issues / the former coal mining risk areas on site. This will be considered further below.

The site lies within the Coal Authority's Coal Mining High Risk Development Area. The Coal Authority originally objected to the application however following the receipt of an updated Coal Risk Report, the Coal Authority has now withdrawn its objections to the application and has

advised that they do not have concerns in relation to the development's impact on the former coal mining area.

The Council's Land Contamination Officer has provided some advice to confirm that no land contamination conditions are required for this type of development and has raised no objections with regard to land contamination issues.

On the basis of the above, the proposal would accord with Policy En6 of the adopted Local Plan and the NPPF.

## **Health and Safety**

Neighbour objections have been received relating to health and safety of the development and the County Footpaths Team has advised that careful consideration should be given to the safety of users of the public rights of way. In response to these concerns further advice has been sought from the Environment Agency and the Health and Safety Executive, their advice is summarised below:

### *Environment Agency*

From the perspective of the protection of controlled waters, the groundwater setting at this location is low sensitivity, being on the Coal Measures formation, with no specific deposits that would appear to act as a pathway to surface waters. Neither is the site within a groundwater source protection zone and there aren't any abstractions taking place nearby. For these reasons, the Environment Agency would have no concerns or comments to make regarding the protection of controlled waters associated with the development.

Regarding concerns due to the gas tanks being next to a PROW, this seems to be a human health risk, for which the Environment Agency does not have a remit for under the planning regime, nor does the Environment Agency have any human health specialists within the organisation.

### *Health and Safety Executive*

The Health and Safety Executive's (HSE) role in the planning process is limited to being a statutory consultee for the following types of planning application:

1. Certain planning applications around existing major hazard sites or major accident hazard pipelines;
2. Fire safety of relevant buildings which contain two or more dwellings or educational accommodation and which are 18m or 7 or more storeys in height.
3. For hazardous substances consent where a new facility will contain hazardous substances above certain controlled quantities.

The HSE have confirmed that the proposed development is not in the consultation zones for any existing major hazard chemical sites or major accident hazard pipelines and advises that its Land Use Planning team does not need to be consulted on this application.

The proposed development is not also a relevant building under the Building Safety Regulations.

Regarding hazardous substances consent, the proposal is to store a quantity of a hazardous substance, LPG. However the quantity of 1.2 tonnes stated in the application form is below the

controlled quantity of 25 tonnes set for LPG. This means that HSE's hazardous substance consent team does not need to be consulted on the proposal.

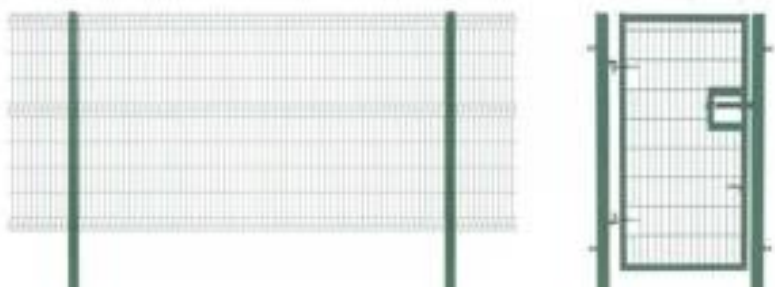
The HSE notes that it understands that the liquid gas industry trade association, Liquid Gas UK, has published some guidance on installing underground LPG storage tanks and a note to applicant could be added in respect of this matter.

### *Health and Safety - Conclusion*

The NPPF (Paragraph 102) states that planning decisions should promote public safety. The application has been reviewed by relevant statutory bodies. The Council's Environmental Protection Team have also been consulted and has no objections to the application. As per the earlier section of this report the Coal Authority also have no objections subject to conditions.

The Environment Agency has confirmed that the site poses low sensitivity in terms of groundwater protection and raised no concerns regarding controlled waters. Furthermore the Health and Safety Executive (HSE) has advised that the proposal does not fall within its consultation remit, as the quantity of LPG stored is below the controlled threshold and the site is not within a major hazard consultation zone.

At present there is only a post and rail fence boundary around the application site with some temporary higher fencing in place around the site. This was considered to be more susceptible to people trespassing on the site and therefore the development could be vulnerable to vandalism. Officers have sought amended plans to secure green paladin fencing around the gas tanks as per the details below:



Paladin fencing is considered to be the most secure type of fencing in this instance as it is the least climbable design. It is recommended that a condition should be attached should permission be granted to ensure that the fencing is provided within a sufficient amount of time so that the site is secure and not accessible to members of the public.

In addition to the above, the site has a certain level of natural surveillance from neighbouring properties, especially from the recently built dwellings on Redfern Road including No.17 which adjoins the site. It is considered that residential properties overlooking the site will help to reduce the risk of the site being vandalised. This relationship of the gas tanks in close proximity to the neighbouring dwellings is also similar to other existing residential properties in Oakthorpe, many of which have their own gas tanks in their gardens to serve their own properties. Therefore, these gas tanks would have a similar level of surveillance to that of other residential properties in the area with their own tanks.

In view of the above, the advice from statutory consultees indicates that the development does not present a significant health or safety risk to the public. While public concerns are noted, no technical objections have been received from consultees and appropriate safeguards are proposed to be in place. Therefore, it is considered that the proposal would not adversely impact on the safety of members of the public including users of the public right of way, and the development complies with relevant health and safety standards. The proposal therefore complies with the aims of the NPPF. Therefore, there are no planning reasons to refuse this application on this basis.

### **Other Matters**

Leicestershire County Council as the Minerals Planning Authority and Cadent as the regional gas distributor have been consulted on the application, and their comments will be reported on the update sheet.

A neighbour objection has been raised with regard to the application being submitted retrospectively. This application has been submitted as a result of the Council's enforcement investigation. A written ministerial statement issued on 31 August 2015 announced that it is national planning policy that intentional unauthorised development is a material consideration to be weighed in the determination of planning applications and appeals. The ministerial statement has not been replaced or revoked and so remains a material consideration. In this case the unauthorised installation of the tanks is considered to carry limited weight as the tanks are required to provide gas to the adjacent dwellings in a settlement where there is no mains gas supply.

### **Conclusions and Planning Balance**

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2021) and the Leicestershire Minerals and Waste Local Plan (2019).

Whilst the application site is outside the defined Limits to Development in the adopted Local Plan and is not a form of development supported under Policy S3, given its similarity to other types of development that are permitted under this policy, the principle of the development is considered acceptable.

The proposed development does not give rise to any significant impacts regarding residential amenity, visual impact, highway safety, public rights of way, flood risk, coal mining, contaminated land, ecology, River Mease SAC and public safety. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies.

The application is therefore recommended for approval subject to conditions.