
**Erection of 35 B8 units together with associated access,
parking and servicing areas**

**Report Item No
A1**

**Land North of Hilltop Farm, Hill Top, Castle Donington,
Leicestershire**

**Application Reference
23/00883/FULM**

**Grid Reference (E) 443929
Grid Reference (N) 326517**

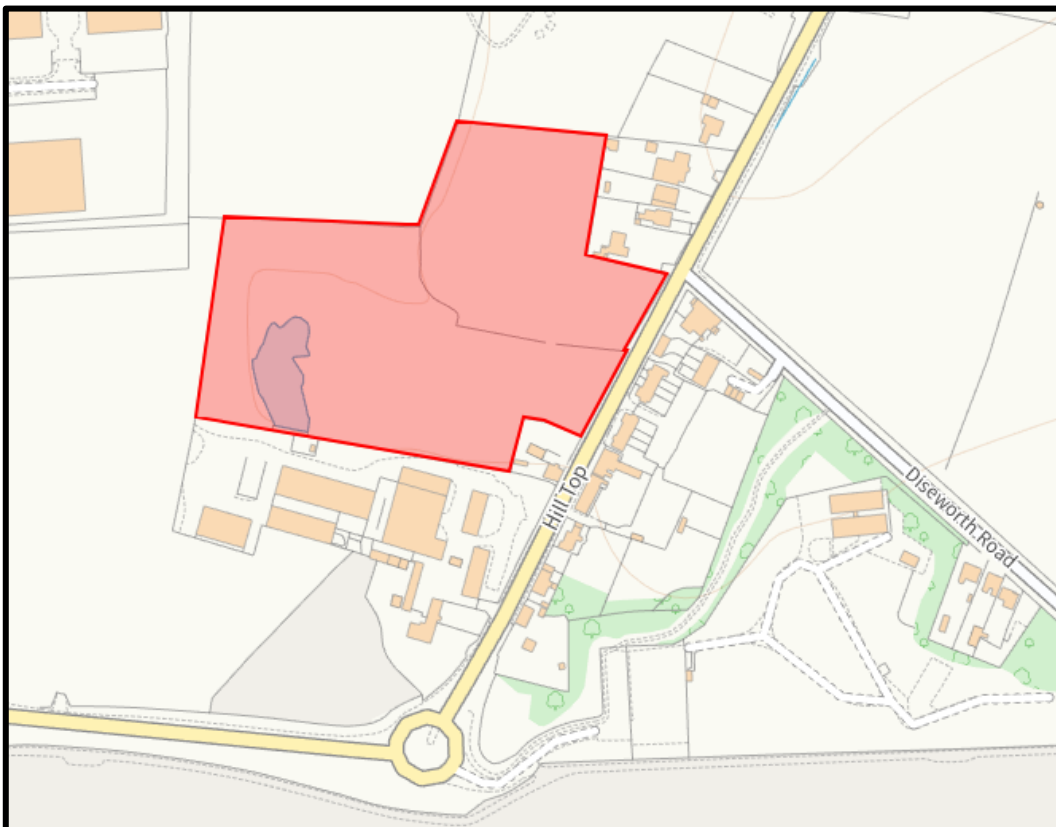
**Date Registered:
4 December 2023
Consultation Expiry:
12 January 2026
13 Week Date:
4 March 2024
Extension of Time:
To be agreed**

**Applicant:
Brickyard Storage Ltd**

**Case Officer:
James Knightley**

**Recommendation: Permit, subject to Section 106
obligations, and subject to conditions**

Site Location - Plan for indicative purposes only



Reason the case is called to the Planning Committee:

The application is referred to Planning Committee for determination at the request of Councillor Morley on the basis of the level of concern raised by residents living within Castle Donington Park Ward.

RECOMMENDATION - PERMIT, subject to the following conditions and the securing of a Section 106 Agreement to deliver the following:

- 1 Payment of Traffic Regulation Order (TRO) fee of £7,500 to Leicestershire County Council in respect of proposed relocation of weight limit

Conditions

- 1 Time limit (commencement within 3 years)
- 2 Approved plans
- 3 Definition of approved use (Class B8)
- 4 Hours of Use (0730 to 2100 Mondays to Sundays)
- 5 Materials (submission / approval and compliance with details prior to any construction above damp proof course)
- 6 Levels as shown
- 7 Removal of permitted development rights for extensions / alterations to proposed units
- 8 Retaining walls (details of any proposed to be submitted / agreed prior to their construction)
- 9 Landscaping / BNG (submission / approval and compliance with a scheme (including a timetable for implementation) prior to occupation, and maintenance / replanting)
- 10 Hard surfacing (submission / approval and compliance with details prior to occupation)
- 11 Boundary treatment (submission / approval and compliance with details prior to occupation)
- 12 Tree / hedgerow protection (submission / approval and compliance with details prior to commencement)
- 13 External lighting (submission / approval and compliance with details prior to installation) (including assessment of any impacts on residential amenity, highway safety, aviation and bats)
- 14 Foul drainage (submission / approval and compliance with details prior to occupation)
- 15 Submission / approval and compliance with a scheme of surface water drainage prior to occupation
- 16 Submission / approval and compliance with a scheme for the treatment of surface water during construction prior to commencement
- 17 Submission / approval and compliance with a scheme for the long term maintenance of surface water drainage prior to occupation
- 18 Hours of construction work (0700 to 1800 Mondays to Fridays and 0700 to 1300 Saturdays)
- 19 Provision of off-site highways works as shown prior to occupation
- 20 Provision of site access (including visibility splays) as shown prior to occupation
- 21 Provision of parking, cycle parking and turning facilities as shown prior to occupation
- 22 Routing of construction traffic (submission and approval of details prior to commencement)
- 23 Submission / approval and compliance with a scheme of any proposed outside storage prior to installation
- 24 Submission / approval and compliance with an archaeological Written Scheme of Investigation (WSI) prior to commencement (if required by Leicestershire County Council Archaeology)
- 25 Compliance with proposed construction phase air quality mitigation measures
- 26 Submission / approval (together with compliance with any recommended mitigation measures) of an updated badger survey prior to commencement

- 27 Ecological Construction Environmental Management Plan (submission / approval and compliance with details prior to commencement)
- 28 Landscape and Ecology Management Plan (submission / approval and compliance with details prior to commencement)
- 29 Instrument Flight Procedure Assessment of the proposed buildings and any associated tall equipment to be used during construction (submission and approval of details prior to commencement)
- 30 Aviation Bird Hazard Management Plan (submission and approval of details prior to commencement)
- 31 Aviation Construction Management Plan (submission and approval of details prior to commencement)

Main Report

1. Proposals and Background

This is a full application for the erection of 35 units of a range of sizes with associated access, parking and servicing. The units would be used for uses falling within Class B8 (storage or distribution) of the Town and Country Planning (Use Classes) Order 1987 (as amended).

The site comprises agricultural land located to the western side of Hill Top, and to the north of Hill Top Farm (although it is not currently used in association with that farm, or any other agricultural unit). The site is also adjacent to existing residential properties fronting onto Hill Top and High Street, and to the proposed Village Park, a new area of public open space to be delivered in association with the Park Lane mixed use development.



Vehicular access to the site would be provided from Hill Top via a new access road, located in a similar position to a smaller existing field access and with footways tied into the existing facilities on Hill Top.

The proposed units would provide a total approximate gross internal floorspace of 3,511sqm, and would be arranged in blocks of between two and four units, with the units' internal dimensions being typically around 11.8m by 8.4m. The units would be 4.2m high to ridge (3.0m to eaves).

The site currently comprises two distinct parcels (north and south), separated by hedgerows / vegetation, and the scheme is proposed to be arranged in two principal groups, with 17 units located within the northern parcel and 18 within the southern one. The majority of the existing area of vegetation separating the parcels would be retained (with the sections proposed to be removed principally relating to those required to accommodate the route of the access road serving the northern parcel).

Site Plan



Site Photos

Agricultural buildings on adjacent farm complex



View of site from adjacent farm complex



Rear of existing properties on Hill Top (to the southern side of the proposed site access)



View towards Hill Top (including location of site access)



Rear of existing properties on Hill Top (to the northern side of the proposed site access)



Hill Top (Site of Proposed Access)



Relevant Planning History

Application Ref.	Description	Decision / Date
93/0480	Residential development including the provision of part of a perimeter for distribution road (36.5ha) (Outline)	No Decision (submitted 17/05/93)

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for major applications as required by the Environment Act came into force on 12 February 2024. However, this requirement would only be applicable to those applications received on or after 12 February 2024 and is not to be applied retrospectively to those applications already under consideration before this date and subsequently determined after this date. On this basis, the proposed development would not be required to demonstrate 10% BNG.

2. Publicity

39 Neighbours have been notified

Site Notice displayed 5 January 2024 and 19 January 2024

Press Notice published Derby Telegraph 10 January 2024 and 24 January 2024

3. Summary of Consultations and Representations Received

Castle Donington Parish Council strongly objects on the following grounds

- Need is not demonstrated especially considering there are other similar units available in the vicinity
- Site access via Hill Top inappropriate as the entrance is within a weight restricted area and which was implemented to deter HGVs from going through the conservation area
- Site should be accessed via the relief road
- Outside Limits to Development and contrary to Policy S3 of the Local Plan
- Drainage proposals should provide for betterment
- Type of units proposed will attract an increase of traffic movements as the majority of employees are likely to be from outside the village
- Any access should only be via a non-weight restricted road (i.e. the relief road)
- If approved, the units should be shielded from Hill Top by planting of mature trees
- If approved, the Parish Council would insist on being a party to any associated Section 106 agreement
- Strong local public opinion opposing the development on the grounds of loss of amenity, increased noise, increased traffic etc. - it is not satisfactory to suggest that, because there is already a high level of noise, more noise would be acceptable

East Midlands Airport has no objections subject to conditions

Leicestershire County Council Archaeology has no objections

Leicestershire County Council Ecology has no objections

Leicestershire County Council Lead Local Flood Authority has no objections subject to conditions

Leicestershire County Council Local Highway Authority has no objections subject to conditions and planning obligations

Leicestershire Police makes several recommendations in respect of reducing the opportunities for crime

Natural England has no objections

North West Leicestershire District Council Environmental Protection has no objections subject to conditions

Third Party representations

82 representations have been received, objecting on the following grounds:

Subject	Reason for Objection
Principle of Development	No need for development
	Existing vacant / unbuilt units in the area
	Low unemployment rate in Castle Donington
	Reduces separation between the historic part of the village and employment sites
	Loss of green space
	Loss of countryside
	Loss of agricultural land
Access Issues	Access via Hill Top unsuitable due to width
	Unsafe access
	Access needs to address existing bus stop
	Site is within a weight limit
	Site should be accessed via the relief road
	Danger to pedestrians and cyclists from site access
	Increased traffic on residential roads
	Increased congestion / insufficient capacity on existing roads
	Access would be difficult during the Download Festival
	Additional traffic calming required
	HGVs will access via the village centre
	Insufficient measures proposed for sustainable travel to / from the site
	Insufficient parking space proposed
Amenity Issues	Noise and fumes from passing vehicles
	Noise from use of the site
	Existing background noise issues do not justify additional noise from the proposed development
	Pollution / air quality concerns
	Light pollution
	Proposals out of keeping with existing landscape
	Overlooking of adjacent properties
	Not appropriate adjacent to a new housing development

	Proposed hours of operation too late
Flood Risk	Flood risk assessment out of date as it refers to the 2016 North West Leicestershire Strategic Flood Risk Assessment
	Existing flooding issues in the area would be exacerbated
Other	Use of the site outside of working hours / anti-social behaviour
	Loss of property value
	Loss of habitat
	Adverse impact on wildlife
	Ecology report insufficiently detailed
	Concerns over the types of items stored
	Adverse impact on health
	Insufficient local facilities (including in respect of leisure and healthcare)
	No local or community benefit
	Proposals out of keeping with existing landscape
	Previous refusals of planning permission in the area
	Loss of village character
	Litter
	Impact on existing trees
	An existing tree on the site is unsafe
	Employees likely to be from outside of the local area
	Existing employees on industrial estates on minimum wage
	Unsafe to have more people visiting the area during the evening
	Toilet facilities would need to be provided for drivers etc.
	Too many units proposed for the site
	Adverse impact on the Conservation Area

In addition, **Councillor Morley** (ward member) objects on the following grounds:

- Suggested access route via Hill Top is wholly inappropriate for traffic and especially HGVs as this is a weight restricted area
- Outside the limits of development
- The proposed units' employees would be likely to come from outside of Castle Donington meaning an increase in traffic and pollution to the village
- No evidence of need for these types of units are needed, particularly given existing empty units in Castle Donington
- Drainage figures on the proposal are out of date and there has been an increase in flooding in the area
- Adverse impact on habitats, green space and biodiversity

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 (2024)

The following sections of the National Planning Policy Framework (NPPF) are considered relevant to the determination of this application:

Paragraphs 8, 11 and 12 (Achieving sustainable development)
Paragraphs 48, 56, 57 and 58 (Decision-making)
Paragraphs 85, 87, 88 and 89 (Building a strong, competitive economy)
Paragraphs 109, 110, 113, 114, 115, 116, 117 and 118 (Promoting sustainable transport)
Paragraphs 124 and 125 (Making effective use of land)
Paragraphs 131, 135, 136, 137 and 139 (Achieving well-designed places)
Paragraphs 161, 163, 164, 166, 170, 173, 174, 175, 177, 178, 179, 181 and 182 (Meeting the challenge of climate change, flooding and coastal change)
Paragraphs 187 and 193 (Conserving and enhancing the natural environment)
Paragraphs 207, 208, 210, 212, 213, 215, 216 and 218 (Conserving and enhancing the historic environment)

Further advice is provided within the MHCLG's Planning Practice Guidance.

Adopted North West Leicestershire Local Plan (2021)

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S1 – Future housing and economic development needs
Policy S2 – Settlement Hierarchy
Policy S3 - Countryside
Policy D1 - Design of new development
Policy D2 – Amenity
Policy Ec2 – New employment sites
Policy Ec5 – East Midlands Airport: Safeguarding
Policy IF1 – Development and Infrastructure
Policy IF4 – Transport Infrastructure and new development
Policy IF7 – Parking provision and new development
Policy En1 – Nature Conservation
Policy En6 - Land and Air Quality
Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment
Policy Cc2 – Flood Risk
Policy Cc3 – Sustainable Drainage Systems

Adopted Leicestershire Minerals and Waste Local Plan (2019)

The Leicestershire Minerals and Waste Local Plan forms part of the development plan. There are, however, no policies within the plan considered directly relevant to the determination of this application.

Other Policies / Guidance

Community Infrastructure Levy Regulations 2010
Conservation of Habitats and Species Regulations 2017
ODPM Circular 06/2005 (Biodiversity and Geological Conservation - Statutory Obligations and their Impact within the Planning System)
Good Design for North West Leicestershire Supplementary Planning Document (SPD)

5. Assessment

Approach to Determination and Principle of Development

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

Paragraph 11 of the NPPF provides that plans and decisions should apply a presumption in favour of sustainable development and that, for decision-taking, this means:

“... c) approving development proposals that accord with an up-to-date development plan without delay; or

d) 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 strong 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination”.*

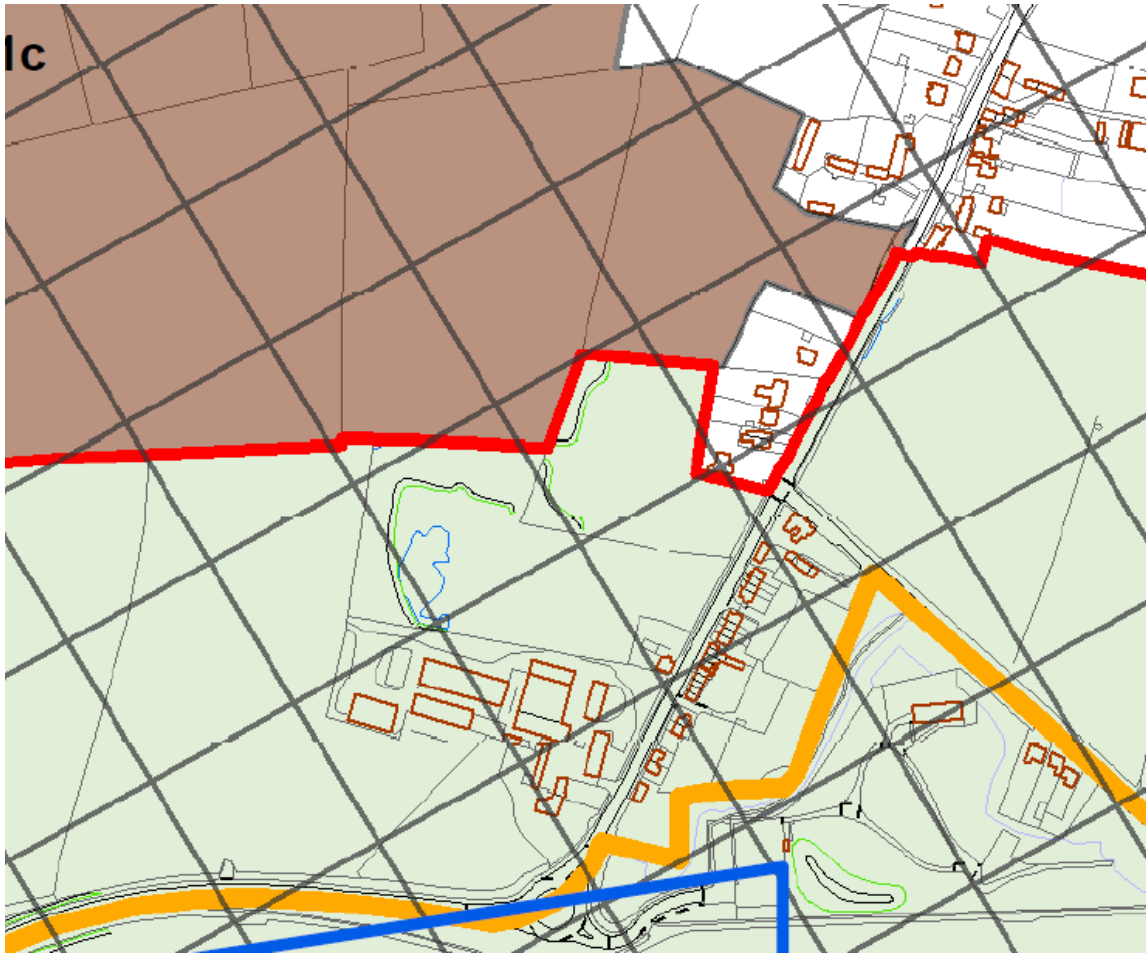
The areas or assets referred to under Paragraph 11 (d) (i) include Sites of Special Scientific Interest (SSSIs).

Paragraph 12 of the NPPF provides that *“The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan...permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed”.*

In effect, therefore, it is necessary to consider whether the development complies with the policies of the adopted Local Plan (when considered as a whole) and, if not, whether (in accordance with NPPF Paragraph 12), other material considerations indicate that planning permission ought to be granted (and whether Paragraph 11 subsections (c) or (d) are applicable). For the purposes of applying the tests in the NPPF, the view is taken that the adopted North West Leicestershire Local Plan is up-to-date.

In terms of the site's status within the adopted North West Leicestershire Local Plan, it is noted that the site lies outside Limits to Development, and is not identified for any particular purposes or any other specific use within the Local Plan. The relevant extract of the Local Plan Proposals Map is shown on the following page.

Local Plan Proposals Map Extract



The application site is located outside (albeit adjacent to) Limits to Development and is, accordingly, subject to Policy S3 of the adopted Local Plan. Policy S3 allows for a range of development types outside Limits to Development, including (under category (s)) employment land in accordance with the provisions of Policy Ec2. Whilst outside the Limits to Development of the village, it is noted that Castle Donington itself is identified as a “Key Service Centre” in the adopted Local Plan (i.e. the second highest order settlement type defined in the Local Plan following the “Principal Town” of the Coalville Urban Area).

Insofar as development under category (s) is concerned, it is noted that this cross-references to Policy Ec2; Policy Ec2 (subsection (2)) provides that *“Where evidence indicates an immediate need or demand for additional employment land (B1, B2 and B8) in North West Leicestershire that cannot be met from land allocated in this plan, the Council will consider favourably proposals that meet the identified need in appropriate locations subject to the proposal:*

- (a) *Being accessible or will be made accessible by a choice of means of transport, including sustainable transport modes, as a consequence of planning permission being granted for the development; and*
- (b) *Having good access to the strategic highway network (M1, M42/A42 and A50) and an acceptable impact on the capacity of that network, including any junctions; and*
- (c) *Not being detrimental to the amenities of any nearby residential properties or the wider environment.”*

As such, in order to comply with the *principle* of development requirements of Policy S3, it would be necessary to demonstrate that there was an immediate need or demand for additional employment land within the District that could not otherwise be met by allocated sites (and, if that could be shown, that the criteria in (a), (b) and (c) above would also be met).

In terms of the interpretation of “immediate”, “need” and “demand” the Council’s Planning Policy and Land Charges Team has stated these to be as follows:

- “Immediate” – in this context can be interpreted as meaning “arising now”.
- “Need” – correlates to a policy requirement identified through the plan-making process to ensure that the future needs of an area are adequately addressed.
- “Demand” – could be in the form of a request from potential future users or could be to address a gap in the supply of premises in the District. In other words, it relates to “market demand”.

The policy requires need or demand to be demonstrated (officer emphasis); it is not necessary to demonstrate both.

In this instance, evidence has been submitted on behalf of the applicant to demonstrate interest from 26 existing businesses (including both sole traders and companies) in a total of 32 units. Of these, all but one are currently based in North West Leicestershire, and 14 are based within 5 miles of the site; each enquiry indicates that premises are required immediately / as soon as possible, and that they have been unable to find suitable units in the local area. Reasons provided for seeking units include expansion of existing business, changes in direction such that storage is required, the need for additional storage close to customers, and because existing premises are no longer available / suitable. The level of interest identified would appear to be of an extent such that the quantum of development proposed would be required (assuming all the enquiries were to come to fruition).

Policy Ec1 identifies two sites for B8 use; the Former Lounge Disposal Point (now called G-Park) at Ashby and Land at Sawley Crossroads. Both these sites now have planning permission for strategic scale warehousing. The form of development on both sites is significantly different from the application proposal. It is accepted that the application proposal cannot reasonably be accommodated on either of these sites.

Whilst it would seem unlikely that everyone who has shown interest to date would go ahead and rent unit(s) in the proposed development (due to changing circumstances etc.), having regard to the above, it is nevertheless considered that the evidence demonstrates the immediacy, location and scale of demand as required by Policy Ec2(2) for an immediate demand for employment land in North West Leicestershire which cannot be met on sites allocated in the Local Plan.

Paragraph 85 of the NPPF indicates that planning decisions should “help create the conditions in which businesses can invest, expand and adapt” and that “significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

Criterion (e) of Paragraph 86 of the NPPF indicates that planning policies should “be flexible enough to accommodate needs not anticipated in the plan, and allow for new and flexible working practices and spaces to enable a rapid response to changes in economic circumstances.” This stance is also reflected in Policy Ec2(2) of the adopted Local Plan.

In respect of the adopted Local Plan, as set out above, an immediate demand for additional floorspace has been demonstrated that cannot be met at other allocated sites. The proposal is therefore considered to meet this element of Policy Ec2(2).

In terms of the additional criteria applicable under Policy Ec2(2) (and as identified as (a) to (c) above), it is considered as follows:

- (a) See Means of Access, Highways and Transportation Issues below.
- (b) The site is considered to be well related to the strategic network, given its proximity to the A453 and the Castle Donington Relief Road which, in turn, provide for good access to the M1 (Junctions 23A and 24), the A42 (Junction 14) and the A50 (Junction 1).
- (c) As set out in more detail in later sections of this report.

Under the provisions of Policy S3, where a development is considered to meet the requirements (and, hence, be acceptable in principle), compliance with a number of additional criteria must be met; the scheme's performance in respect of these criteria is considered to be as follows:

(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

Whilst located outside Limits to Development, it is accepted that the northern part of the site is, at present, relatively well screened by virtue of existing development along Hill Top and High Street, and the topography of the area. The southern part of the site is more visible in views from the site's eastern boundary with Hill Top due to the height of the frontage hedgerow and the existing field access. It is also acknowledged that the site is immediately adjacent to land within Limits to Development. The proposed buildings would be of limited scale in terms of height (4.2m high to ridge), and would be set back from the road frontage and partly located behind existing development, with soft landscaping proposed to the front of the site. and it is not considered that the scale of the proposed new units would be likely to lead to unacceptable impacts on the wider landscape. It therefore could be argued that the appearance and character of the landscape would be safeguarded. However, (and notwithstanding the proposed landscaping) it would seem difficult to conclude that the appearance and character of the landscape would also be enhanced.

(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

Whilst outside Limits to Development, the existing farm buildings to the south (and existing houses to their east, to the opposite side of the road) would, in effect, be the "last" elements of built development at this southern end of Castle Donington, and no conflict would therefore be considered to arise in terms of undermining the physical or perceived separation between nearby settlements.

(iii) It does not create or exacerbate ribbon development

Whilst some of the proposed development would be "behind" the existing frontage housing to Hill Top / High Street, the site includes a section of its frontage to this route so, in this sense, could be considered to contribute to the existing dwellings' ribbon development effects. However, it is acknowledged that the area of frontage to the road would be between the existing dwellings to the north and south. The actual frontage section would also, it is noted, not include any proposed buildings (being limited to use as the site access and areas of landscaping and SuDS). As such, the proposed development would not be considered to materially create or exacerbate ribbon development.

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

Given the site's proximity to Limits to Development and nearby buildings, it is considered that the proposed development would be reasonably well related to existing development within the immediate vicinity.

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

Given the nature of the proposal, it is not considered the proposal would impact on the vitality and viability of existing town and local centres. The uses proposed are not those in respect of which the town centre / retail type uses' sequential or impact tests would be considered applicable.

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

See section of the report relating to Means of Access, Highways and Transportation Issues below.

On the basis of the above, the principle of the development is considered acceptable (and subject to other matters as considered under Detailed Issues below).

Detailed Issues

In addition to the issues of the principle of development, consideration of other issues relevant to the application is set out in more detail below. The proposed site layout plan is shown on the following page.

Proposed Site Layout



Means of Access, Highways and Transportation Issues

As set out above, the site is intended to be accessed via a new access road to Hill Top, located in a similar position to a smaller existing field access.

The application is accompanied by a Transport Assessment and supplementary Transport Assessment Addendum (submitted during the course of the application's consideration in response to issues raised by the County Highway Authority). Whilst concerns had been identified with respect to the implementability of a previously submitted Workplace Travel Plan, this document was withdrawn following advice from the County Highway Authority that, under the provisions of the Leicestershire Highway Design Guide applicable at that time, a Travel Plan would not normally be required for a scheme of this scale. In terms of other issues, the County Highway Authority had initially raised concerns with respect to access geometry and visibility, traffic generation calculations, junction capacity assessment and over-provision of car parking space.

Following the submission of the supplementary documents / data, the County Highway Authority advises as follows:

Site Access and Highway Safety

The setting out of the proposed site access has, as a result of alterations required to address the concerns of the County Highway Authority, been amended during the course of the application. Following these changes, the County Highway Authority notes that the scheme would now comply with the relevant access geometry standards set out in the Leicestershire Highway Design Guide.

In terms of access visibility, the County Highway Authority advises that, based on recorded traffic speeds in the vicinity of the site access, visibility splays of 2.4m by 54m are required to the north of the access and of 2.4m by 63m to the south. The relevant splays have been demonstrated on the updated drawings within the Transport Assessment Addendum and are therefore considered acceptable by the County Highway Authority.

In terms of access safety, the County Highway Authority had previously requested the submission of a Stage 1 Road Safety Audit (RSA). Following submission of the Transport Assessment Addendum, however, the County Highway Authority agrees to the applicant's transport consultants' suggestion that this be undertaken once the principles of the site access arrangement have been established. In particular, whilst it no longer requires the submission of an acceptable Stage 1 RSA prior to determination of the planning application, the County Highway Authority nevertheless advises that a combined Stage 1 and 2 RSA would be required at the detailed design stage, and that choosing to combine RSAs at a later stage is at the applicant's own risk should there be obstacles to delivery of the scheme which otherwise may have been noted during a Stage 1 RSA. The County Highway Authority also comments that, should the RSAs identify any fundamental matters that would require amendment of the scheme, this may result in the requirement for a subsequent Section 73 application to accommodate any changes in terms of the planning process. As such, whilst the County Highway Authority still considers that a Stage 1 RSA is required, it acknowledges that this can be addressed at a later stage (and in combination with the Stage 2 RSA), but that it is at the applicant's risk, given the potential for the RSAs to highlight the need to make changes to the access's design before it could be installed.

In terms of other highway safety considerations, the County Highway Authority had previously advised that the applicant's Personal Injury Collision (PIC) data should include data for a minimum distance of 500m in either direction of the site access and any junctions that are subject to junction capacity assessments. In terms of the data assessed, the submissions noted the occurrence of two PICs at the roundabout to the south of the site (both from 2022, one identified as "slight" and one as "serious" in terms of severity). Whilst some requested more recent data (March 2023 onwards) remained unsubmitted, based on its own records of PICs, the County Highway Authority confirms that (as of the date of its final observations), no further PICs had taken place within 500m of the site

access. As such, the County Highway Authority considers that the proposed development would not exacerbate any known highway safety concerns.

Weight Restriction

The site access is located within an existing 7.5 tonne weight restriction (albeit this would not prevent the site being accessed by HGVs (as above-weight vehicles can travel within a weight restricted area if their destination is also within that restricted area)). However, having regard to the site's location towards the southern end of the existing restricted area, it is considered that, given the ability for larger vehicles to enter a restricted area to reach a destination within it, the development could result in HGVs etc. entering / exiting the restricted area at its northern end (on Station Road, in the vicinity of its junction with Carnival Way) and, hence, travelling through the village centre (i.e. along Bondgate / High Street etc.) to and from the site entrance.

Whereas the scheme proposes signage / access road markings advising drivers to turn right when exiting the site (and which are welcomed by the County Highway Authority), such measures would not be the subject of a Traffic Regulation Order and, therefore, not enforceable by the Police. (Also, such signage would only be observed by drivers when exiting the site, and by which time they would have already accessed the site).

Given the location of the site access within the weight restriction, therefore, the logical solution would, it is considered, be to effectively take the site access outside of the restricted area such that HGV drivers would have no option but to remain outside of the weight restricted area (i.e. by relocating the southern "start" of the weight limit to a point to the north of the site access), and all HGV access / egress would then need to be via the A453 / Castle Donington Relief Road etc.

As such, the County Highway Authority confirms that it would expect the existing weight limit signage to be removed and new weight limit signage (including illumination) installed. The County Council confirms that these works would need to be completed by the applicant and be approved by the County Council as part of the Section 278 process. A Traffic Regulation Order (TRO) fee (£7,500) would also be required to advertise the TRO, and is requested to be secured by way of a Section 106 contribution; the applicant is agreeable to making this contribution.

Wider Highway Network

In response to the County Highway Authority's request, updated TRICS (Trip Rate Information Computer System) trip generation data has been produced in respect of the application. The revised trip generation figures are set out below; the figures shown include total person-based trip generation (i.e. including all modes of travel to and from the site) and, specifically, those arriving / leaving by HGV. The County Highway Authority considers that these figures are now robust.

	Weekday AM Peak (0800 – 0900)			Weekday PM Peak (1700 – 1800)			Weekday 12 Hour (0700 – 1900)		
	<i>Arrive</i>	<i>Depart</i>	<i>Total</i>	<i>Arrive</i>	<i>Depart</i>	<i>Total</i>	<i>Arrive</i>	<i>Depart</i>	<i>Total</i>
<i>Person Trips</i>	11	9	20	12	20	32	180	189	369
<i>HGV</i>	3	2	5	3	5	8	45	47	92

The revised data has been incorporated into an updated junction capacity assessment for the site access and which demonstrates, the County Highway Authority confirms, that the junction would operate well within capacity in the future year scenario (2028).

Internal Layout and Parking

The proposed layout indicates provision of 2 car parking spaces per unit (i.e. a total of 70 spaces); whilst the County Highway Authority had initially commented that the amount of car parking space was in excess of its requirements, but noted that no HGV parking was shown. In response, the applicant has reconfigured the site to show some HGV parking provision (albeit whilst retaining the original number of car parking spaces). The County Highway Authority confirms it is content with the revised configuration / parking arrangements, together with the applicant's intention to provide 8 cycle parking spaces.

Site Accessibility

As set out under *Approach to Determination and Principle of Development* above, criteria under Local Plan Policies S3 and Ec2 include the requirements that any such development is accessible (or has the potential to be made accessible as a consequence of any planning permission granted for the development) by a choice of means of sustainable transport, and has good access to the strategic highway network.

The site's relationship to the strategic highway network is addressed under *Approach to Determination and Principle of Development* above. In terms of the accessibility of the site generally, it is noted that, whilst within the countryside, the site would be located adjacent to the Limits to Development for Castle Donington, with the site access located approximately 850m from the edge of Castle Donington Town Centre (*sic*) as defined in the adopted Local Plan. The site is adjacent to bus stops served by frequent Skylink services connecting to a range of destinations, including Derby, Nottingham, Leicester and Coalville. There are footways and street lighting on both sides of Hill Top and High Street in both directions in the vicinity of the site, and the footway on the western side of Hill Top continues southwards to link into the footway along the road that follows the north western perimeter of East Midlands Airport and on to the Castle Donington Relief Road. A cycle path also runs along part of the airport perimeter road. On this basis, and given that the site is located adjacent to the defined Limits to Development of Castle Donington (identified, as set out above, as a "Key Service Centre" in the Local Plan), it is considered that the development would be acceptable in terms of the accessibility of the site.

Overall in respect of means of access, highways and transportation issues, therefore, the scheme is considered acceptable, and would comply with the relevant national and local policies in this regard.

Residential Amenity and Noise

Policy D2 of the North West Leicestershire Local Plan provides 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, and provides that proposals will be supported where they do not have a significant adverse effect on the living conditions of existing and new residents through loss of privacy, excessive overshadowing and overbearing impact, nor generate a level of activity, noise, vibration, pollution or unpleasant odour emission, which cannot be mitigated to an appropriate standard. The policy also requires that external lighting schemes should be designed to minimise potential pollution from glare or spillage of light.

The application is accompanied by an Acoustic Assessment. This indicates that, whilst the exact nature of future occupiers' operations are not known at this stage, operations within the yard are likely to be the most significant acoustically, and would be expected to include loading and unloading of vehicles with the use of an electric pedestrian pallet truck (assumed to take place for around 50% of an hourly period). Other potential sources of noise identified in the Assessment include the use of motor operated roller shutter doors. The Assessment states that the sound generated by movement of vehicles in the service yard would be similar to that on the local road network and would be "masked" by local activity.

Based on the calculations set out in the Assessment (and having regard to an assumption that there would be no night time (between 2300 and 0700) activity on the site), the specific sound levels calculated for the nearest receptors (i.e. the residential properties to the northern and southern sides of the site access) would be in the area of 16 to 18dB below the existing residual level and, as such, would result in no increase to the existing residual sound level, indicating a “low” impact on nearby receptors.

The Acoustic Assessment also addresses the impacts of increased traffic noise. In this regard, the Assessment considers the increased noise associated with the development (and when taking into account both the new development and other predicted increases in traffic generally) to result in an increased noise level of 0.1dB which, it indicates, would be “negligible”.

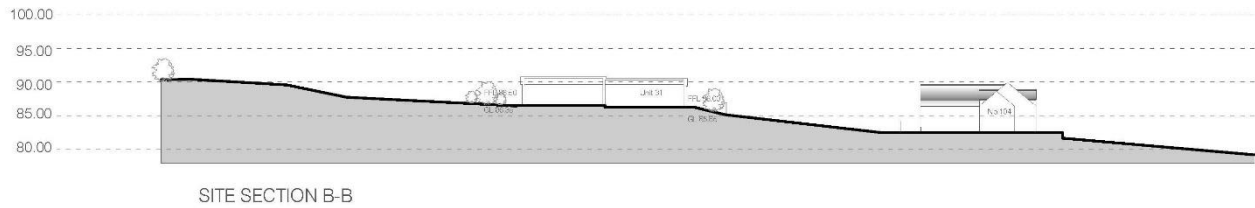
The application and accompanying Acoustic Assessment have been reviewed by the District Council’s Environmental Protection team, and no objections are raised. The Environmental Protection team had initially requested the installation of an acoustic fence to the site boundary so as to provide for additional noise protection but, having reconsidered the findings of the Acoustic Assessment, the Environmental Protection team acknowledges that this would not be necessary in order to achieve the noise levels identified. However, the Environmental Protection team considers that slightly more restrictive hours of operation than those assumed in the Acoustic Assessment (limited to between 0730 and 2100 Mondays to Sundays) would be appropriate; the applicant is agreeable to the imposition of a condition to secure these more restrictive hours of operation.

The closest residential properties to the proposed development are those fronting onto Hill Top and High Street, located to both the north and the south of the site access, and with gardens (and including outbuildings etc.) backing onto the site. Based on the submitted plans, the closest sections of the neighbouring properties’ “main” houses would be in the order of 22 to 23 metres away from the closest proposed building, although access / manoeuvring / parking areas would be closer than this. The relationship can be seen on the site layout plan reproduced earlier in this report, as well as on the various extracts from the submitted sections drawing provided below.

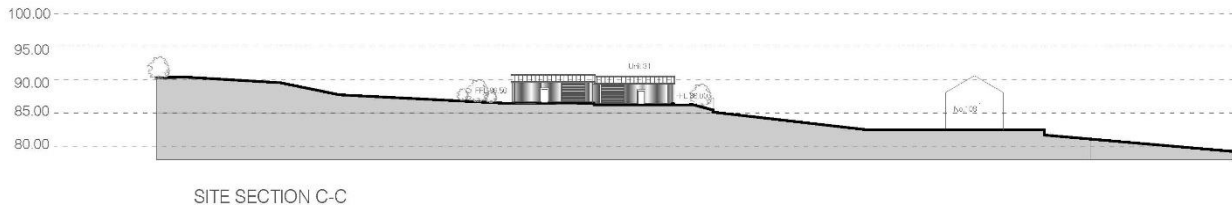
Sections Key Plan



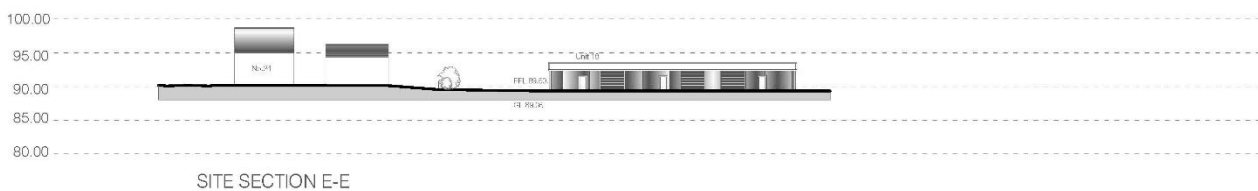
Section B-B



Section C-C



Section E-E



As demonstrated on the proposed sections, whilst the units in some areas of the site (including those areas to the west of High Street) would be sited at a higher finished floor level (FFL) (in AOD (i.e. Above Ordnance Datum) terms) than those of nearby residential properties, the overall height of the buildings would be lower, with the result being maximum roof heights of a similar overall AOD. The buildings would all be single storey.

Having regard to this, and having regard to the separation between existing and proposed buildings generally, it is accepted that adverse residential amenity impacts would be unlikely to result in terms of overlooking, overdominance, overshadowing or loss of light.

It is noted nevertheless that there would be areas of “activity” associated with the proposed use (including access roads and manoeuvring / parking areas) in closer proximity to neighbouring property, and there would, it is considered, be likely to be some impacts on adjacent properties arising from that relationship. Whereas (as set out above) the noise impacts are not predicted to be unacceptable on neighbouring properties, there could, it is considered, nevertheless be other effects arising as a result of the different uses’ proximity to one another, and the various types of ancillary activities / movements etc. likely to take place in association with business premises. However, it is not considered that these would, in themselves, be sufficient to warrant a refusal of the application. Furthermore, the applicant’s proposed landscaping adjacent to neighbouring boundaries would serve to provide an additional visual “buffer” in this regard.

In terms of lighting impacts, no proposals have been made at this stage, albeit uses of this nature would normally be expected to require some element of illumination (and which, potentially, could have some residential amenity impacts (as well as in respect of other matters such as ecology and aviation)). It is recommended that a condition be attached so as to ensure that any illumination proposed is able to be assessed separately in due course prior to installation.

On balance, therefore, and on the basis of the above, it is considered that the requirements of Local Plan Policy D2 would be met (insofar as it is applicable in respect of noise and other residential amenity issues).

Design, Visual Impact and Heritage Issues

The need for good design is set out within Policy D1 of the North West Leicestershire Local Plan, together with the Good Design for North West Leicestershire SPD and relevant sections of the NPPF and Planning Practice Guidance. Policy He1 of the North West Leicestershire Local Plan sets out the approach to assessing the impact of development on heritage assets; similar principles are set out in Chapter 16 (Conserving and enhancing the historic environment) of the NPPF.

Designated Heritage Assets

The closest listed building to the site is the Long Well, sited on High Street, approximately 170m to the north of the application site frontage, and is not considered to be materially affected by the proposals (nor would any other listed building). The site is, however, located close to the Castle Donington High Street Conservation Area, the High Street frontage edge of which is located approximately 100m to the north east of the site frontage; behind the High Street frontages, the site is approximately 41m away from the Conservation Area at its closest point. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in the exercise of any functions under the planning acts with respect to any buildings or other land in a Conservation Area, special attention be paid to the desirability of preserving or enhancing its character or appearance.

In response to the application, the District Council's Conservation Officer noted that, based on historic Ordnance Survey maps, the site was formerly a brickyard and an old clay pit (such uses having ceased prior to the Ordnance Survey map's publication in 1923). He commented that views south out of the conservation area are limited by natural topography and by a belt of trees although he (so as to avoid the potential for any risk) nevertheless suggested the omission of the two units (30 and 31) located closest to the northern boundary.

In response, the applicant's agent has confirmed that the applicant does not propose to delete these units, and wishes the application to be determined as proposed; further to this confirmation, no further comments / objections were raised by the District Council's Conservation Officer. Whereas no specific objections have been raised, nor any harm has been identified by the Conservation Officer, it is considered that, if there was to be harm to the setting of the Conservation Area, it would be less than substantial in NPPF terms.

Paragraph 215 of the NPPF provides 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..."*. In this instance, therefore, any harm considered to arise in respect of the heritage assets would need to be weighed against the public benefits as outlined in this report. It is accepted that, given the limited impacts on designated heritage assets, those public benefits (and including the proposed development's contributions to the economic and social strands of sustainable development as set out elsewhere within this report) would more than outweigh any less than substantial harm that would occur to the significance of the Conservation Area.

In accordance with the requirements of NPPF Paragraph 212, "great weight" should be given to the asset's conservation and, notwithstanding the approach set out in Paragraph 215, regard nevertheless still needs to be had to the statutory duties under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. In this case, and when applying the duty under Section 72 of the Act together with the tests set out in the Planning Practice Guidance, the view is taken that,

whilst there *could* be a degree of harm to the setting of the Conservation Area, the overall impact would be acceptable.

Non-Designated Heritage Assets:

Insofar as non-designated heritage assets are concerned, the application is accompanied by an Archaeological Desk Based Assessment (DBA). Further to the comments set out above relating to the site's former use, the DBA identifies "medium" potential for archaeological remains within the central and western parts of the site relating to a brickyard operated from the mid 19th century until the early 20th century. The DBA suggests that, if any archaeological remains associated with the brickyard were discovered, they would be of "evidential and historical illustrative value" and, as such, would be of local significance (depending on their condition and the nature of the remains recovered). Insofar as earlier archaeological remains are concerned, the DBA suggests that these are likely to have been either truncated or destroyed by the former clay extraction on the site.

Some of the proposed units and parking areas would be in the location of the former brickyard, and the works associated with the construction of the development would, the DBA suggests, be likely to remove or truncate archaeological remains related to the brickyard, should they exist. Therefore, the groundworks associated with the proposed development should be deemed to have a moderate adverse physical impact on the potential remains of the post-medieval brickyard in some locations; elsewhere, the impacts would be expected to be "negligible to low" given the previous clay extraction.

Due to the potential for remains within the site, therefore, the DBA recommends that archaeological monitoring in the form of a watching brief be undertaken during the groundworks of the proposed development, in accordance with a Written Scheme of Investigation (WSI). Notwithstanding the recommendations of the DBA, the County Archaeologist does not consider that any further mitigation would be necessary, given the likely effects of the former clay pit use of the site, and has not requested any conditions be attached to secure a WSI. The County Archaeologist has, however, been asked to re-confirm this position, given the findings of the DBA; any further comments received will be provided on the Update Sheet.

In terms of other non-designated heritage assets, the District Council's Conservation Officer noted that Hill Top Farm is a non-designated asset, advising that it is a late Georgian gentleman's farmhouse, but that there would be no harm to the setting of Hill Top Farm from the development due to the presence of intervening modern farm buildings.

The proposals are therefore considered to be acceptable in terms of the impacts on heritage assets, and, overall, would perform well in respect of the principles set out in Local Plan Policy He1.

Design and Visual Impact

Insofar as other design issues are concerned, the application has been assessed by the District Council's Urban Designer. In response to the submissions, concern has been raised regarding the configuration of the proposed site layout; whilst the existing hedgerow has been maintained through the centre of the site (and effectively splitting the site into two sections), the Urban Designer is concerned that the site's proposed configuration means that the units would not relate particularly well to it. Of particular concern is the effect the layout could have in terms of the rear of units, and how they would be secured in the event that the layout proposed resulted in a requirement for additional fencing etc. In response to this point, the agent confirms that the applicant's preference would be not to have any rear fencing to the units. Whilst this would, in itself, appear to resolve this particular concern, it is considered that this position could change if future occupiers were to have a different view from the applicant. Having regard to this, the agent has provided details of potential fencing type (a dark green mesh / paladin style fencing), should this be required. In principle, this form of fencing would appear appropriate in this location (potentially subject to the provision of appropriate additional landscaping so as to assist in assimilating it into its surroundings). On this basis, it is considered that the remaining concerns relating to the scheme's layout could be

addressed to a satisfactory degree. Similarly, whilst concerns raised by the District Council's Urban Designer relating to the provision of limited landscaping to the units' frontages remain unresolved, it is considered that this could be addressed by way of condition.

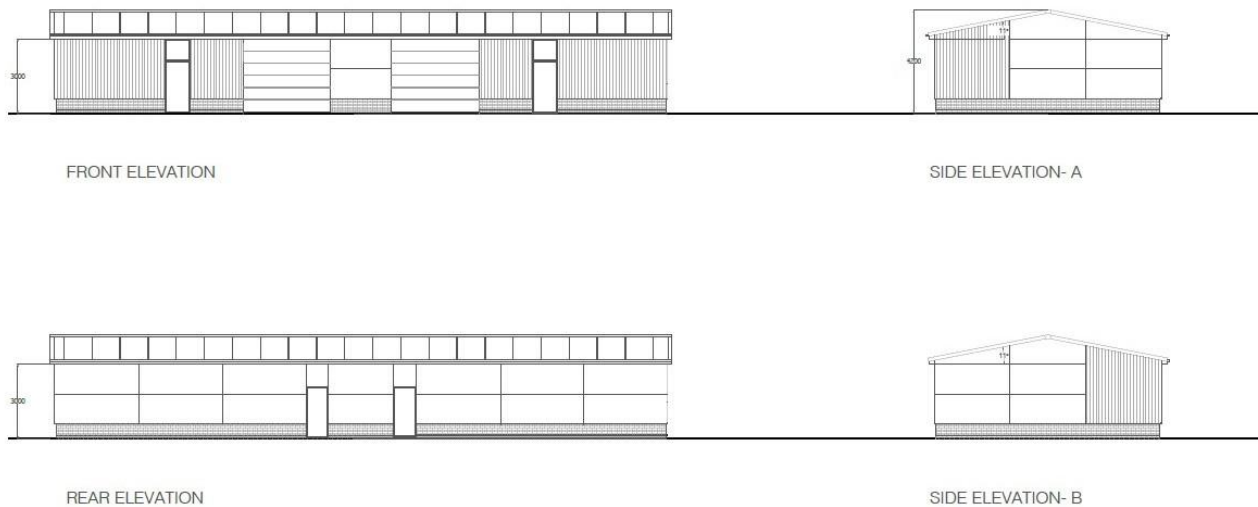
In terms of the units themselves, the scheme as originally submitted proposed buildings that, it is considered, were somewhat "utilitarian" in terms of elevational approach (and as shown in the example elevation below). Examples of the original elevation drawings are on the following page.

Typical elevations as per original submission:



However, in response to officer requests to enhance the elevations, the units are now proposed to be clad in timber to their front and side elevations (and with the units closest to the northern boundary, backing onto the new Village Park, clad with timber to their rear also).

Typical elevations as per amended submission:



Whereas officers had also sought to encourage inclusion of additional glazed panels to the units, this suggestion has not been incorporated within the amendments but, overall, the revised scheme is considered to represent a significant improvement beyond the original proposals. A CGI of one of the proposed units is provided below, so as to help demonstrate the visual effects / appearance following addition of the timber cladding.



Overall in terms of the design of the scheme, therefore, whilst not all of the amendments sought by the District Council's Urban Designer have been incorporated, the changes made are considered to represent significant improvements and, overall, a good standard of design would be considered to have been achieved. The scheme as a whole is, therefore, considered to perform well against the requirements of local and national policies in respect of design, and including Policy D1 of the North West Leicestershire Local Plan and the Good Design for North West Leicestershire SPD.

Ecology and Biodiversity

Local Plan Policy En1 presumes in favour of development that would conserve, restore or enhance biodiversity, and that proposals that would result in significant harm to a number of protected sites or areas will be refused unless that harm is unavoidable, and can be mitigated or compensated for; similar principles are set out in Chapter 15 (Conserving and enhancing the natural environment) of the NPPF. The application is accompanied by an Ecological Assessment (which includes a detailed appraisal of the ecological and biodiversity implications of the proposed development on various receptors of ecological value, and which has been assessed by the County Ecologist).

The Ecological Assessment provides that the closest statutorily designated site of nature conservation interest to the application site is approximately 1.9km from the site (being the Donington Park Site of Special Scientific Interest (SSSI)); no other statutory sites are located within 2km of the site. Insofar as non-statutory designations are concerned, the Ecological Assessment identifies a total of 35 Local Wildlife Sites within the 2km radius (the closest being Castle Donington, Gothic House Lime, located 200 metres from the site). The Ecological Assessment identifies no impacts on the Donington Park SSSI and, subject to the implementation of a Construction and Environmental Management Plan (CEMP) securing precautionary measures, no impacts on any non-statutory sites.

In terms of habitats within the site, these are noted as including:

- Dense scrub (identified as of “negligible” ecological importance)
- Neutral grassland (“negligible” ecological importance)
- Species poor hedgerow with and without trees (“local” ecological importance)
- Broadleaved woodland – semi-natural (“local” ecological importance)
- Waterbodies (“negligible” ecological importance)

Having regard to the respective importance of the various habitats on site, the mitigation proposed is, in part, dependent on their status in this regard. Mitigation includes:

- Protection of broadleaved woodland during construction
- Planting of wildflower and scrub species within remaining habitat to mitigate for the loss of neutral grassland (notwithstanding its identified importance)
- Provision of replacement (species-rich) hedgerow planting (including within existing gaps)

Insofar as the impacts on fauna are concerned, the Ecological Assessment concludes as follows:

Amphibians:

Whilst the majority of the habitats that would be affected by the proposed development are considered to be of low importance and would provide only terrestrial habitats away from breeding sites, the retention and creation of habitats would provide positive opportunities for amphibians.

Badgers:

Evidence of badgers was recorded during survey work. Whereas the proposals have been designed so as to accommodate identified badger habitat, the Ecological Assessment states that an updated survey would be required in advance of construction (and a licence obtained from Natural England, if applicable).

Bats:

The Ecological Assessment comments that the majority of bat activity recorded on site was centred around the hedgerows located in the centre of the site and around the northern site boundary (and which are proposed to be retained). The Ecological Assessment states that, in order to ensure no harm to bats using these areas around the hedgerows for foraging and commuting, they should be subject to a bat sensitive lighting strategy, with lighting around the hedgerows and broadleaved woodland avoided where possible and, where it is required, designed to minimise disturbance of bats and to maintain dark corridors.

Insofar as the Ecological Assessment’s conclusions in respect of habitat and fauna are concerned, the County Ecologist had initially raised some queries in respect of the methodology used for eDNA surveys for great crested newts. Following further clarification provided by the applicant’s ecological consultants, however, the County Ecologist has confirmed that no objections are raised to the application.

Biodiversity Net Gain

As noted in the introduction above, the proposed development would not be subject to the statutory requirement to demonstrate 10% BNG. Nevertheless, the more general requirements for development to provide net gains for biodiversity as set out in Paragraph 187 of the NPPF would still apply and, to this end, information has been provided with the application setting out the overall impacts on existing biodiversity (in terms of units), together with details of proposed measures to address / mitigate for the loss.

The submitted metric indicates that, in terms of the on-site baseline, there are currently 12.62 habitat units and 5.46 hedgerow units. Having regard to the proposed on-site mitigation measures (including landscaping), the site would (post mitigation) provide for 14.61 habitat units and 5.80 hedgerow units. This equates to the following:

Habitat Units: Increase of 1.99 units (+15.76%)

Hedgerow Units: Increase of 0.34 units (+6.30%)

As such, whilst no statutory BNG is applicable in this instance (and which would require a minimum of 10% net gain in terms of both habitat and hedgerow units), the scheme would nevertheless result in a net gain in the biodiversity of the site overall and, as such, would be considered to accord with the provisions of Paragraph 187 of the NPPF.

On this basis, therefore, the submitted scheme is considered acceptable in terms of ecology and biodiversity, meeting the requirements of Local Plan Policy En1.

Impacts on Existing Trees

The application is accompanied by an Arboricultural Impact Assessment (AIA). This identifies the trees / hedgerows required to be removed or pruned in order to accommodate the development.

In terms of those that would be lost in order to accommodate the development, these include: a single common elder (Tree T2) falling within Retention Category U (unsuitable for retention); a group comprising a multi-stem hawthorn and surrounding scrub within Retention Category C (low quality); various sections of a wider group (described as outgrown hedgerow bisecting the site) (G4), also within Retention Category C; and a 10m (approx.) section of hedgerow (H7) along the site frontage, required to accommodate the proposed access alterations, again falling within Retention Category C.

In response to the application, and having reviewed the submitted AIA, the District Council's Tree Officer notes that the existing vegetation on site consists of mainly lower quality tree groups and hedgerows, with only one individual tree and one group (neither of which would be removed to accommodate the development) considered to be of Category B (moderate quality) or above.

Regardless of the generally low quality of the existing trees, however, the Tree Officer notes that the proposed site layout has been designed to retain the majority of the vegetation, with only very limited pruning and removals from the tree groups required to facilitate the new internal access and units. As such, he takes the view that the development would not be likely to result in any significant loss to the local tree cover and raises no arboricultural objections, subject to the imposition of conditions in respect of the submission / approval of a detailed tree protection plan.

In terms of other issues relating to trees, the County Highway Authority has drawn the applicant's attention to the presence of two highway trees located to the southern side of the site access. One of these ash trees is identified in the AIA as being within Retention Category B (with the other within Category C): both are proposed to be retained as part of the scheme. In response to queries raised by the County Highway Authority, the applicant's transport consultants have provided further information to demonstrate that the existing trees' trunks would not conflict with the required access visibility. The County Highway Authority therefore raises no objections in this regard, but nevertheless reminds the applicant that (notwithstanding the above) if any works to highway trees were to be necessary, this would require a separate consent and the potential cost implications of any such removal of highway trees (given their "Capital Asset Value for Amenity Trees" (CAVAT) values) would be taken into consideration.

Comments have also been received from residents living to the opposite side of Hill Top regarding potential impacts on the stability of trees on the site (and, it is understood, with specific reference to

the larger of the highway trees referred to above). In response to these concerns, the District Council's Tree Officer notes that there are no proposed development works in the tree's Root Protection Area (RPA) and, as long as a suitable protection plan is secured by condition, there would be no reason to expect that the development would cause any significant impacts to the tree. He also notes that the submitted AIA rates its physiological condition as good and its structural condition as fair. The AIA doesn't highlight any significant defects (only some dead branches within the canopy which, the Tree Officer advises, would be expected for an ash of this size / age, even in good health). Given the absence of any indication to suggest that the tree would become unstable as a direct result of the development, it is not considered that this is a matter that would be material to the determination of the planning application, and any separate concerns residents may have regarding the health of the tree would need to be raised with the relevant owner(s).

Flood Risk and Drainage

Policy Cc2 of the North West Leicestershire Local Plan sets out a number of criteria in terms of flood risk against which proposals will be considered. Policy Cc3 sets out the requirements for the implementation (and management / maintenance) of Sustainable Drainage Systems (SuDS). The application is accompanied by a Flood Risk Assessment and Detailed Drainage report (FRA), and which has been updated during the course of the application. Additional Addendum Notes have also been provided in response to specific issues that had been raised in earlier responses by the Lead Local Flood Authority (LLFA).

Fluvial:

Insofar as fluvial flood risk is concerned, the application site lies within Flood Zone 1 (i.e. low probability of flooding) as defined on the Environment Agency's flood risk mapping and the District Council's Strategic Flood Risk Assessment (SFRA). As such, there is no requirement to apply the sequential test in this case insofar as this source of flooding is concerned.

Surface Water:

The FRA notes that, based on the Environment Agency's flood risk mapping, the site is located predominantly within an area of very low surface water flood risk. Following the Environment Agency's updating of surface water flood risk mapping in 2025, however, the FRA has been updated, and now notes the presence of some areas of low, medium and high surface water risk (including the existing pond at the south western part of the site, and other smaller topographic depressions where surface water can naturally collect).

Insofar as the sequential approach is concerned (in respect of the surface water element), it is noted that the proposed units would, for the most part, be sited outside of the areas of surface water flooding. Whilst some of the proposed buildings would appear to encroach into (limited) areas of higher risk, it is accepted that the layout proposed would represent a reasonable approach to the disposition of built development within the site, given the extent and location of areas identified as being at risk from surface water flooding; the majority of the areas of surface water flood risk are shown as being within the areas proposed to be occupied by the existing (retained) pond and landscaping. Furthermore, however, it is noted that, based on the updated approach set out in the MHCLG's Planning Practice Guidance (Paragraph Ref. ID 7-027-20220825), the sequential test need not be applied where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development. Having regard to the advice of the LLFA (and the absence of any identified harm to the risk of surface water flooding as a result of the development, either within the site or beyond), it is considered that this position would apply in this instance and, as such, the sequential test would no longer be applicable in respect of surface water in relation to this scheme.

Groundwater:

The submitted FRA notes that there is no indication of the site or surrounding area being affected by groundwater flooding in the SFRA. It refers to the site's previous brickyard and clay pit uses and comments that the pond in the south west part of the site lies within the area that was worked and excavated, and is unlikely to be representative of groundwater level in the area. As such, the FRA indicates that further assessment of groundwater flooding would not be appropriate.

Sewer Flooding:

The FRA notes that there is no indication of the site being affected by sewer flooding in the SFRA.

Mitigation and Proposed Surface Water Measures:

The FRA sets out a range of proposed mitigation measures. In terms of measures in respect of protecting the site / proposed units themselves, the FRA recommends setting finished FFLs 0.6m above the modelled 1% Annual Exceedance Probability (AEP) (plus climate change) level (identifying a FFL of at least 150mm above the level of adjoining ground). In addition, exceedance flow routing is proposed to form part of the surface water drainage strategy, utilising the access road through the site to convey on-surface flows safely. Given the limited level of risk, no additional measures are proposed in respect of reducing the amount of flood water that could enter the proposed buildings.

Insofar as the risk to other land / property is concerned, the FRA draws attention to Environment Agency guidance which provides that there must be no loss of flood storage capacity for flooding up to the 1% AEP plus climate change event. The FRA confirms that the scheme would include SuDS measures to meet this requirement (whilst also providing water quality improvements and other benefits).

In terms of the proposed surface water drainage system, the FRA includes a drainage strategy which proposes incorporation of SuDS within the on-site drainage design. In particular, the FRA proposes a peak surface water discharge rate of 5.2 l/s in the 1 in 100 year (+40% climate change) event. To achieve this, the proposed development includes SuDS features (including an attenuation basin) intended to manage surface water through attenuation on-site prior to off-site discharge via a culverted watercourse further north along High Street. Subject to the use of appropriate planting, the attenuation basin would, the FRA indicates, also provide for a good level of filtration, assisting in terms of water quality of the site run-off (and as referred to above).

In response to the application, the LLFA had initially raised a number of queries in respect of the submissions, and including in terms of the ability to discharge surface water to a combined sewer on Hill Top (as had originally been proposed by the applicant), and details of the proposed hydrobrake and spillway. The issues raised have all however been addressed to the LLFA's satisfaction, and no objections are raised subject to the imposition of conditions requiring precise details of the surface water drainage scheme to be agreed (including the undertaking of additional investigation so as to ascertain whether or not the site may be suitable for the use of infiltration as a drainage element), together with details of a scheme setting out measures for the surface water drainage scheme's long-term maintenance.

Foul Drainage:

Insofar as foul drainage is concerned, the developer proposes discharging to the existing combined sewer (as referred to above), and the FRA comments that "Severn Trent Water have stated that a gravity connection from the site for the disposal of domestic foul flows is acceptable at a new or existing manhole subject to formal S106 approval". It is recommended that a condition be attached so as to ensure that an appropriate scheme of foul drainage is implemented; no comments have been received from Severn Trent Water in response to the application.

Having regard to the above, the proposed development is considered acceptable in flood risk and drainage terms, and would meet the relevant requirements of Local Plan Policies Cc2 and Cc3.

Air Quality

Policy D2 of the adopted North West Leicestershire Local Plan seeks to (amongst others) ensure that adverse effects of development on residents' amenities are minimised (and including in respect of pollution); Policy En6 provides that development close to an Air Quality Management Area (AQMA) will be supported where an application is accompanied by a detailed assessment of the issues, and where appropriate mitigation is identified. Additional provisions are set out in the District Council's Air Quality SPD. Paragraph 199 of the NPPF outlines that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants (including cumulative impacts) and that opportunities to improve air quality or mitigate impacts should be identified and secured.

The application is accompanied by an Air Quality Assessment; this provides that, whilst the site does not lie within an AQMA, it is located approximately 780m away from the Castle Donington AQMA.

Construction Impacts

Insofar as the construction phase is concerned, the Air Quality Assessment indicates that, in terms of the risk to ecological receptors, the risk of construction dust impacts would be negligible. Insofar as residential receptors are concerned, the Assessment identifies a "medium" risk of dust soiling in respect of earthworks and construction activities (but "low" in respect of human health impacts). As such, a range of construction phase mitigation measures are proposed within the Assessment. Subject to these measures being implemented, the Assessment identifies the impacts from the construction phase as "not significant".

Operational Impacts

In terms of the operational impacts, the Assessment considers in particular the effects of nitrogen dioxide (NO₂) and particles (PM₁₀ and PM_{2.5}) associated with the development, including impacts arising from the additional traffic associated with the development once it is in use. (It is noted that the Castle Donington AQMA is designated having regard to the effects of NO₂).

The Assessment concludes that the annual mean and one hour mean NO₂ objectives are forecast to be met at all modelled receptors (which are within the AQMA area), and also that the PM₁₀ and PM_{2.5} concentrations would meet their respective long and short term Air Quality Objectives at all modelled receptors. Overall, therefore, the Assessment identifies that the impact on local air quality from the proposed development would not be significant.

On the basis of the above, however, it is considered that the proposals would be acceptable in terms of their impacts on air quality, and the relevant Local Plan policies relating to this issue are considered to be satisfied; no objections are raised by the District Council's Environmental Protection team in this regard.

Agricultural Land Quality

Policy En6 of the adopted North West Leicestershire Local Plan provides that development should avoid any unacceptably adverse impact upon soils of high environmental value, and explanatory paragraph 5.26 of the Local Plan provides that *"Whilst policy seeks to facilitate the diversification of the rural economy, there are also benefits to the protection of the best and most versatile agricultural land. Where appropriate we shall seek the use of areas of poorer quality land in preference to that of agricultural land of a higher quality"*. Paragraph 187 of the NPPF provides that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst others, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the Best and Most Versatile (BMV) agricultural land. Footnote 65 to Paragraph 188 suggests that, where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality

land should be used in preference to those of a higher quality. BMV agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification.

In terms of the agricultural land quality of the site (and based on Natural England's Post 1988 Agricultural Land Classification), other than some small areas of Grade 3a land adjacent to the northern and north western edges of the site, the site would predominantly fall within Grade 3b and so would, for the most part, not constitute BMV agricultural land. Whilst the irreversible loss of higher quality agricultural land would weigh against the proposals in terms of the environmental objective of sustainable development, given the very limited quantum of BMV involved, the scheme would not be considered to conflict with the relevant Local Plan and NPPF provisions in this regard.

Insofar as the impact on the existing agricultural business at Hill Top Farm is concerned, the applicant advises that the previous owners confirm that, whilst they had previously owned the site since the early 1900s, they were not themselves farmers. He also advises that, whilst the adjacent farm had an informal agreement to graze on the land many years ago via an annual licence, the farmer has (the applicant states) described the land as being of poor quality and "not safe for animals".

Whilst the agricultural quality of the land would, it is considered, be more properly determined by way of the Agricultural Land Classification (and with the conclusions reached above), the apparent absence of any agricultural use of the site for some considerable time by the operators of Hill Top Farm would, it is considered, suggest that there would be no evidence that the loss of the site to non-agricultural use would have any material impacts on the ongoing viability of the adjacent agricultural operations.

Aerodrome Safeguarding

Policy Ec5 of the adopted North West Leicestershire Local Plan presumes against development that would adversely affect the operation, safety or planned growth of East Midlands Airport. The application is accompanied by a Technical Safeguarding Assessment in respect of aviation (together with a subsequently submitted Addendum), submitted in response to requests by East Midlands Airport.

The scheme has been the subject of extensive dialogue with East Midlands Airport regarding a wide range of safeguarding concerns, including cumulative impacts with other developments on navigation systems (namely at the recently constructed Studbrook Business Park), proposed building materials (in terms of their potential for glint and glare), bird hazard management (and including in respect of the potential for the proposed attenuation pond to attract additional birdlife when containing water) and landscaping.

Following the submission of the additional technical assessment documents, East Midlands Airport is content with the proposals and raises no objections subject to the imposition of conditions. The scheme would therefore be considered to meet the relevant requirements of Local Plan Policy Ec5.

Overall Planning Balance, Contribution to Sustainable Development and Conclusions

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. The site is located outside Limits to Development as defined in the adopted Local Plan and is not allocated for new employment development; Policies S3 and Ec2 set out the approach to considering applications for employment development in these circumstances.

As set out in the *Approach to Determination and Principle of Development* section of this report above, it is considered that the proposals can be shown to be in accordance with the requirement for such development to have an immediate demand and, as such, the in-principle elements of these policies can be shown to be satisfied.

However, there are a number of other criteria against which such proposals need to be assessed in the event that an immediate need or demand can be demonstrated (and including, for example, the need to safeguard and enhance landscape appearance and character, and for the development to be accessible by a range of sustainable transport). Whereas the site is located outside Limits to Development as defined in the Local Plan, having regard to the close relationship between the site and areas within Limits to Development (and other land / buildings that are also outside Limits to Development), and the good accessibility of the site, it is considered that the scheme would perform relatively well in terms of these criteria, and the view is taken that, overall, the proposals can be considered to comply with the development plan as a whole.

In addition to the need to determine the application in accordance with the development plan, regard also needs to be had to other material considerations (and which would include the requirements of other policies, such as those set out within the NPPF). As set out above, the NPPF contains a presumption in favour of sustainable development. Having regard to the three objectives of sustainable development, it is concluded as follows:

Economic Objective:

This objective seeks to ensure that sufficient land of the right type is available in the right places and at the right time to support growth, innovation and improved productivity, and that the provision of infrastructure is identified and coordinated.

As per most employment-related development, the scheme would be expected to generate a range of direct and indirect jobs both during the construction and operational phases. Furthermore, given the relationship of the site to the village itself and its good accessibility on foot and by cycling and from further afield by public transport, the employment available on the site would be accessible by those without access to a private car.

Social Objective:

The economic benefits associated with the proposed development would, by virtue of the jobs created (both for those employed in association with the construction and operation of the development, and by way of indirect job creation), also be expected to provide some social benefits. The NPPF refers to the need to foster well-designed, beautiful and safe places; following the improvements secured in respect of the appearance of the proposed units, the scheme is considered to be acceptable in terms of these issues.

Environmental Objective:

The site is identified as countryside in the adopted Local Plan. However, as referred to above, the applicant has demonstrated that there would be an immediate need or demand for the development, and the scheme's siting outside of Limits to Development would not therefore necessarily conflict with Policies S3 and Ec2, or the policies of the Local Plan as a whole.

As above, given the site's relationship to the existing village, and the presence of other development in its vicinity, together with the limited scale of the proposed buildings themselves, it is not considered that the development would have a significantly adverse landscape or visual impact on the surrounding countryside. For the reasons set out within the relevant sections above, the scheme would also be considered acceptable in terms of its impact on the built and historic environment.

The scheme would also, it is considered, perform relatively well in terms of other aspects of the environmental objective, and including in respect of its associated biodiversity enhancements and mitigating and adapting to climate change; in terms of the need to make effective use of land, it is considered that the scheme would represent an effective use in terms of it helping meet a need for sites for this type of use, but it is also noted that the site is greenfield, whereas use of previously-developed land is the preferred approach as set out in NPPF Paragraph 124. As set out in the relevant section above, the site would predominantly fall within Grade 3b of the Agricultural Land Classification, so the development would not result in a significant loss of Best and Most Versatile (BMV) agricultural land. As set out under the comments relating to the Economic Objective above, the site also benefits from good accessibility by public transport.

Having regard to the three dimensions of sustainable development, therefore, and whilst the scheme would represent development outside of the existing Limits to Development, the development would nevertheless be considered to perform well in respect of these objectives.

It is therefore concluded that the proposed development would comply with the provisions of the development plan as a whole, and would benefit from the presumption in favour of sustainable development. Approval is therefore recommended.