

APPENDIX B

**Report of the Head of Regeneration and Planning
Planning Committee**

3 December 2013

PLANNING & DEVELOPMENT REPORT

PLANNING COMMITTEE FRONT SHEET

1. Background Papers

For the purposes of Section 100(d) of the Local Government (Access to information Act) 1985 all consultation replies listed in this report along with the application documents and any accompanying letters or reports submitted by the applicant, constitute Background Papers which are available for inspection, unless such documents contain Exempt Information as defined in the act.

2. Late Information: Updates

Any information relevant to the determination of any application presented for determination in this Report, which is not available at the time of printing, will be reported in summarised form on the 'UPDATE SHEET' which will be distributed at the meeting. Any documents distributed at the meeting will be made available for inspection. Where there are any changes to draft conditions or a s106 TCPA 1990 obligation proposed in the update sheet these will be deemed to be incorporated in the proposed recommendation.

3. Expiry of Representation Periods

In cases where recommendations are headed "Subject to no contrary representations being received by [date]" decision notices will not be issued where representations are received within the specified time period which, in the opinion of the Head of Regeneration and Planning are material planning considerations and relate to matters not previously raised.

4. Reasons for Grant

Where the Head of Regeneration and Planning's report recommends a grant of planning permission and a resolution to grant permission is made, the summary grounds for approval and summary of policies and proposals in the development plan are approved as set out in the report. Where the Planning Committee are of a different view they may resolve to add or amend the reasons or substitute their own reasons. If such a resolution is made the Chair of the Planning Committee will invite the planning officer and legal advisor to advise on the amended proposals before the a resolution is finalised and voted on. The reasons shall be minuted, and the wording of the reasons, any relevant summary policies and proposals, any amended or additional conditions and/or the wording of such conditions, and the decision notice, is delegated to the Head of Regeneration and Planning.

5. Granting permission contrary to Officer Recommendation

Where the Head of Regeneration and Planning's report recommends refusal, and the Planning Committee are considering granting planning permission, the summary reasons for granting planning permission, a summary of the relevant policies and proposals, and whether the permission should be subject to conditions and/or an obligation under S106 of the TCPA 1990 must also be determined; Members will consider the recommended reasons for refusal, and then the summary reasons for granting the permission. The Chair will invite a Planning Officer to advise on the reasons and the other matters. An adjournment of the meeting may be necessary for the Planning Officer and legal Advisor to consider the advice required

If The Planning Officer is unable to advise at Members at that meeting, he may recommend the item is deferred until further information or advice is available. This is likely if there are technical objections, eg. from the Highways Authority, Severn Trent, the Environment Agency, or other Statutory consultees.

If the summary grounds for approval and the relevant policies and proposals are approved by resolution of Planning Committee, the wording of the decision notice, and conditions and the Heads of Terms of any S106 obligation, is delegated to the Head of Regeneration and Planning.

6 Refusal contrary to officer recommendation

Where members are minded to decide to refuse an application contrary to the recommendation printed in the report, or to include additional reasons for refusal where the recommendation is to refuse, the Chair will invite the Planning Officer to advise on the proposed reasons and the prospects of successfully defending the decision on Appeal, including the possibility of an award of costs. This is in accordance with the Local Planning Code of Conduct. The wording of the reasons or additional reasons for refusal, and the decision notice as the case is delegated to the Head of Regeneration and Planning.

7 Delegation of wording of Conditions

A Draft of the proposed conditions, and the reasons for the conditions, are included in the report. The final wording of the conditions, or any new or amended conditions, is delegated to the Head of Regeneration and Planning.

8. Decisions on Items of the Head of Regeneration and Planning

The Chairman will call each item in the report. No vote will be taken at that stage unless a proposition is put to alter or amend the printed recommendation. Where a proposition is put and a vote taken the item will be decided in accordance with that vote. In the case of a tie where no casting vote is exercised the item will be regarded as undetermined.

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Money Hill Site North Of Wood Street Ashby De La Zouch |
| A2 | 12/00922/OUTM | Erection of up to 105 dwellings, public open space, earthworks, balancing pond, structural landscaping, car parking, and other ancillary and enabling works (Outline - All matters other than vehicular access off Grange Road reserved)
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Section B – Other Matters

There are no items in this section

SECTION A- PLANNING APPLICATIONS

Development of 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new health centre (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Woodcock Way (outline - all matters other than part access reserved)

Report Item No
A1

Money Hill Site North Of Wood Street Ashby De La Zouch
Leicestershire

Application Reference
13/00335/OUTM

Applicant:
Mr Matthew Inman

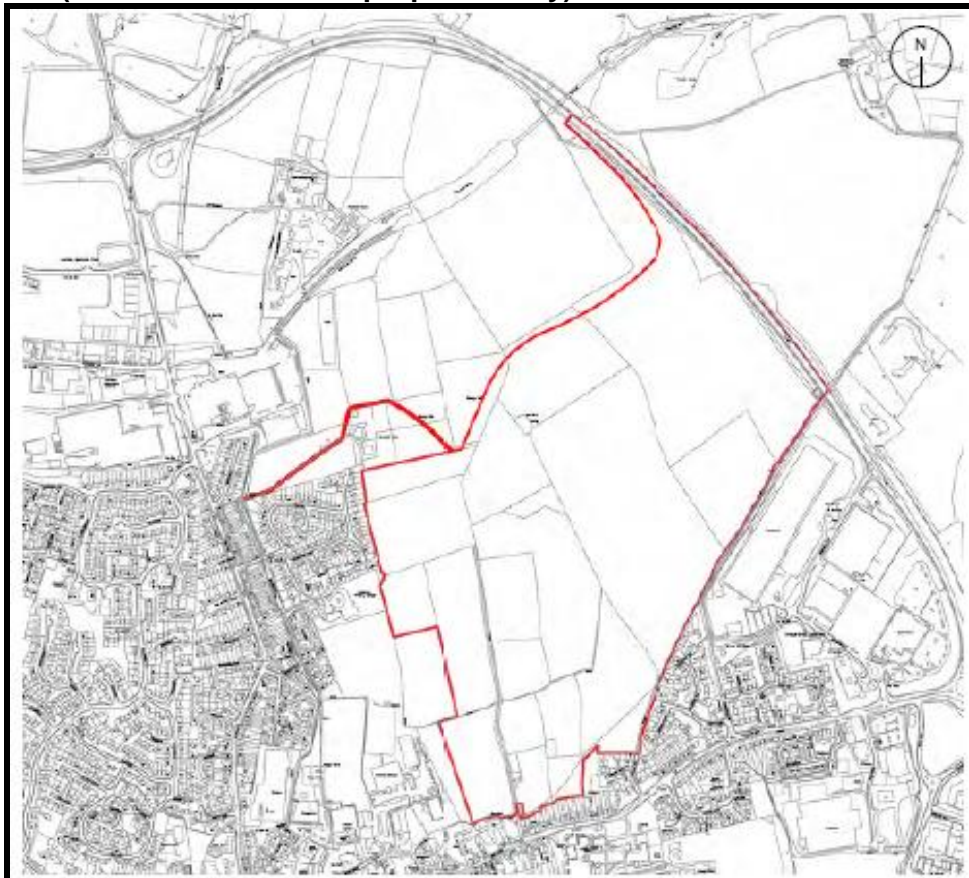
Date Registered
3 May 2013

Case Officer:
James Knightley

Target Decision Date
28 June 2013

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location (Plan is for indicative purposes only)



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Executive Summary of Proposals and Recommendation

Proposal

This application seeks outline planning permission for residential development of 605 dwellings together with an extra care centre, primary school, health centre, nursery school, community hall and retail development as well as new public open space served via vehicular accesses from the A511 and Woodcock Way.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (and including from Ashby de la Zouch Town Council); the application is also the subject of a holding Direction issued by the Highways Agency on behalf of the Secretary of State for Transport.

Planning Policy

The majority of the application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application however, is the supply of housing in the context of the National Planning Policy Framework (NPPF).

Conclusion

The report below indicates that, whilst the majority of the site is a greenfield site outside Limits to Development, having regard to the site's general suitability for housing (including its proximity to the built up area of Ashby de la Zouch) and the need to demonstrate and maintain a five year supply of housing land within the District, the proposals would be considered to constitute sustainable development, and release of the site for residential development would be appropriate in principle. Whilst the Local Highway Authority raises a number of issues in respect of the proposed means of access to the site, the Highway Authority does not raise objection and these are not considered to be issues of such concern so as to warrant a refusal of planning permission; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities, albeit with a reduced contribution to affordable housing required so as to ensure the development remains viable.

RECOMMENDATION:-

PERMIT, SUBJECT TO THE WITHDRAWAL OF THE SECRETARY OF STATE FOR TRANSPORT'S TR110 DIRECTION, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

This is an outline planning application for the mixed development of a site of approximately 44 hectares to the north / north east of Ashby de la Zouch currently used primarily for agricultural purposes. Whilst some matters are reserved for subsequent approval, an illustrative masterplan has been submitted which shows:

- 605 new dwellings
- A 60 unit extra care facility
- A health centre (2,000sqm (gross), including 1,200sqm GP area, 150sqm pharmacy and 400sqm future expansion space)
- A primary school (210 pupil capacity on a site of 1.5ha)
- A nursery school (adjacent to the primary school)
- A community hall
- Retail development (total 560sqm) located in two areas of the site
- Public open space, and play areas (14.3ha)
- Pedestrian and cycle links, including connections to Featherbed Lane, Plantagenet Way, Wood Street, North Street and Smisby Road (and including via existing rights of way)

The southern part of the site is the subject of a separate application for those works indicated within that area of the site as a whole (and including for up to 130 dwellings); this application is currently undetermined (ref. 13/00041/OUTM).

As set out above, the application is in outline. All matters are reserved save for the access insofar as it relates to the proposed means of vehicular access into the site (and including for the principal route through the site connecting the two site vehicular entrances). The remainder of the "access" matters (i.e. including the pedestrian and cycle links to adjacent land and circulation routes through the site itself as shown on the illustrative masterplan) are reserved for subsequent approval. In terms of the proposed *vehicular* access arrangements, the applicants propose that, initially, the Phase 1 residential development (i.e. 130 dwellings) plus the proposed health and community centres would access the site via Woodcock Way but that, following implementation of the later phases of development (and including the balance of the 605 dwellings), the extent of the development proposed to be accessed from this direction would be reduced to 30 dwellings plus the proposed health and community centres.

The application is accompanied by an Environmental Statement.

The application was considered at the Planning Committee meeting of 12 November 2013 where it was resolved that the application be deferred so as to enable further consideration to be given to improving access between the application site and Ashby de la Zouch town centre.

Further to the deferral, however, the agents have advised that, in their view, there is no good reason for the application to not be positively determined at the Planning Committee meeting of 3 December 2013, and have requested that this be done. They further advise that, if it is not, they are instructed to appeal and to apply for costs. Further comments in respect of the issues raised by the Planning Committee are, it is understood, proposed to be provided on behalf of the applicants prior to the Committee meeting and any received will be reported on the Update Sheet.

2. Publicity

554 no neighbours have been notified. (Date of last notification 7 May 2013)

Press Notice published 29 May 2013

Site Notice posted 29 May 2013

3. Consultations

Ashby De La Zouch Town Council consulted 7 May 2013

County Highway Authority consulted 31 July 2013

Highways Agency- Article 15 development consulted 31 July 2013

Environment Agency consulted 8 July 2013

County Highway Authority consulted 12 August 2013

LCC Development Contributions consulted 25 September 2013

Severn Trent Water Limited consulted 8 May 2013

Head of Environmental Protection consulted 8 May 2013

Natural England consulted 8 May 2013

NWLDC Tree Officer consulted 8 May 2013

County Archaeologist consulted 8 May 2013

LCC ecology consulted 8 May 2013

Airport Safeguarding consulted 8 May 2013

NWLDC Conservation Officer consulted 8 May 2013

NWLDC Urban Designer consulted 8 May 2013

English Heritage- Ancient Monument consulted 8 May 2013

County Planning Authority consulted 8 May 2013

LCC Development Contributions consulted 8 May 2013

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 8 May 2013

Development Plans consulted 8 May 2013

Head Of Leisure And Culture consulted 8 May 2013

Manager Of Housing North West Leicestershire District Council consulted 8 May 2013

Police Architectural Liaison Officer consulted 8 May 2013

LCC/Footpaths consulted 8 May 2013

Highways Agency- Article 15 development consulted 8 May 2013

National Forest Company consulted 8 May 2013

South Derbyshire District Council consulted 8 May 2013

Coal Authority consulted 8 May 2013

DEFRA consulted 8 May 2013

LCC Fire and Rescue consulted 8 May 2013

FRCA (MAFF)- loss of agricultural land consulted 8 May 2013

Head Of Street Management North West Leicestershire District consulted 8 May 2013

Head of Environmental Protection consulted 8 July 2013

4. Summary of Representations Received

Ashby de la Zouch Town Council objects on the following grounds:

- Exacerbation of traffic problems on Nottingham Road and the Ashby bypass
- Site is not a sustainable development in terms of the NPPF - it will provide housing for commuters, will cause severe traffic problems and, although claiming to be close to the town centre, provides shops and other services already found in the town centre
- Will materially affect the character of the town

- Previous application for 130 houses with access via Woodcock Way is confusing and should be withdrawn by the developers

Coal Authority has no objections subject to conditions

English Heritage recommends that the Local Planning Authority determines the application in accordance with advice previously given and in accordance with the advice of the County Archaeologist and the District Council's Conservation Officer

Environment Agency has no objections subject to conditions

Highways Agency directs that planning permission not be granted in view of unresolved issues relating to the potential impacts on the A42 trunk road

Leicestershire County Council Archaeologist has no objections subject to conditions

Leicestershire County Council Education Authority requests provision of a primary school or a financial contribution in respect of the primary sector of £1,756,776.25, a financial contribution in respect of the high school sector of £1,081,508.29, and a financial contribution in respect of the upper school sector of £1,110,487.18.

Leicestershire County Council Library Services Development Manager requests a developer contribution of £32,800

Leicestershire County Council Ecologist has no objections subject to conditions

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

Leicestershire County Council County Planning Authority advises that the Mineral Planning Authority has no information to support or refute the applicants' conclusions that the coal seams are unlikely to be of interest for future surface mining, and advises that the Coal Authority be consulted

Leicestershire County Council Rights of Way Officer has no objections subject to conditions securing the upgrading and diversion of various rights of way in the vicinity of the site

Leicestershire Fire and Rescue Service has no objections

Leicestershire Police requests a policing contribution of £203,187

National Forest Company has no objections subject to conditions and planning obligations

Natural England has no objections subject to conditions

NHS England (Leicestershire and Lincolnshire Area) requests a healthcare contribution of £201,878.28

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

Severn Trent Water has no objections subject to conditions

South Derbyshire District Council has no objections

Third Party representations

353 representations have been received, together with an online petition containing 28 signatures, raising the following concerns:

- Carriageways and footways of Nottingham Road / Wood Street too narrow for current traffic flows and have a poor safety record
- Exacerbation of existing queuing / congestion issues, particularly at peak times
- Woodcock Way junction on a blind bend / accident black spot close to a school
- Woodcock Way too narrow for increased use generated by the proposed development
- Previous application for new housing off Woodcock Way refused on appeal on highway safety issues
- North West Leicestershire Local Plan Inquiry Inspector indicated additional access from Woodcock Way would be inappropriate
- Transport Assessment ignores committed developments elsewhere and the proposed Wood Street / Upper Church Street junction traffic lights
- Transport Assessment based on a one day snapshot when no significant queuing took place
- A511 and its junctions with Nottingham Road and the A42 would be overwhelmed by additional traffic
- Additional sewage generated greater than the residual headroom available at Packington Sewage Treatment Works
- Adverse impact on viability of Market Street due to trade being drawn towards the new retail / community development and by visitors being deterred by traffic congestion
- Unsustainable for residents of the new development to drive to the town centre (a round trip of up to 8.5 / 9km)
- Premature ahead of the Core Strategy Examination in Public
- No further shops required in Ashby de la Zouch - Market Street already full
- Medical centre proposed on the Holywell Spring Farm site
- Vehicular access should be via the A511 or the town centre only
- Adverse impact of traffic on congestion and safety on Smisby Road / Derby Road
- Insufficient infrastructure (including schools, healthcare, and highway network capacity)
- Noise / vibration
- Pollution
- Insufficient parking provision in Ashby de la Zouch
- Loss of agricultural land
- Impact on wildlife / habitat
- Insufficient employment opportunities for new residents
- Adverse impact on historic character / heritage assets
- Previous application (13/00041/OUTM) should be withdrawn
- Increased use of public footpath linking the site with Wood Street
- Increased unauthorised parking on / obstruction of the public footpath linking the site with Wood Street which is also a private drive
- Medical centre should not be relocated from the town centre due to accessibility concerns, particularly for the elderly
- Insufficient parking for proposed medical centre
- Congestion will lead to late / missed appointments at the proposed medical centre
- Brownfield sites should be used in preference to greenfield ones
- Loss of green space
- Flooding
- Contrary to Leicestershire County Council Highways standards

- Inaccurate assumptions in Transport Assessment / traffic modelling
- A masterplan for the proposals are required
- House building being undertaken in the area more quickly than required
- Poor strategic planning
- Lack of consultation
- Poor design quality
- Adverse impact on water quality
- Reduced efficiency / effectiveness of A511 Ashby bypass
- Proposed access arrangements would create a ghetto
- Anti-social behaviour / impact on law and order

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development.

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as set out in more detail in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

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

Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that "this means:

- approving development proposals that accord with the development plan without delay;
- and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted."

"24 Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale."

"26 When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made."

"28 Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings..."

"32 All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

"34 Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas."

"38 For larger scale residential developments in particular, planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties."

"47 To boost significantly the supply of housing, local planning authorities should:
...- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

"49 Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

"57 It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"59 Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."

"61 Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"100 Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere."

"101 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding."

[Further advice on flooding is contained within the DCLG's Technical Guidance to the National Planning Policy Framework.]

"112 Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."

"118 When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special

Scientific Interest; ...

- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"120 To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.... Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner."

"121 Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;...
- adequate site investigation information, prepared by a competent person, is presented."

"123 Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"131 In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

"132 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...."

"173 Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."

"203 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

"204 Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development."

Adopted North West Leicestershire Local Plan (2002)

The majority of the site falls outside of Limits to Development as defined in the adopted North West Leicestershire Local Plan.

Policy S2 provides that development will be permitted on allocated sites and other land within the Limits to Development where it complies with the policies of the Local Plan.

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst others, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to centres, design etc. Within Coalville and Ashby-de-la-Zouch town centres, local centres and other locations well served by public transport and accessible to services a minimum of 40 dwellings per ha will be sought and a minimum of 30 dwellings per ha elsewhere (in respect of sites of 0.3 ha or above).

Policy H7 seeks good quality design in all new housing developments.

Policy H8 provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 requires new development to respect the character of its surroundings.

Policy E6 seeks to prevent development where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part.

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplains of, amongst others, the Gilwiskaw Brook.

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria.

Policy R1 provides that shopping and related development (such as financial and professional services and food and drink uses) will be permitted within Coalville and Ashby de la Zouch Town Centres, on allocated sites, and in existing or proposed local shopping areas. New retail development outside these areas will only be permitted where it can be shown that a number of criteria would be satisfied.

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

Policy L22 provides that major new development will only be permitted where adequate provision is made for open space for formal recreation use.

Other Policies

North West Leicestershire District Council Affordable Housing SPD

Key Principle AH2 provides that affordable housing will be sought on all sites of 15 or more dwellings in Ashby de la Zouch.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Ashby de la Zouch.

North West Leicestershire District Council Play Area Design Guidance SPG

The District Council's Play Area Design Guidance SPG sets out the relevant requirements in respect of children's play provision required in association with residential development.

Ashby de la Zouch Conservation Area Appraisal and Study SPG

The south western part of the application site abuts the Ashby de la Zouch Conservation Area. The Ashby de la Zouch Conservation Area Appraisal and Study identifies individual factors considered to have a positive impact on the character of the Conservation Area. These factors include principal listed buildings and unlisted buildings of interest in the vicinity of the site.

Submission Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

6. Assessment

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 (2002 (as amended)).

In terms of the adopted North West Local Plan, the majority of the site is outside Limits to Development. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3.

Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and National policies.

In terms of the North West Leicestershire Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
 - the latest urban capacity information;
 - the need to maintain an appropriate supply of available housing land;
 - lead times before houses will be expected to be completed and build rates thereafter;
- and
- other material considerations.

Whether or not this site would be considered "appropriate" is a matter of judgement; having regard to its location primarily outside Limits to Development, it could be argued that it would not be. This policy nevertheless sets out criteria relevant to release of land. Insofar as the site's location is concerned, and whilst it is for the most part outside Limits to Development, it is well related to the existing built up area of the town.

In terms of the site's primarily greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan. Furthermore those provisions in Policy H4/1 that relate to the supply of housing need to be considered in the context of Paragraph 49 of the NPPF (as set out in more detail under Housing Land Supply and Limits to Development below).

Housing Land Supply and Limits to Development

The NPPF requires that the Council should be able to identify a five year supply of housing land and include an additional buffer of 5% or 20% depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the "Sedgefield" approach should be used (an approach to assessing land availability also suggested as appropriate within the draft National Planning Practice Guidance) and that a buffer of 20% should be allowed for. On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.33 years which represents a significant shortfall vis-à-vis the requirements of the NPPF. [NB The 4.33 year figure above includes for the land to the south of Grange Road, Hugglescote (see application 12/00922/OUTM); if that site was not included, this figure would reduce to 4.2

years.]

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". Policy S3 of the adopted Local Plan (Limits to Development) is not considered to be a relevant policy for the supply of housing (see the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal), notwithstanding that a contrary view has been taken elsewhere (and including by the Secretary of State on appeal), and accordingly the policy should not be considered to be out of date. Nevertheless, as the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements up until the end of the Plan Period (i.e. to 2006) less weight should be attributed to any conflict with Policy S3 in the overall planning balance.

In addition, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to housing land supply and the inclusion of appropriate contributions to local services as detailed below, would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of land outside of the defined Limits to Development, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and, by virtue of its location, close to the existing built up area and associated services, has the potential to perform well in terms of need to travel and the movement towards a low carbon economy subject to the provision of suitable pedestrian and cycle linkages to nearby services.

In terms of the proposed residential element of the development, it is considered that there is a strong case for permitting the development, particularly given the need to demonstrate a 5 year (plus buffer) supply of housing land. In this regard, the weight to be attributed to this issue needs to take into account the likely five year housing land supply contribution provided by the application; on the basis of the District Council's housing trajectory contained within the former draft submission Core Strategy, 100 units would be anticipated to be delivered by 2017/18, with a further 50 by 2018/19.

The issue of housing land supply does not affect the associated non-residential development forming part of the proposals in the same way, although it is noted that there is an obligation to provide for the needs of business within the NPPF, and it is also accepted that, to a degree, much of the associated development is appropriate in principle, given the need to deliver such development in association with new major residential development.

Conclusions in respect of the Principle of Development

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The majority of the site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan and, as such, the scheme would be in conflict with the relevant Development Plan and other policies designed to protect the countryside from inappropriate development.

However, it is also necessary to consider any other relevant material considerations, including the Government's current intentions in respect of the need to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF), and the current position in the District in terms of housing land supply. An important consideration is that the Council must demonstrate and maintain a five year supply of housing land (with a 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance (albeit regard also needs to be had to the extent of the contribution that this site would be likely to make within the next five years).

Thus, overall, the proposed development of the site is considered acceptable in principle.

Detailed Issues

In addition to the issues of the principle of development, consideration of other issues relevant to the application (and including those addressed within the Environmental Statement) is set out in more detail below.

Means of Access, Highways and Transportation Issues

As set out in the introduction above, the application is in outline with all matters reserved save for the access insofar as it relates to the vehicular access points into the site (and including the principal route through the site connecting the A511 with Woodcock Way (albeit with no through route for "general" traffic)).

In terms of the applicants' proposals for *vehicular* access, the application proposes that, initially, the Phase 1 residential development (130 dwellings) plus the proposed health and community centres would access the site via Woodcock Way but that, following implementation of the later phases of development (and including the balance of the 605 dwellings), the extent of the development proposed to be accessed from this direction would be reduced to 30 dwellings plus the proposed health and community centres.

The remainder of the "access" matters (i.e. including circulation routes through the site itself) are reserved for subsequent approval, albeit routes through the site are indicated on the illustrative masterplan.

As set out in the summary of representations above, the County Highway Authority has not raised objection to the application, subject to conditions. However, one of these conditions requires the limitation of the number of dwellings accessed via either of the two vehicular accesses to no more than 400 whereas, as set out above, the intention is, eventually, for all but 30 of the proposed dwellings (i.e. 575) to be accessed via the A511 junction. There are a number of other issues arising out of the County Highway Authority's comments, and these are set out in more detail below.

Woodcock Way Access:

The proposed access arrangement at Woodcock Way includes for the upgrading of the existing priority junction to a ghost island junction, the widening of Woodcock Way to provide a 6m

carriageway width, and a Traffic Regulation Order on both sides of Woodcock Way between its junctions with Nottingham Road and Lockton Close (to protect the turning movements of an 8.8m bus).

The County Highway Authority advises that, based on a survey carried out on behalf of the County Council on 18 July 2013, measured 85th percentile speeds on Nottingham Road within the vicinity of Woodcock Way were recorded as 36.8mph north east bound and 34.6mph south west bound. In accordance with the County Highway Authority's adopted highway design guidance (6Cs Design Guide), visibility requirements for a new access junction based on the 85th percentile measured speeds are 65m (73m for a bus route); 73m visibility splays are achievable at this location in both directions within highway land.

The County Highway Authority also advises that the 6Cs Design Guide states that the minimum carriageway width for internal roads within new developments is 6.75m for up to 1,000 dwellings and that the width of Woodcock Way is proposed to be widened to 6m along its length, which is hence below the minimum width of 6.75m. However, the County Highway Authority notes that Woodcock Way itself is not a "new" development, and the bus route is proposed to be operated by a bus 8.8m in length (i.e. a "midi" bus). The County Highway Authority confirms that submitted vehicle tracking has demonstrated that a bus of this size is able to access and egress Woodcock Way and its junction with Nottingham Road, although tracking of the "left in" movement shows encroachment into the ghost island junction on Nottingham Road, and the opposing lane on Woodcock Way. Whilst, it is understood, that the applicants do not dispute this point, they comment that, based on the proposed bus route (as set out in more detail under Bus Provision below), buses would not normally be expected to undertake this particular manoeuvre.

The County Highway Authority advises that the applicant has subjected the submitted proposals for this junction to an independent stage 1 Road Safety Audit which has raised the issue of adequate stacking space within the right turn lane. The County Highway Authority reports that the applicants' response is that, notwithstanding the safety audit issue, the submitted junction will nevertheless operate within capacity, hence no issue would be likely to arise. However, it should be noted that this assessment is based on 130 dwellings and a healthcare facility only; whilst the community centre appears to have been excluded, it is understood that the flows likely to be generated by that particular use are likely to be insignificant.

Insofar as the capacity of this junction is concerned, the County Highway Authority confirms that the submitted Picady assessment is agreed, and that it is agreed (as noted above) that this junction will operate within capacity. Again, however, this is based on 130 dwellings and the health centre only. Therefore, notwithstanding that imposing the County Highway Authority's suggested limitation of 400 dwellings on the A511 access would not be the development for which the applicants had applied, this also appears to raise issues regarding the ability to impose such a condition in any event given that the imposition of such a condition would result in a *minimum* of 205 dwellings accessing the site via Woodcock Way (i.e. because there would be a maximum of 400 via the A511), which is a scenario that has not been tested at this junction.

A511 Access and Internal Link Road

The proposed access arrangement at the A511 Ashby bypass includes for a new roundabout junction with a "free flow link" on the A511 south east bound (i.e. a separate lane whereby vehicles travelling south east on the A511 past the site could bypass the new site entrance roundabout; vehicles travelling in the opposite direction would need to negotiate the roundabout regardless).

The proposed access arrangement also includes for an internal link road into the site. This internal link road is designed to a minimum carriageway width of 6.75m for purposes of providing access to the proposed primary school and for use as a bus route.

The County Highway Authority advises that no levels information, cross sections, details of structures over watercourses, design speed details etc. have been submitted to the Highway Authority at this stage. As such, the County Council advises that it is not possible to confirm that the link road is deliverable on the proposed alignment. Insofar as the determination of the application is concerned, however, whilst the County Highway Authority has flagged up that such a link may not in fact be able to be delivered, it is not considered that this in itself would be an overriding reason not to permit the application (i.e. it would be open to the Local Planning Authority to grant planning permission; if it subsequently transpired that the applicants were unable to implement their permission, it would be open to them to apply for an alternative scheme).

The County Highway Authority notes that the applicant has subjected the submitted proposals for this junction to an independent stage 1 Road Safety Audit which has raised issues in respect of the continuation of footway / cycleway provision on the A511 and the internal link road. Whilst the County Highway Authority suggests that this could be addressed at detailed design stage, it would appear that the extent to which this would be possible may be dictated by the extent of the changes necessary to address the junction safety issues (i.e. the application has included details of this element of the access for consideration at the outline stage so, if the Local Planning Authority were to permit the application, the junction as shown on the submitted plans would be approved). Nevertheless, it is noted that no objection is raised and, should any further changes be required by Leicestershire County Council as part of other approval processes (e.g. Section 38 or 278 approvals), the developers may need to address the requirement for any such changes to also be permitted for the purposes of planning permission (for example, by way of an application for a non material or minor material amendment of the planning permission if applicable).

In terms of the junction capacity on the proposed A511 roundabout access, the County Highway Authority confirms that the submitted Arcady assessment, based on 575 dwellings accessed via the A511, is agreed. The assessment predicts a worst case queue length of 10 passenger car units on the A511 north west bound arm between 17:45 and 18:00. It is noted that no objection has been raised by the County Highway Authority in terms of this impact, and it would seem unlikely that a queue of this magnitude would (when having regard to the test in Paragraph 32 of the NPPF) be considered to have severe impacts, and would not appear likely to have a significant effect on the safe and efficient functioning of the A511 as a bypass and strategic route.

Other Junction Capacity Issues

In addition to the proposed site access capacities as outlined above, the County Highway Authority has also provided comments on two further key junctions in the vicinity, as follows:

A511 / A42 roundabout junction (A42 Junction 13):

The County Highway Authority confirms that the submitted Linsig assessment is agreed. However, it advises that the assessment is only based on a "with mitigation" scenario, and it is not therefore possible to determine the impact of the development at this junction.

In terms of mitigation of this junction, this is one of a number of junctions that the District Council

and County Council have been seeking, in conjunction with the Highways Agency, to include within a contributions strategy primarily in respect of the accommodation of anticipated growth in the Coalville area. At the present time, the Highways Agency (on behalf of the Secretary of State for Transport) has issued a TR110 Direction preventing the Local Planning Authority from permitting the application pending the resolution of unresolved issues in respect of the impacts on Junction 13 of the A42. It is understood from the Agency that it is of the view that, in principle, an appropriate solution is achievable (and likely to be by way of the formulation of an appropriate contributions mechanism) but, until such time as that is resolved, its Direction must remain in place. Whilst the Highways Agency has previously indicated that a sum of £130,982 towards mitigation could be appropriate (and the applicants are agreeable to this), given the need for any contribution to have regard to other developments elsewhere in the District, the extent of any contribution (if such an approach were acceptable to the Agency) would need to be resolved in due course, having regard to the tests for contributions as set out in the NPPF and CIL Regulations. On this basis, whilst a solution to this issue seems achievable and there would seem to be potential for the Highways Agency's Direction to be removed, the Local Planning Authority would, at this time, be unable to issue any planning permission. Nevertheless, there appears to be no overriding reason why the Planning Committee cannot *resolve* to grant permission subject to this issue being concluded to the Highways Agency's satisfaction (and the TR110 Direction hence being removed and any additional conditions required by the Agency imposed). Alternatively, however, if Members were minded to refuse the application, reference to this issue in the reason(s) for refusal would be considered appropriate.

Wood Street / Upper Church Street signalised junction:

This junction has been assessed based on the signalised junction to be delivered in association with development at Leicester Road, Ashby; the County Highway Authority confirms that the submitted Linsig assessment is agreed.

Committed Development

The County Highway Authority advises that the submitted Transport Assessment has considered the following committed development:

Leicester Road - 258 dwellings

Smisby Road - 125 dwellings

Holywell Spring Farm - 400 dwellings

Whilst other developments including Aldi, Ivanhoe Business Park and Lounge are not included directly as committed development, the County Highway Authority is content that these are likely to be adequately covered in terms of general background growth predictions.

Issues Relating to the Limitation to 400 dwellings from a Single Point of Access / Bus Gate Issues

As set out above, the application is in outline with some elements of access reserved. Therefore, other than the principal link between the two vehicular points of access, internal layout is a reserved matter. However, the supporting information submitted with the application includes for provision of a bus gate which would restrict vehicular access off Woodcock Way in accordance with the scenario outlined above. In particular, the applicants advise that a bus rising bollard (bus gate) would be built to adoptable standards and would conform to any additional requirements imposed by the emergency services. They advise that they could either introduce a transponder that adhered with the emergency services' standards, or alternatively provide an override code / key to allow the bollard to be dropped by the emergency services. In the event that the bollard was required to be lowered by the emergency services, the applicants confirm that this would provide unrestricted emergency access to the site from Woodcock Way

and the link to the A511. They also advise that there would be at least two further emergency routes into the estate (both secured by padlocked gates / bollards), one also accessed via Woodcock Way, and one via the existing access to Moneyhill Farm.

The County Highway Authority confirms that it is of the view that there is no highway justification for the inclusion of the bus gate, and notes that its inclusion by the applicants is understood to be on the grounds of the residential amenity of occupiers of existing properties on Woodcock Way. Based on the fact there is no *highway* justification for the bus gate, the County Highway Authority has questioned its deliverability in that the implementation of a bus gate on the adopted public highway would require the introduction of a Traffic Regulation Order which, in turn, would require justification in highway terms; any Traffic Regulation Order would be subject to public consultation. In response to these concerns, the applicants advise that the internal road layout would be built to an adoptable standard but would not be offered for adoption (i.e. would remain private) until such time as the bus gate had been implemented. Furthermore, they suggest, new residents would be informed of the proposals at the time of purchase and would therefore not have reason to object.

Notwithstanding this position, however, the County Highway Authority remains concerned in that the proposal for the internal layout to remain in private ownership until such time as the bus gate is implemented could result in a scenario whereby the developer did not enter into an Agreement under Section 38 of the Highways Act, roads were not built to an adoptable standard, and the Highway Authority was subsequently petitioned under Section 37 of the Highways Act by residents to adopt the internal road network. This, the County Highway Authority comments, could result in a significant financial cost to the Highway Authority to both "make good" and maintain the internal road network. Furthermore, the County Highway Authority notes, if the roads were adopted prior to the implementation of the bus gate, this would not resolve the issue of there being no highway justification for its implementation as already set out above. As an alternative scenario, the County Highway Authority suggests that a situation could arise whereby the developer entered into a Section 38 Agreement with the Highway Authority, the internal layout received technical approval and was inspected during construction but with a clause in the Agreement stating that the internal network would not be adopted until such time as the bus gate had been implemented and residents' concerns satisfactorily addressed. However, the County Highway Authority comments that, at this outline application stage, there is not (and can not be) any commitment from the applicant to this approach. Therefore, the County Highway Authority advises that its concerns remain, and would also be raised again at any subsequent reserved matters stage.

As already set out, the scheme as proposed would result in a development including a total number of dwellings accessed via the A511 junction greater than the maximum 400 that is acceptable under the Local Highway Authority's 6Cs Design Guide. On this basis, the County Highway Authority advises that an additional point of vehicular access to the site would need to be provided for connectivity and for emergencies. Whilst emergency access is indicated on the illustrative material submitted with the application (i.e. via the two principal routes into the application site, with the "through" access function being provided for emergency vehicles via a bus gate), the County Highway Authority notes that this does not form part of the application and, furthermore, confirmation would be required from the emergency services that this provision would be adequate for a development of this size. Whilst the emergency services are not a statutory consultee insofar as the Local Planning Authority is concerned (i.e. it is the role of the Local Highway Authority to provide highway safety advice), it is understood that it is common practice for applicants to liaise with emergency services direct on emergency access issues. As far as officers are aware, no such liaison has been undertaken but the Local Planning Authority has, nevertheless, forwarded details of the proposals to the County Highway

Authority's emergency service contact (within Leicestershire Police) who has no objection in principle to the use of a rising bollard as proposed; any additional comments subsequently received from the other services whom Leicestershire Police have also notified, will be reported on the Update Sheet. Whilst the County Highway Authority expresses concern over the proposed arrangements, it is understood that there are three principal issues regarding this concern: (i) access of more than 400 dwellings off a single point of access would conflict with the County Highway Authority's adopted 6Cs standard; (ii) directing / "facing" the majority of development "away" from the town is not good practice in terms of encouraging sustainable travel patterns; and (iii) the suitability of the proposed emergency access has not been demonstrated. However, it is understood that the concerns over "general" accessibility and conflict with the 6Cs Design Guide are not considered to represent an overriding problem, and no objection is raised as of such. Insofar as the emergency access is concerned, it is understood that, on the basis that no objections were raised by the emergency services, the County Highway Authority would be generally satisfied with the application in this regard (albeit the above comments in respect of future adoption etc. would still need to be taken into account by the development at any future reserved matters stage). However, as set out above, officers do not consider that a condition limiting any single access to no more than 400 dwellings would be appropriate.

Travel Plan

The County Highway Authority confirms that the submitted Travel Plan Framework is agreed.

Bus Provision

The submitted Transport Assessment includes for a diverted bus service between Ashby town centre and the development site. This shows a route whereby buses would turn left at the Nottingham Road / A511 roundabout, proceed north westerly along the Ashby bypass, turn left into the application site, drive through it, and then turn right out of Woodcock Way back onto Nottingham Road towards the town centre. The Applicant has submitted information (a letter from Macpherson Coaches) to the County Highway Authority indicating that that operator would be willing to operate such a service and, as such, the County Highway Authority is satisfied that the applicants have demonstrated that a bus service is deliverable. The imposition of a condition requiring a scheme of new / diverted bus services has been recommended by the County Highway Authority.

Public Rights of Way / Connectivity of the Site

The County Highway Authority notes that the submitted Transport Assessment includes for improvements to a number of existing rights of way to provide connections both within the site and to the surrounding area, and contributions in respect of this are sought by the County Council. It is considered that these improvements would be necessary to ensure that the site is adequately accessible by pedestrians and cyclists, not only to the town centre, but also to other nearby development (including employment sites to the east).

In terms of town centre connectivity, the most direct route between the site and the centre is via the existing right of way O89 which crosses the south eastern and southern areas of the application site and, to the south west, connects the site to North Street. Whilst the illustrative information also suggests the use of right of way O90 (which connects to Wood Street, the issues surrounding which are discussed in more detail under Neighbours' and Future Occupiers' Amenities below), O89 would be the shortest connection to the town centre (if taken to be the core town centre shopping area as defined in the adopted North West Leicestershire Local

Plan).

Whilst the applicants do not consider that it is entirely necessary having regard to other means of connection, they have offered a unilateral undertaking which would provide for a financial contribution of £336,657 for the District Council to use for the enhancement of connections between the site and the town centre. Whilst the precise nature of such measures would need to be determined at a later date, such measures could (if possible) include for improvements to the existing North Street right of way connection which, at present, is narrow and / or unsurfaced in places, and passes through a yard forming part of an employment use, all of which are considered to diminish its attractiveness as a pedestrian route; the route is not presently suitable at all for cycle use. If improvement of this route were not possible, however, appropriate improvements to other links between the site and town centre would also, it is considered, be appropriate measures towards which the contribution could be used. Notwithstanding the applicants' view on this matter, the view is taken that such a contribution would be necessary, and would meet all the relevant CIL Regulation and NPPF tests set out in more detail later in this report and, as such, should be attributed weight as a material consideration in the determination of this application.

Other Transportation Contributions

Other mitigation proposals required by the County Highway Authority (and sought as Section 106 contributions) are as follows:

- Submission / approval of a construction traffic routing agreement so as to ensure that all construction traffic associated with the development does not use unsatisfactory roads to and from the site.
- A total contribution of £105,651 towards the upgrading and surface improvements of various Public Rights of Way routes which lead to/from the development site so as to encourage new residents generated by the development to travel by sustainable means as follows:
 - (i) Surface improvements to footpath O89 between North Street and footpath O90 (£37,495) (save for any separate improvements to accessibility potentially provided under the separate connectivity improvements as set out above)
 - (ii) Surface improvements to footpath O89 between Plantagenet Way and proposed footway/cycle track through the development (£28,670)
 - (iii) Surface improvements to bridleway O92 north of Featherbed Lane, between footpath O89 and O91 (£25,046)
 - (iv) Legal and advertising costs for the conversion of footpath O89 to bridleway between Resolution Road and bridleway O92 (£2,000)
 - (v) Legal and advertising costs for the diversion of footpath O91 between Plantagenet Way and bridleway O92 (£2,000)
 - (vi) Provision of a cycle ramp to existing concrete steps to connect bridleway O92 to existing cycle facilities on the A511 (£10,440)
- A contribution of £11,674.00 for the upgrade of the two bus stops on Nottingham Road nearest the development to include raised access kerbs, and information display cases at both stops and a passenger shelter at the bus stop on the southern side of Nottingham Road so as to encourage use of alternative modes to the private car
- One Travel Pack per dwelling/employee to inform new residents/employees from first occupation what sustainable travel choices are available in the surrounding area (these can be provided by the County Council at a cost of £52.85 per pack/dwelling)
- Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour (these can be provided by the County Council at a cost of £325 per pass)

- Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development so as to ensure effective implementation and monitoring of the site wide Travel Plan submitted in support of the Planning Application.
- A contribution of £11,337 towards iTrace monitoring (transportation monitoring software) so as to enable Leicestershire County Council to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated planning enforcement.
- A contribution of £5,000 for Leicestershire County Council to draft, consult upon, and implement a no waiting Traffic Regulation Order on Woodcock Way so as to restrict on-street parking within the vicinity of the proposed access, thus enabling an 8.8m bus to manoeuvre freely, and in the interests of highway safety

Access, Highways and Transportation Conclusions

In summary, in respect of the access and transportation issues, whilst the County Highway Authority's comments raise a number of issues, the County Council does not object to the proposed development, and is content that its concerns can be addressed by way of conditions.

As set out above, the application proposes that 130 dwellings (subsequently reducing to 30 dwellings) would be accessed via Woodcock Way, hence there would be 475 (rising to 575) accessed via the A511 Ashby Bypass. Whereas the County Highway Authority advises that it would be unacceptable to access more than 400 dwellings off a single point of access, and whilst the County Highway Authority is of the view that there is no apparent highway justification for limiting the numbers of dwellings accessing via Woodcock Way in the manner proposed, the form of development proposed were such a condition imposed to ensure that the 6Cs standard were met would be a different form of development from that which has been applied for. Furthermore, it would appear that the impact of accessing at least 205 dwellings via Woodcock Way (which would be the result of such a condition) has not been modelled and, hence, its impacts have not been demonstrated.

As discussed, there appear to be three principal issues regarding the County Highway Authority's concern: (i) access of more than 400 dwellings off a single point of access would conflict with the County Highway Authority's adopted 6Cs standard; (ii) directing / "facing" the majority of development "away" from the town is not good practice in terms of encouraging sustainable travel patterns; and (iii) the suitability of the proposed emergency access has not been demonstrated. In terms of (i) above, this point is accepted, although, it is also considered that some form of harm arising from this non-compliance needs to be demonstrated. Whilst (ii) is accepted, and it is agreed that, by ensuring that the majority of car journeys must be made via the bypass, residents may be more likely to work / shop etc further afield than in the town centre, this needs to be balanced against the other (residential amenity) issues that could result by way of accessing additional numbers of dwellings via Woodcock Way. Insofar as (iii) is concerned, the County Highway Authority has not to date confirmed its satisfaction with the proposed emergency access solution, although it accepts that, in principle, an appropriate solution could be found by the applicants, and would not object subject to the support of the emergency services. At the time of preparing this report, Leicestershire Police had indicated that, in principle, the applicants' solution would be appropriate, and any further comments relating to this aspect of the proposals subsequently received from the County Highway Authority or the other emergency services will be reported on the Update Sheet. However, in the absence of any adverse comments, and having regard to the role of the Local Highway Authority as the relevant statutory consultee, it is otherwise accepted that there appears to be no particular basis for refusing the application on the grounds of the emergency access issue.

As set out above, the County Highway Authority has requested the imposition of a condition limiting access off either point of access to no more than 400 dwellings but, as discussed, the imposition of such a condition would not be considered appropriate having regard to its impact on the nature of the proposals in that this would result in a scheme different to that to which the application relates (and would result in an intensity of use of the Woodcock Way junction which has not been tested / modelled).

It is also noted that the Highways Agency has issued a Direction preventing issuing of a planning permission at this present time. Until such time as the Highways Agency can be satisfied that there would be no unacceptable (and unmitigated) impacts on the safe and efficient functioning of the strategic highway network (and, in particular, at Junction 13 of the A42), it would be inappropriate to release the site for development and, indeed, the Direction prevents the Local Planning Authority from so doing. Nevertheless, it is considered that any resolution to permit could be framed in such a way as to allow the development to proceed if and when the Highways Agency's concerns had been resolved.

Subject to the satisfactory resolution of the issues affecting Junction 13 of the A42, and on the basis that no significant concerns regarding the proposed emergency access arrangements are raised by the emergency services, therefore, the proposed development is considered acceptable in respect of access and transportation issues.

Landscape and Visual Impact

The development has been assessed in terms of its landscape and visual effects both during and after construction. The Environmental Statement identifies the elements of the site and its surroundings that are important in terms of landscape resources and landscape character, and the extent to which these would be affected by the proposals. In terms of other evidence in respect of the landscape and visual impacts, it is noted that the District Council's Settlement Fringe Assessment, undertaken on behalf of the Council as part of its Core Strategy evidence base considered the application site as part of a wider area between Ashby de la Zouch and the A511 north east of the town, identifying that the eastern part of the application site is a sensitive landscape, but that the site had potential to achieve mitigation in keeping with its landscape character. In particular, it suggested that the wider study area *"..is a large site that rises to a high point along the A511. It is prominent in views from the countryside to the south where the higher ground is visible above large warehouse development. It would be difficult to develop the site, particularly the higher ground without increasing the scale and prominence of the settlement within the wider landscape to the south. It would be difficult to retain the views towards Ashby Castle and St Helens Church. Development on the lower ground close to the settlement edge could be accommodated provided it appeared as a dispersed edge set within trees and had an advanced and established woodland structure to reduce the scale and frequency of built form within the view. Carefully sited woodland could help to reduce the prominence of built form particularly within the western part of the site."* For the reasons set out in more detail below, and having regard to the conservation / heritage issues considered elsewhere in this report, it is considered that the submitted scheme generally accords with these principles.

In its description of the site and its landscape characteristics, the Environmental Statement suggests that the topography of the application site means views are contained by surrounding urban form within the lower levels of the site, whilst on the higher land along the northern boundary of the site views are contained by the A511. It suggests that the gently sloping nature of the site, towards the central area and associated watercourse along with the A511 to the north, and the urban edges of Ashby to the south, east and west means that the application site

is very well contained and generally screened from surrounding areas beyond the first line of residences and commercial buildings bordering the site. It indicates that it is possible to view the application site from elevated locations to the north (A511), properties bordering the site to the west, south and east, and from further afield (including from the Ivanhoe Way and Corkscrew Lane).

In terms of mitigation, the Environmental Statement states that key aspects of the design that were particularly informed by the landscape assessment include:

- Reflecting the landscape, ecological and historic character of the area when designing green infrastructure (e.g. tree species selection)
- "Capturing" on-site green infrastructure features wherever possible - consolidating and adding to them (e.g. trees, hedgerows and water features)
- Exploiting "borrowed" landscape assets on adjoining sites (e.g. visually prominent trees and countryside views)
- Achieving a high quality interface between the built environment and its wider landscape setting (e.g. housing to face on to green space)
- Avoiding fragmentation of green infrastructure across development sites (e.g. achieving connectivity for landscape, ecological, recreation and public access benefits)
- Consolidating green space into large areas, capable of accommodating forest-scale trees (e.g. Oak, Ash, Lime)
- Designing green space to achieve sustainable, cost effective, long-term management (e.g. using an annual residents' charge and/or commuted sums for green space management).

The Environmental Statement considers the impacts on six principal viewpoints, assessing the impact, and taking into account the proposed mitigation. In terms of these impacts (expressed in the context of magnitude, significance and "valency" respectively), their predicted significance is as follows :

Construction Phase: (Magnitude:Significance:Valency)

High:Moderate:Adverse 1, Medium:Moderate:Adverse 1, High:Major-Moderate:Adverse 1, Medium-Low:Moderate:Adverse 2, Low:Slight:Adverse 1

Year 1 (following construction):

High:Moderate:Adverse 1, Medium:Moderate:Adverse 1, High:Major-Moderate:Adverse 1, Medium-Low:Moderate:Adverse 2, Low:Slight:Adverse 1

Year 15:

Medium:Moderate-Slight:Adverse 1; Low:Slight:Neutral 3, Medium:Moderate:Adverse 1, Negligible:Minimal:Neutral 1

Whilst there would clearly be some adverse impacts both during and immediately following construction of the development, it is considered that, having regard to the scale of development and the need for the Local Planning Authority to permit developments of significant scale to meet its housing land supply obligations, the impacts would not be so unacceptably severe. In terms of the longer term impacts, as set out in the Environmental Statement, the extent of harm would be expected to reduce over time as mitigation planting matured, such that, whilst there would inevitably be *changes* to the character of the area in this regard (and particularly in respect of the site itself), the adverse impacts would be limited.

A separate lighting assessment has been provided, assessing the impact of proposed external lighting to the proposed development, including car park lighting, general façade lighting and pathway lighting to the proposed non-residential buildings (such as the proposed health centre,

primary school, community centre and retail development). The assessment indicates that the proposed development would be designed in adherence to relevant lighting design guidance. The assessment suggests that following this approach would achieve sufficient lighting for comfort and safety requirements without creating excessive, unwanted light spill or façade brightness (and thus avoiding perceived intrusion to neighbouring properties or harm to ecological interests).

The application is also accompanied by arboricultural supporting information, including an arboricultural implications report. There are no trees within the application site subject to a Tree Preservation Order (TPO). Whilst the arboricultural implications report indicates that some tree / hedgerow removal would be required in order to facilitate the proposed development, this suggests that the loss of the trees in question would not have a significant or severe impact on the local landscape. In this regard it is noted that the trees assessed include those which would appear likely to be required to be removed to enable the site access to be formed but, on balance, these losses would not be considered unacceptable, with the majority of vegetation proposed to be removed falling within retention categories C and below. Insofar as other trees within the site are concerned, their removal would need to be considered in more detail at the reserved matters stage(s). However, in principle, there appears to be no reason why development of the site would necessarily result in unacceptable loss of vegetation.

Overall, it is accepted that, whilst a site of considerable size, by virtue of the topography of the surrounding area, it is not particularly visible from further afield, thus assisting in limiting the visual impact of the proposed development. When taking this into account, together with the proposed mitigation, it is considered that the landscape and visual effects of the proposed development would be acceptable.

Drainage, Ecology and the River Mease SAC

The Environmental Statement includes assessment of the flood risk, drainage and ecological implications of the proposed development and, having regard to the site's location within the catchment of the River Mease Special Area of Conservation (SAC), the impacts on water quality of the Mease. These issues are considered in more detail below.

Flood Risk and Drainage

The Environmental Statement includes a Flood Risk Assessment (FRA) and Drainage Strategy, which set out how the site is proposed to be drained, and assess the existing flood risk to the site along with any resulting flood risk associated with the proposed development.

Insofar as river flooding is concerned, save for a small section where the site boundary includes the existing farm access emerging near Northfields which crosses the Gilwiskaw at this point, the application site lies within Flood Zone 1 (i.e. low probability - less than 1 in 1,000 year probability of flooding in any one year); the Environmental Statement indicates that there is no record of any flooding of the site from the Gilwiskaw Brook. The NPPF and its Technical Guidance set out the relevant requirements in respect of the Sequential Test, and indicate that the Local Planning Authority's Strategic Flood Risk Assessment will provide the basis for applying this test. Having regard to the site's location within Flood Zone 1, it is considered that the proposed development passes the Sequential Test. Whilst, as set out above, part of the site appears to fall outside of Zone 1 (and within Zone 3), having regard to the extent of this (approximately 30sqm) and the fact that no built development would be likely to take place in this area, it is not considered that any further consideration of the sequential test would be necessary.

In terms of surface water run-off, the FRA indicates that the greatest flood risk to the proposed development itself would arise from surface water flooding due to the increase in hard standing and that the Money Hill Brook, into which the application site currently drains into, is near capacity and that, during high intensity rainfall events, surface water ponding is sometimes experienced towards the southern section of the site. The proposed surface water drainage strategy would, the FRA suggests, improve upon current conditions, therefore reducing this ponding.

In terms of proposed mitigation of these impacts, the developers' proposed surface water strategy consists of a series of retention basins connected by open swales or pipes which convey the surface water from the proposed development into the Money Hill Brook and onwards to the Gilwiskaw Brook, with maintenance of swales and culverts under roads carried out by a management company. The supporting information indicates that the majority of surface water run-off would leave the site via the Money Hill Brook, with a smaller proportion of the site leaving via the Falstaff Brook to a second drainage point at Fairfax Close; all surface water would drain across the site and discharge from it by gravity. The supporting information also provides that the retention basins are assumed to be dry, but that there would be potential to create a further wetland area utilising reed beds or meadow grasses in these areas to provide both contamination treatment for run-off water and an improved ecological environment, and that the contamination treatment has the potential to reduce phosphate levels in the water discharged from the site which would ultimately be discharged to the River Mease. It provides that highways drainage would be collected by gullies parallel to the road which would be subject to future adoption by the County Highway Authority; these would drain to the nearest open swale or pipe into the appropriate retention basin. The strategy also indicates that the measures would ensure that there would be no increase in surface water run-off from the current estimated run-off rate (4.01 l/s/Ha). On this basis, there would appear to be no reason why the proposed development would lead to increased run-off rates (and, hence, discharge to the relevant watercourses), and would therefore not be likely to result in any exacerbation of existing flooding issues within the vicinity of the site and further downstream. The Environment Agency and Severn Trent Water raise no objections to the proposed development in this regard subject to the imposition of appropriate conditions.

Insofar as foul sewage is concerned, the supporting information indicates that the development would connect into the existing combined sewer in Nottingham Road. The site would gravity drain to a pumping station located in the south west of the site at a topographical low point; from here the foul flows would be pumped to a high point in the south west corner where it would discharge via a new gravity sewer into the existing combined sewer in Nottingham Road. Again, no objections are raised by the relevant statutory consultees. Given its location within Ashby de la Zouch, the site's foul drainage would discharge to the Packington sewage treatment works; Severn Trent Water has however confirmed that there is sufficient capacity in the sewerage system and at the Packington sewage treatment works for the proposed development. The issues relating to the River Mease SAC are addressed in more detail below.

Ecological Issues

The submitted Environmental Statement includes a detailed assessment of the ecological implications of the proposed development on various receptors of ecological value. In addition to the anticipated impacts, mitigation measures are also proposed.

The Environmental Statement provides that the closest statutorily designated site of nature conservation interest to the application site is approximately 2km from the site (being the Lount Meadows Site of Special Scientific Interest (SSSI)). Also relevant is the River Mease SAC and

SSSI, 2.6km approx. from the site, the impacts on which are considered in more detail below; no adverse impacts are however anticipated in terms of either of these designated sites. In terms of non-statutory designation, the existing "Green Lane" route (following the line of Right of Way O92, a Parish level site), the Environmental Statement suggests minimising direct access onto the Parish level site so as to reduce any impact.

In terms of the various ecological features / habitat identified, these include arable, semi-improved grassland, hedgerows, scrub and wooded areas. The Environmental Statement suggests that, of these, the hedgerows and wooded areas are of the greatest interest, but that these are, in the main, proposed to be retained and / or enhanced under the illustrative scheme, with any losses compensated for elsewhere within the development. There are, the Environmental Statement advises, 44 hedgerows within the site, albeit the majority are "gappy" and relatively species poor (i.e. dominated by only one or two species). The two principal wooded areas are considered to be relatively small, and include a range of species.

Insofar as the effects upon wildlife are concerned, the following conclusions are reached within the Environmental Statement:

Bats: No bat roosts have been recorded within the application site. Bat activity surveys completed have recorded low levels of common species foraging and commuting along the boundary features of the application site. The Environmental Statement suggests that the enhancement of existing habitats and the provision of new landscape planting would provide enhanced foraging opportunities for bats and would maintain connectivity across the application site and to the wider area. Artificial bat boxes to provide a net increase in roosting opportunities post-development are also proposed.

Badger: No direct evidence indicating use of the site has been found.

Dormice: No direct evidence indicating use of the site has been found, nor are the habitats within the site considered particularly suitable.

Birds: Based on the surveys undertaken, the habitats present, and the site's size, the Environmental Statement indicates that it is not considered to be of any special ornithological interest, albeit any clearance of suitable habitat should nevertheless be undertaken outside the breeding season; bird boxes are also proposed to be provided.

Water Vole and Otter: No direct evidence indicating use of the site has been found, nor are the habitats within the site considered particularly suitable.

Great Crested Newts: The Environmental Statement advises that there are no ponds located within the application site, nor immediately adjacent to the application site. The closest pond is located approximately 95 metres from the application site, which is beyond the maximum dispersal distance of newts. The Environmental Statement suggests that, whilst newts can disperse up to 500 metres through suitable terrestrial habitat from their breeding pond, surveys completed on ponds within the wider area recorded no Great Crested Newts.

Reptiles: Some parts of the site are considered to have some potential to support common reptile species due to the lack of formal management they receive; however, no reptiles were recorded during the surveys undertaken.

Invertebrates: The application site is expected to support a range of common invertebrate species but the Environmental Statement provides that there is no evidence to suggest that any protected or notable species are likely to be present.

No other protected species are considered likely to be present, having regard to the findings of the Environmental Statement.

In addition to those mitigation measures set out above (e.g. maximising of feature retention), the Environmental Statement indicates that habitat mitigation would be provided by way of, amongst others, protection of existing features during construction and provision of buffer zones and checking of vegetation prior to removal. Subject to such mitigation and other enhancement, the Environmental Statement indicates that the overall impacts would be positive at the local - national level and would be of minor - moderate significance. The proposed mitigation measures would, it suggests, ensure no net loss in biodiversity terms and enhancements would aim to increase the overall biodiversity of the application site.

The County Ecologist and Natural England have been consulted in respect of the application and raise no objections subject to conditions. Under Regulation 53 of the Habitat Regulations 2010, activities which would otherwise contravene the strict protection regime offered to European Protected Species under Regulation 41 can only be permitted where it has been shown that the following three tests have been met:

- The activity must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative; and
- The favourable conservation status of the species in question must be maintained.

Whilst these tests would need to be applied by Natural England at the appropriate time in respect of any required licence submission, it is nevertheless considered appropriate to also have regard to them at this stage in respect of the planning process. In this case, it is considered that the tests would be met as (i) for the reasons set out under Principle of Development above, it is considered that the site needs to be released for the proper operation of the planning system in the public interest; (ii) the works affecting the protected species would be necessary to enable the development to proceed in a logical / efficient manner; and (iii) the proposed mitigation measures would satisfactorily maintain the relevant species' status.

Subject to the imposition of suitably-worded conditions, therefore, the submitted scheme is considered acceptable in ecological terms, and would provide suitable mitigation for the habitat affected, as well as appropriate measures for biodiversity enhancement.

River Mease Special Area of Conservation (SAC)

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The Habitat Regulations 2010 set out how development proposals within an SAC should be considered. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

Waste water from Ashby de la Zouch drains into the River Mease which, as referred to above, is a Special Area of Conservation. The Packington sewage treatment works discharges in to the river and, as at March 2012, it was estimated by Severn Trent Water that the works had headroom (i.e. available capacity within the terms of the permit agreed by the Environment Agency) to accommodate 1,218 dwellings. However, the Water Quality Management Plan

(WQMP) for the SAC (see below) clarifies that, whilst there may be volumetric headroom or capacity available for new development within the specific limits of the existing wastewater treatment work consents that discharge to the River Mease, the availability of such headroom is reliant on the WQMP being in place.

As referred to above, a long term Water Quality Management Plan for the River Mease SAC was finalised in June 2011 with a primary purpose to reduce the levels of phosphate within the River Mease SAC, to enable the Conservation Objectives for the SAC to be met, and an adverse effect upon the SAC avoided. The main objective of the WQMP is that the combined actions will result in a reduction in phosphate in the River Mease to no more than 0.06mg/l.

One of the actions of the WQMP was to establish a developer contribution framework in accordance with planning obligations best practice to be known as a Developer Contribution Scheme (DCS). The DCS was agreed in November 2012 and developer contributions will fund a programme of actions to restore and provide new benefits to the River Mease. The contribution scheme provides a mechanism through which new development which increases phosphorous load to the river will mitigate the negative effects of development, as part of the overall package of reductions being delivered through the wider WQMP and the permit modifications identified through its review. It confirms that new development that contributes to the scheme will not conflict with the overall objectives and purposes of the WQMP.

In terms of residential development, developers will have to contribute based on the exact size and sustainability of the dwellings since these factors determine the levels of Phosphate output per unit. As such, homes which are built to the new sustainable homes standards will pay a lower contribution. A separate calculation is provided for in respect of non-residential development.

The WQMP is entirely concerned with reducing levels of phosphate to enable the conservation objectives target to be met. It is therefore directly connected with and necessary to the management of the River Mease SAC. As such, both the plan itself and the Developer Contribution Scheme are excluded from the assessment provisions of the Habitats Regulations.

The Environmental Statement assesses the impacts of the proposed development on the River Mease, and including in respect of those in terms of noise, recreational / visual disturbance, air quality and light pollution, as well as the hydrological impacts. Mitigation proposed in respect of the impacts on the River Mease include implementation of the applicants' Construction Environmental Management Plan. The applicants have also confirmed that they are agreeable to making a DCS contribution, and estimate that the contributions made would total £134,310 (albeit the precise amount payable would be contingent upon the precise nature of the development proposed at the reserved matters stage(s) in terms of number of dwellings, bedrooms and Code for Sustainable Homes level insofar as the residential element of the proposals are concerned, and the estimated increased phosphorous loading to the river associated with the proposed non-residential development). As such, and subject to the implementation of appropriate obligations, the proposals would comply with the relevant planning policies and the Habitats Regulations. On the basis of the applicants' proposed payment to the DCS, the Environment Agency has no objection to the proposals. For its part, Natural England advises that the proposed development would be unlikely to have a significant effect on the interest features for which the SAC has been classified, and that an Appropriate Assessment would not be required.

On this basis, it is accepted that the proposed development would not have an adverse impact on water quality (nor would there be any other impacts on other aspects of the SSSI / SAC), and

the development is acceptable on this basis, subject to the implementation of the mitigation identified, secured by way of conditions and Section 106 obligations as appropriate.

Historic Environment

The submitted Environmental Statement includes a detailed assessment of the archaeology and historic environment implications of the proposed development. The Environmental Statement indicates that the site itself does not contain any Scheduled Monuments, listed buildings or Conservation Areas, but there are Grade II listed buildings in close proximity (existing properties on Wood Street, the closest four of which are assessed in more detail in the Environmental Statement) as well as the Ashby de la Zouch Conservation Area which abuts the site. The Environmental Statement also considers the impacts on other designated heritage assets including Ashby Castle (a Scheduled Monument and Grade I listed building) and the Parish Church of St Helen (listed Grade II*).

In terms of the effects upon these designated assets, the Environmental Statement concludes that the development would have the following impacts during construction:

- Ashby Castle: Neutral
- Parish Church of St Helen: Neutral
- Wood Street dwellings (4 no.): Neutral
- Ashby de la Zouch Conservation Area: Low magnitude, minor (significance) impact

The impact on the Conservation Area would be, the Environmental Statement indicates, an indirect, minor effect caused by the introduction of modern development into the immediate setting of the Conservation Area and a consequent marginal alteration to the townscape extent; no mitigation is proposed. No post-completion mitigation is also proposed given the findings of the construction stage impacts. The findings of the Environmental Statement in this matter are generally accepted, and it is noted that the detailed design of the proposed development in the areas of the site closest to the Conservation Area would need to be considered at the reserved matters stage(s) (and the setting of the Conservation Area would be a material consideration in the determination of any such application(s)). The District Council's Conservation Officer is of the view that, whilst the proposals would significantly alter the boundary of the historic settlement of Ashby, they would not have a significant impact on designated heritage assets, nor would they harm their immediate setting and, as such, no objection is raised. For its part, English Heritage comments that, whilst the supporting documents identify no harm upon the significance of the castle as a result of this development, this may be something of an over simplification but, nevertheless, English Heritage has not identified substantial harm in this case. Whilst English Heritage disagrees with some of the applicants' assertions regarding the importance of the defensive views / tactical surveillance from the castle when it was designed, the view out to Money Hill does not, English Heritage advises, appear to be an axis with particular special significance over and beyond being part of the landscape that was visible around town from the tower, and no objection is raised in this regard.

In terms of non-designated heritage assets, a number of sites (including those of archaeological interest) are considered in the Environmental Statement, with the potential impacts on four of those in particular assessed as having potential impacts. Two of these fall within the application site, namely a "findspot" indicative of potential for prehistoric background activity in the vicinity of the proposed A511 vehicular access and an area of earthwork ridge and furrow within five fields towards the south eastern part of the site. Insofar as the "findspot" is concerned, the Environmental Statement indicates that there would be a low magnitude adverse impact but that its significance would be negligible; for the ridge and furrow, the impact is identified as medium magnitude adverse of minor significance. The Environmental Statement comments in respect of the ridge and furrow that this asset survives in an incomplete state, and that it is not of sufficient

quality or significance to require preservation in situ (although localised areas would be preserved within areas of public open space). In respect of the ridge and furrow issue, the County Archaeologist notes that the submitted archaeological Desk Based Assessment suggests that these remains are poorly preserved and incomplete, attributing to them significance at a local level. The County Archaeologist advises that Ashby de la Zouch appears to have been substantially enclosed by 1601, although an Act of Parliament for the enclosure of fields and several commons was passed in 1768; given that the 1735 estate plan appears to show most of the field boundaries within the development area, this would suggest, he advises, that the current site was enclosed prior to the Enclosure Act. Regarding the quality of the earthworks, based purely on aerial photographic evidence and LIDAR (a remote sensing technology) data, he advises that the surviving earthworks appear reasonably intact, forming a coherent set of lands / furlongs, abutting a stream course to the north and the historic town and a former warren to the south. The County Archaeologist strongly recommends that significant attention is given to accommodating these features within any development scheme; he is of the view that they have a strong local significance and their sensitive treatment within the context of the wider development would accord well with paragraph 131 of the NPPF. The County Archaeologist notes that the current development details (i.e. the illustrative Masterplan) offer only an indication of the intended uses, but that development impacts are likely to include foundations, services and landscaping associated with the planned residential, commercial, industrial and infrastructure elements of the scheme. He advises that archaeological remains, where they occur and survive, are likely to be close to the existing ground surface; consequently, the proposals are likely to have a destructive impact where they coincide with those deposits. In view of this, he recommends that the application is approved subject to conditions for an appropriate programme of archaeological mitigation, commencing with and initial phase of fieldwalking and trial trenching. A note to applicant is also recommended so as to ensure that the layout of the scheme proposed at any future reserved matters stage seeks to accommodate the site's ridge and furrow features. Insofar as its advice in respect of the ridge and furrow is concerned, English Heritage is of the view that the significance of the ridge and furrow is a material consideration which the Local Planning Authority needs to weigh against the benefits of development and alternatives, and when considering the layout of the development in relation to the town (and also the contribution made by the ridge and furrow to the setting to the conservation area). English Heritage advises that such features are highly characteristic of the Midlands landscape and support the setting of the Conservation Area by way of giving a sense of the relationship between town and fields in the medieval and early modern period. English Heritage is of the view that these particular earthworks are of at least local interest in their own right, and in their historic landscape context can be seen to support the significance of the Conservation Area. It also advises that the water carrying and storage capacity of extant ridge and furrow should be born in mind in the context of their contribution to land drainage. Overall, however, English Heritage recommends that the application be determined in accordance with the advice of the County Archaeologist and, on this basis, no objections are raised.

Overall, in respect of heritage issues, whilst still outline, there would appear to be no overriding reason why the proposed development could not be designed in a manner so as to maximise retention of features of interest (and, in particular, the existing ridge and furrow) and, on this basis, is considered acceptable in heritage terms, subject to appropriate layout solutions being proposed at the reserved matters stage(s).

Air Quality

There are no Air Quality Management Areas (AQMAs) within close proximity of the site (the closest being at Coalville), but the Environmental Statement nevertheless assesses the impacts on dust, particulates and nitrogen oxides associated with the construction and post-construction

phases of the proposed development. The Environmental Statement considers likely effects in two principal categories: dust, particulates and nitrogen oxides during the construction phase, and road traffic during the operational phase. The Environmental Statement suggests that, subject to the implementation of appropriate mitigation measures, impacts on local air quality would be negligible.

Insofar as the impact of the construction phase is concerned, the Environmental Statement indicates that the main effects during this stage are likely to be dust deposition and elevated particulate concentrations from construction dust, including from activities such as site preparation, earthworks, materials handling, construction of temporary roads, movement of construction traffic, construction of infrastructure and buildings, and disposal of waste. However, the Environmental Statement sets out a range of mitigation measures which ought to be employed / incorporated within the Construction Environmental Management Plan and, subject to these, indicates that the risk can be reduced to medium or low.

In terms of the operational phase of the development, and the resulting impacts arising from changes to traffic, the Environmental Statement provides that the predicted pollutant concentrations at the selected receptors indicate that annual mean nitrogen dioxide concentrations are predicted to be well below the air quality objective of 40 micrograms per cubic metre ($\mu\text{g}/\text{m}^3$) at all receptors (with the highest being $31.1\mu\text{g}/\text{m}^3$ in 2028, an increase of $0.3\mu\text{g}/\text{m}^3$ over the no development scenario, and with the greatest increase over the no development scenario being an increase of $0.6\mu\text{g}/\text{m}^3$, taking the total in that location to $19.6\mu\text{g}/\text{m}^3$). It also assumes from these results that the hourly mean nitrogen dioxide objective would be met at all receptors and for all assessment scenarios as the annual mean is less than $60\mu\text{g}/\text{m}^3$. All of the predicted increases in nitrogen oxide are assessed as having a magnitude of either "imperceptible" or "small", with significance of the effect being defined as "negligible".

Insofar as particulates are concerned, none of the receptor locations are anticipated to experience any increase of more than $0.1\mu\text{g}/\text{m}^3$ over the 2028 no development scenario with the results indicating that annual mean concentrations are forecast to be well below the objective of $40\mu\text{g}/\text{m}^3$ at all receptors and for all assessment scenarios (the highest figure being $19.2\mu\text{g}/\text{m}^3$, albeit in a location where no increase would be predicted in 2028 over and above the no development scenario).

Overall in terms of air quality, therefore, the proposed development would not be expected to result in any significant harm to air quality (either during or post construction), and the development is considered acceptable in air quality terms; no objections in respect of air quality issues have been raised by the District Council's Environmental Protection team.

Neighbours' and Future Occupiers' Amenities

In terms of amenity issues, the impacts of the proposed development need to be considered both in terms of the impacts on existing residents arising from the proposed development (including, in particular, construction noise), as well on the future living conditions of residents of the proposed development, having regard to the site's location. These are considered in turn below.

Construction Noise

The submitted Environmental Statement does not contain detailed analysis of the nature of construction noise but states that, following dialogue with the District Council's Environmental Protection team any associated impacts could be adequately dealt with by way of appropriate conditions relating to hours of construction, with time limits of 0800 - 1800 on Mondays to

Fridays, 0800 - 1300 on Saturdays and no working on Sundays / public holidays suggested. Hours of construction conditions are not routinely applied to planning permissions as this is a matter generally controlled under separate (environmental protection) legislation. Nevertheless, this matter would, in effect, be one of the measures controllable under a condition relating to approval of precise details of mitigation identified in the Environmental Statement; other mitigation is also suggested in respect of the development which could also be secured in this way. No objections are raised by the District Council's Environmental Protection team in respect of this issue.

Suitability of the Site for Residential Development

The Environmental Statement considers the suitability of the site for residential development in noise climate terms, having regard to how it is affected by current noise sources (including noise emanating from nearby roads and the operation of nearby commercial / industrial type uses). In respect of the issue of road traffic noise, the applicants' assessment indicates that the impacts on proposed dwellings' occupants would be imperceptible during the daytime, and minor at night.

However, insofar as the impacts of nearby commercial uses are concerned, the Environmental Statement identifies potential impacts from the nearby United Biscuits warehouse (and principally due to HGV manoeuvring to the rear of that unit); the Environmental Statement assumes the closest proposed residential units would be approximately 95m from the noise source. In terms of mitigation, the Environmental Statement suggests that an extension of the existing acoustic screen in this location would be appropriate. For its part, the District Council's Environmental Protection team raises no objections subject to the implementation of this mitigation.

Other Residential Amenity Impacts

In addition to the noise climate issues identified above, however, are the issues of potential disturbance from vehicular movements to and from (and, potentially, within) the site. In this regard it is noted that, on the basis of the illustrative masterplan, there would appear to be limited areas where internal access roads would be likely to be proposed to the rear of existing dwellings. Nevertheless, regard would need to be had to that issue when devising any reserved matters proposals. Insofar as this outline stage is concerned, however, of particular relevance are the additional comings and goings likely to be generated along the proposed Woodcock Way access (serving up to 130 dwellings plus the health and community centres) which would be likely to lead to some increased levels of disturbance to adjacent properties fronting onto Woodcock Way. Whilst there would be an increased use of the Woodcock Way / Nottingham Road junction, it is not considered that material impacts on amenity of other properties in the vicinity of this junction would arise in this respect (nor along Nottingham Road / Wood Street generally in terms of traffic-related impacts). Insofar as the impacts on existing residents of Woodcock Way are concerned, whilst there would be a not insignificant increased use of this route by vehicles (at least until such time as the access arrangements were reconfigured so as to access more units via the A511 as suggested by the applicants) leading to a material change to the existing situation, use of estate roads of this nature to access developments of this scale is not an unusual scenario and, whilst a change would inevitably result, it is not considered that the impacts of the resulting conditions would be so adverse as to warrant a refusal of the application.

Also of relevance are the likely impacts on amenity of properties in the vicinity of likely pedestrian and cycle routes serving the site. In this regard, whilst it is considered that, given the location of the site in relation to existing pedestrian routes / public rights of way, and based on the illustrative material submitted with the application, there would be likely to be increased use

of these routes, these elements of the access are reserved matters, and do not form part of the outline application. As such, these are more issues for the reserved matters stage. Having said this, however, in principle, it is considered that there would be no overriding reason why unacceptably adverse impacts from use of routes indicated on the illustrative masterplan would necessarily arise were the development to proceed in the manner indicated. Particular concern has also been raised over the potential increased unauthorised use of a private drive off Wood Street by users of the proposed development, particularly given the applicants' indication that this private drive would act as a non-vehicular link to the site (as it is also a public right of way at present). At present there are no measures on site preventing unauthorised use of this drive (and, say, to prevent its use for unauthorised parking by users of the public footpaths accessed via it) and, in this sense, there would not necessarily be any change, save in respect that there could be increased use of the public rights of way over and above the existing situation. In principle, it is not considered that this issue would be one which would render the development unacceptable; nevertheless, it is a matter which would more properly be considered at any future reserved matters stage (which would be the relevant stage to consider means of access other than those applied for under this application) if this route were indeed included as a proposed link to the site, and including consideration of whether any measures (e.g. physical measures or signage, say) could be provided so as to minimise any potential increased unauthorised vehicular use.

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, whilst an illustrative masterplan has been submitted, all matters except part access are reserved for subsequent approval. The illustrative masterplan indicates that built development would be located adjacent to a number of residential properties to areas to the north west, south west and south east of the application site, including properties on Money Hill, Allison Close, Wood Street, Nottingham Road and Plantagenet Way. Clearly, careful consideration would need to be given to any detailed proposals for these and other areas of the site submitted at the reserved matters stage(s) so as to ensure that an appropriate relationship between existing and proposed dwellings were provided. However, there is no reason to suggest that the eventual form of development proposed at the reserved matters stage(s) would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, acceptable in this regard.

Loss of Agricultural Land

Part of the site is currently in active agricultural use and, insofar as the proposed built development is concerned, this would result in an irreversible loss to non-agricultural use.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it would seem inevitable that land outside Limits to Development (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification. The Environmental Statement includes an assessment of the agricultural quality of the 43.6ha application site, suggesting the following distribution of land quality:

Grade 2:	0.5ha (1%)
Grade 3a:	37.5ha (86%)
Grade 3b:	3.0ha (7%)
Urban:	2.6ha (6%)

On this basis, 87% of the application site (38ha) would be BMV, and primarily incorporating the

southern sections of the site (mainly Grade 3a) and the area through which the A511 access would pass (Grade 2). In terms of assessing the significance of this loss, the Environmental Statement has regard to accepted practice of classifying the impact as "moderate" where loss of between 20 and 50ha of BMV would result (with "slight" and "major" impacts defined as those resulting in loss of less than 20ha and more than 50ha respectively). It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. The Environmental Statement also classifies the significance of the impact as "moderate adverse". In support of the proposals, the Environmental Statement argues that, although the development involves the loss of BMV, it is important to consider that the land quality across the study area is typical of the surrounding area, and that there are some areas where sites of a similar size could comprise of a far higher amount of BMV, hence its release would not be unacceptable.

Also relevant is the extent to which change of use of the BMV land is irreversible. Whilst the submitted masterplan is illustrative only, it is noted that it indicates that a proportion of the areas identified as BMV would be given over to National Forest planting and public open space which, it is considered, would not necessarily preclude its future re-establishment in active agricultural use if circumstances so dictated.

Nevertheless, in terms of agricultural land quality, it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of Paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, these concerns would not be so significant as to outweigh the considerations in favour of the scheme. When considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the agricultural land quality issue is not sufficient to suggest that planning permission should be refused. Also, and as pointed out within the Environmental Statement, the quality of land within the application site, whilst primarily BMV, is not untypical of the surrounding area and, as such, if the Local Planning Authority is required to release significant areas of land within the Ashby de la Zouch area, it would seem likely that this would need to include significant proportions of BMV land. DEFRA has been consulted on this issue, but no response has been received.

Geotechnical Issues and Land Contamination

The applicants have undertaken a non-intrusive Geo-environmental and Geotechnical Desk Study, and the Environmental Statement assesses the potential impacts of the proposed development to various receptors, including residents of the proposed development, controlled waters, flora and fauna and the built environment; mitigation, and including more detailed ground investigations, is recommended. Nevertheless, the Environmental Statement concludes that it is anticipated that there will be no significant residual effects related to land quality and remediation. The District Council's Environmental Protection team raises no objection to the application in this regard subject to conditions, and the proposals are considered acceptable in this regard.

The Environmental Statement and other supporting documents also consider the impacts of coal on the proposed development of the site. In terms of the potential risk from former workings, supporting information provided on behalf of the applicants (and based on Coal Authority data) indicates that, whilst parts of the site have the potential to be underlain at shallow depth by coal seams, there are no records of any underground workings within the site (albeit the potential for unrecorded workings could not be ruled out). In terms of surface

workings, a small area of the site is understood to have been worked in the 1940s to a depth of approximately 12 metres. Insofar as potential risk from these former workings is concerned, the supporting information suggests that this would be likely to be limited to the standard of the restoration work (i.e. how well they were backfilled), but that, given the length of time since the site was worked, any settlement of the backfill would probably have now ceased (albeit there is no means of confirming this). Also, there remains a possibility of accumulated gas, but this could be established by drilling of exploratory boreholes, and any risk eliminated by the inclusion of protective measures. For its part, the Coal Authority considers that the supporting documentation is sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development, and raises no objections subject to the imposition of an appropriate condition.

In terms of the potential for further mineral workings to take place on the site, the applicants' supporting information indicates that, although it is likely that two coal seams may underlie the southern part of the site at shallow depths, these are very thin in nature and hence unlikely to be economically viable for future exploitation by surface mining methods. Given that no concerns are raised by the Coal Authority in respect of this issue, Leicestershire County Council in its capacity as Mineral Planning Authority raises no objections.

Proposed Main Town Centre Uses

The proposal includes for retail space as part of two new local centres (comprising A1 retail stores selling convenience goods of 100sqm floorspace in the proposed northern district centre and 460sqm in the proposed southern district centre), and the planning application is accordingly supported by information in respect of the sequential test. This supporting information has been assessed on behalf of the Local Planning Authority by planning consultants with a retail specialism. [Given the scale of the proposed retail development (which falls below the 2,500sqm threshold set out in the NPPF), no supporting information in respect of retail impact is required].

In terms of the findings of the Local Planning Authority's consultants, these can be summarised as follows:

- The applicant states that the site is edge-of-centre. The District Council's consultants consider that this is not clear cut as the site is extensive and the proposed northern district centre would be considerably further than 300 metres from the Core Shopping Area of Ashby de la Zouch
- The applicants' assertions that the use is provided for in [the then emerging] Core Strategy Policy CS37 are not concurred with, nor that the proposed retail floorspace is (as suggested by the applicants) not a main town centre use
- The area of search, in and around the town centre, is considered to be reasonable and appropriate
- It is agreed that it is necessary to conduct a search for sites that are capable of accommodating approximately 500sqm of retail floorspace
- In terms of the sequential sites considered (including eight alternative sites in Huntingdon Court, Market Street, Rushton's Yard, Bath Street and Kilwardby Street), it is agreed that none of these appear to be available or suitable as alternatives to the application site - in coming to this conclusion, the Council's consultants have borne in mind that the stated purpose of the proposed convenience retail floorspace is to provide "top-up" shopping facilities within the application site (and, therefore, that none of the vacant units in the town centre would be suitable in terms of meeting this location-specific requirement)

On the basis of the above, therefore, whilst some elements of the submitted retail supporting information is not accepted, the District Council's consultants conclude that the applicants have satisfied the NPPF's sequential test requirements and, as such, it is considered that the proposed development would be acceptable in retail / town centre policy terms, and would not adversely affect the vitality and viability of the town centre.

Design

The proposed scheme is outline only, with all matters other than part access reserved for later consideration. The proposal has been assessed by the District Council's Urban Designer and was also, prior to the application's submission, subject to Design Review by OPUN (the Architecture and Design Centre for the East Midlands). In its comments on the pre-application Design Review, OPUN's Panel was of the view that the main issues that needed to be addressed were the provision of strong, legible and safe connections to the town centre (and between the two phases of the development), the provision of a strong and simplified street hierarchy supported by green links / infrastructure, the strengthening the site entrance / sense of arrival from the Nottingham Road direction, and the potential relocation of the community facilities (and including a possible "village green") to a location that would be well located, accessible and visible. The Panel also felt that further clarification regarding the identity and character of the development to be created was required, making more of the landscape context as a "driver" for the design, including the National Forest, existing hedgerows, trees and the topography of the site, so as to enable the creation of an even stronger landscape strategy, and including the provision of a range of green / open spaces that would be well integrated into the development.

The scheme has also been assessed by the District Council's Urban Designer who had advised that there were some strategic design issues raised by OPUN (and by the Local Planning Authority at the pre-application stage) that required resolution if he was to be able to support the application. In summary, he advised that these unresolved issues would affect the Building for Life report for this scheme and related to:

- "- *Character and identity - the need for a stronger sense of identity driven by landscape and the need for the development to have a clear idea whether or not it was part of Ashby. There is a real opportunity here to capitalise on the site's location in the National Forest.*
- *Stronger connections between the two phases of development and Ashby are required. The key connection between the town centre and the development is weak and must be stronger and more direct if it is to be well used and attractive. Currently it appears as an after thought. For example, why not have a strong, tree lined, well lit pedestrian and cycle way that enters the development and forms a strong 'backbone' for the development linking to other principal spaces? This would help to stitch the development to the existing urban fabric, something that also needs reconsideration.*
- *Location of facilities*
- *Response to topography and the opportunity to better integrate SUDS into the development in addition to a series of linear/multi-use spaces along the valley.*
- *The lack of a suitable gateway to the development from the north."*

In response, the applicants have expressed concern over the timing of the comments, but have responded as follows:

Character and Identity:

The applicants consider they have achieved this objective, particularly in relation to the National Forest context, and that character was strengthened in the proposal as a response to the Design Review, including a restructure to allow landscape and sustainable drainage principles to take priority. This is now, they consider, implicit in the proposals and includes structural woodland belts which integrates into the National Forest beyond the site, enhanced hedgerows retaining nature corridors, meadows, wetland areas and a series of squares and greens.

Stronger Connections:

The applicants consider that they have ensured that the crossings of the brook between phases 1 and 2 are enhanced, including two street crossings and three additional pedestrian crossings. They accept that town centre pedestrian connections are weak, but propose that pedestrian routes linking to the town centre (including existing Right of Way O89 linking the site to North Street) are well lit, resurfaced and useable by cycles. They suggest that the existing adjacent industrial uses are likely to relocate over time, thus enabling the District Council's Urban Designer's aspiration for tree lines along the route to be provided in the future.

Location of Facilities:

The applicants consider that it should be recognised that the proposed on-site facilities are not local centre uses specific to a self-contained neighbourhood, but town centre uses with strong associations serving the people of Ashby de la Zouch. They therefore consider that the location of facilities within the proposal close to and associated with the town centre is the better solution.

Topography:

The applicants consider that they have provided opportunities for interpreted SUDS and have provided a series of linear / multi-use spaces along the valley and, as a result of the OPUN Design Review, the landscape section of the proposal has been greatly expanded, an approach they consider is supported by the National Forest, the County Council's Rights of Way officer, and the Environment Agency.

Northern Gateway:

The applicants consider that there is ample opportunity for an appropriate entrance from the north to be provided, and that this could be secured by way of a suitable condition.

On this basis, whilst there appear to be unresolved concerns in respect of design, and whilst an entirely satisfactory form of development has not at this time been formulated, the view is taken that there still nevertheless appear to be significant opportunities to provide for a robust design solution in this case. As such, whilst further work is clearly required in respect of this issue as the scheme evolves, it is not considered that approval of the outline application would unacceptably fetter the prospects of achieving a sound design approach and, on balance, it is not considered that this, in itself, warrants refusal of the application. In response to the applicants' comments, the District Council's Urban Designer agrees with the applicants' suggestion regarding a condition in respect of the Northern Gateway, and further suggests that conditions in respect of a Design Code and Building for Life also be attached to any approval. Whilst it is considered that a condition in respect of the Northern Gateway along the lines suggested by the applicants would not necessarily be required (i.e. given the outline nature of the application), it is nevertheless considered appropriate to attach a Note to Applicant advising of the Local Planning Authority's expectations at the reserved matters stage. Subject to this, it is considered that, in principle, it has been demonstrated that an appropriate form of design could be provided at the reserved matters stage(s) and, on balance, the design-related concerns are considered to have been addressed to a satisfactory degree at this outline stage.

Other Matters

Developer Contributions and Development Viability

Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the proposed development.

Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.

The proposed infrastructure and other developer contributions / Section 106 obligations are as set out in the preceding sections of this report (including in respect of accessibility / transportation and the River Mease DCS) and as listed below.

Notwithstanding the various contributions proposed by the applicants (and sought by consultees), the applicants do not propose to make a full affordable housing contribution (the content of which is set out in more detail below). In proposing this, they point to what they suggest is an "overprovision" of contributions in respect of education and connectivity between the site and the town centre (the issue of the need to improve pedestrian and cycle connections to the town are discussed above under Means of Access, Highways and Transportation Issues; education matters are set out in more detail below). The contribution offered in respect of enhanced connectivity is £336,657, proposed to be used by the District Council for the enhancement of connections between the site and the town centre. As set out in more detail under Education below, based on the Local Education Authority's "usual" contribution requirements for a development generating the number of pupils anticipated, a contribution to the primary school sector of £1,756,776.25 would usually be required. However, in this case, having regard to the scale of the development, the applicants had agreed the provision of a new school with the Local Education Authority, the cost of which, the applicants advised, would be £4.5m (i.e. approximately £2.74m more).

In effect, the applicants have argued that, because they are proposing to pay an "additional" £3.8m (i.e. the £2.74m plus the £336,657), it is appropriate to reduce contributions elsewhere to reflect this and, in this regard, are proposing a reduced affordable housing contribution (a *minimum* of approximately 10% instead of the policy-compliant 30%) (albeit the final position in respect of primary education remains to be clarified by the Local Education Authority). The applicants also argue that this would render the overall contributions (expressed in terms of cost per dwelling) comparable with other developments elsewhere.

As set out under Relevant Planning Policy above, the NPPF requires that development of sites identified in an Authority's plan should not be subject to such a scale of obligations that their ability to be developed viably is threatened. At the time of preparing this report, whilst the applicants suggest that reduced contributions would be appropriate, no detailed evidence has been submitted indicating that such contributions would threaten viability or prevent provision of competitive returns to the landowners / developers; it also appears to be the case that the applicants are not only suggesting that the contributions sought would render the proposed development unviable, but also that the case for reduced contributions is based on comparison with other developments elsewhere in the District.

Until such time as evidence in the form of a viability appraisal had been undertaken indicating that such measures would threaten viability as set out in Paragraph 173 of the NPPF, it is not considered that it would be appropriate to agree to reduced affordable housing contributions. Nevertheless, it is not considered that there is an overriding reason why this scenario could not be assessed on the assumption that evidence for the assumed figures can subsequently be provided (and be robustly assessed on behalf of the Local Plan) in due course.

In terms of the argument relating to comparative contributions with other developments, however, whilst it is noted that any contributions would need to be fairly and reasonably related in scale and kind to the development, it would not be considered appropriate to just accept the proposed affordable housing "reduction" on the basis of a comparison of the average amount per dwelling to other developments elsewhere where land values and returns may be very different. Any detailed viability assessment would need to be based on a set of assumptions of development value and costs agreed with the Local Planning Authority's advisors (likely to be the District Valuer), and including private residential and affordable housing development values, commercial values, build costs, infrastructure costs, developer contributions, fees, finance costs, profit levels and land value.

In terms of the relevant contributions, the following conclusions are reached:

Affordable Housing

Under the provisions of the District Council's Affordable Housing SPD, a site of this scale in Ashby de la Zouch requires a minimum affordable housing contribution of 30% (i.e., for a development of total number 605 dwellings, 182 affordable units (rounded up to the nearest whole number of units, in accordance with the SPD)). As set out above, however, the development is proposed to provide a reduced proportion of affordable housing.

Insofar as property and tenure mix are concerned, the District Council's Affordable Housing Enabler advises that the following mix had previously been agreed with the developers as acceptable, and with a tenure mix of 65% affordable rented and 35% intermediate housing:

- 1 bed - 31%
- 2 bed - 51%
- 3 bed - 15%
- 4 bed - 3%

In terms of the proposed reduced contribution, following discussions with the District Council's Strategic Housing team regarding the property / tenure mix of the affordable housing contribution, the applicants propose the provision of a minimum of 10% of the dwellings to be affordable (61 units minimum). The application as submitted included for this contribution to be solely in the form of the proposed 60 unit extra care facility but, following amendment, the applicants advise that, *if* a 10% contribution can be demonstrated as being the maximum viable, the following is proposed:

- 15 affordable "extra care" homes (as part of a wider 60 unit extra care scheme, the remainder of which would be open market flats)
- 46 units as "general needs" affordable housing (i.e. "conventional" affordable housing - houses, flats etc.)

Notwithstanding this proposed contribution, however, the District Council's Affordable Housing Enabler expresses concern over the ability to implement such a proposal in that it may not be possible to attract a Registered Provider to take on 15 affordable units in what will essentially be a 60 unit private care scheme. In view of this, a "fallback" position is also proposed whereby, if

no Registered Provider can be found, the contribution would be 61 units as "general needs" affordable housing. [NB These figures would need to be increased in the event that a higher level of contribution was found to be viable by the District Valuer.]

As set out above, the above scenario is considered acceptable by the District Council's Strategic Housing team solely on the basis that the scheme is otherwise unviable and, generally, there is concern that the proposed reductions in contributions to render the development viable are focussed on the affordable housing contribution. This is considered to be an entirely reasonable concern, and there would clearly be implications of a reduced contribution towards affordable housing in order to secure the development's viability which would represent a departure from the Council's current affordable housing policies. In terms of the impacts, it should be noted that a significant housing need already exists within the District. The last housing needs study for the District which was undertaken in 2008 as part of the Strategic Housing Market Assessment (SHMA), indicated that the level of affordable housing provision within the district required to meet the identified need is at least 355 new affordable dwellings per annum. In the years 2010/11, 2011/12 and 2012/13, the numbers of affordable houses built in the District were 42, 57 and 82 respectively, representing approximately 25% of all dwellings completed. Therefore even at current levels of provision, and notwithstanding an increase in 2012/13, the housing needs of many people within the District are not being met, and securing a reduced level of contribution in this instance would not, on the face of it, assist; a lack of affordable housing in the District would be likely to impact upon some of the most vulnerable people within the District and has the potential to increase the number of homelessness cases. However, this needs to be balanced against:

- (i) The Government's support for Local Planning Authorities taking a proportionate approach to developer contributions and viability so as to enable development to come forward;
- (ii) The need to consider the potentially harmful impact on other service areas were the shortfall in viability to be addressed by way of reductions in contributions to other areas of infrastructure; and
- (iii) The fact that, whilst the contribution that this development would make would fall below that which would usually be secured in terms of affordable housing, the scheme would nevertheless still make a significant contribution to the affordable stock (in numbers terms, at least 61 units) and that, should the development not take place due to viability concerns, no affordable housing contribution would be made at all.

On balance, however, whilst the contribution proposed would be substandard vis-à-vis the current affordable housing standards set out in the District Council's SPD, should the applicants be able to demonstrate to the District Valuer's satisfaction that the contribution proposed is the maximum that could be provided (or, if higher than 10%, the applicants also provide this), it is considered that the overall amount of affordable housing proposed would be appropriate in this case, and when balanced against all other viability considerations. If, however, agreement in terms of the figures could not be reached (i.e. that a higher contribution was found as viable by the District Valuer and the applicants were not agreeable to making that level of contribution), this matter may need to be considered further by the Planning Committee.

Transportation and Accessibility Contributions

These are as set out under Means of Access, Highways and Transportation Issues above.

Education

The applicants had proposed to provide a site and construct a new 210 pupil capacity primary

school, to be provided prior to the occupation of 300 dwellings on the site; the applicants advised that the cost of such a facility had been costed at approximately £4.5m.

In respect of the proposed education contributions, Leicestershire County Council comments as follows:

Primary School Requirements:

This site falls within the catchment area of Ashby Church of England Primary School. The school has a net capacity of 315 and 540 pupils are projected on roll should this development proceed, a deficit of 225 places (of which 79 are existing and 146 would be created by this development). There are three other primary schools within a two mile walking distance of the development, namely Ashby Willesley Primary School (with a surplus of 23 places), Ashby Hill Top Primary School (with a deficit of 1 place) and Woodcote Primary School (with a deficit of 126 places). When taking these into account, there would be an overall deficit in the primary sector of 329 pupil places, and the 146 pupil places created by the development could not therefore be accommodated at nearby schools.

In order to provide the additional primary school places anticipated by the proposed development the County Council requests a contribution for the Primary School sector of £1,756,776.25. The Local Education Authority advises that a financial contribution would normally be used to accommodate the capacity issues created by the proposed development (by, for example, remodelling or extending the existing facilities at the local catchment school which, in this case, would be Ashby Church of England Primary School). However, the County Council also advises that there is insufficient capacity within the nearby schools to accommodate the additional 147 pupils generated by the proposed development and, as it is not considered possible to extend any of the local primary schools within the vicinity of the development proposal to accommodate all of the additional pupils generated by the proposed development, a new school (or first phase thereof) would be required within the site of the development. Leicestershire County Council advises therefore that the education contribution would be likely to be a non financial contribution to provide suitable land for a new school of 1.5ha, together with the costs of providing the infrastructure (e.g. hall, offices, staff room) for a 210 place school. The County Council has advised that the option is available for the developer to either (i) provide the site and build the school; or (ii) make a financial contribution representing the cost of the provision of the new primary school. However, the County Council has also advised that the commuted sum figure generated from the development (i.e. £1,756,776.25) would not be sufficient to provide a new school and, therefore, the County Council has sought further clarification from the applicants in respect of the funding strategy.

In respect of the building's design etc., it is understood that the Local Education Authority would be content for this matter to be addressed at the reserved matters stage. In response the applicants had advised (as set out above) that the primary school has been costed at approximately £4.5m but if, for whatever reason, the developers did not provide the school, then the County Council had requested a fall back mechanism (i.e. that the developer would pay a contribution equal to the amount of the new school). Having regard to the recent resolution to permit a scheme of residential development at Holywell Spring Farm (which also includes for a new school), the County Council has suggested that, on the basis that two new schools would be unlikely to be required, were the proposed development on the Money Hill site also to be permitted, the Local Education Authority would need to consider which of those development sites would be likely to be most appropriate for a new school taking account of current pupils and possible future development sites.

Overall, therefore, it is understood that the County Council is in effect advising that (i) were a

"normal" contribution to provide for expansion of an existing school possible, the sum required would be £1,756,776.25. However, in this instance, given the scale of expansion required, there is no opportunity to do this (unless the school at the Holywell Spring Farm were to be built). As such, unless a contribution towards that school is made (together with any associated costs of securing the necessary land for expansion etc.), a new on-site school would be required (which could then, for example, accommodate increases to capacity from this and other sites). For their part, however, the applicants now advise that they understand the County Council's position to be that the primary contribution would be the sum of £1,756,776.25 regardless (with a site for a school on the Money Hill development safeguarded), and that this contribution would be combined with that secured from the Holywell Spring Farm site, with the only remaining issue being whether the Money Hill or Holywell Spring Farm site would be the location of the proposed new school. It is not clear how this would work in terms of delivering a school in the event, say, that the Money Hill development progressed but the Holywell Spring Farm one did not (i.e. the £1,756,776.25 sum would not, on its own, be sufficient to deliver the school). At the time of preparing this report, clarification from Leicestershire County Council on its final position was awaited, however, and any further comments on this matter will hence be reported on the Update Sheet.

High School Requirements:

The site falls within the catchment area of Ivanhoe College. The College has a net capacity of 949 and 1,042 pupils are projected on roll should this development proceed; a deficit of 93 places (of which 32 are existing and 61 would be created by this development). The Local Education Authority advises that there are no other high schools within a three mile walking distance of this development. The 61 deficit places created by this development can therefore not be accommodated at nearby schools and, in order to provide the additional high school places anticipated by this development, the County Council requests a contribution for the high school sector of £1,081,508.29. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby Ivanhoe College. The applicants have confirmed that they are agreeable to making this contribution.

Upper School Requirements:

The site falls within the catchment area of Ashby School. The school has a net capacity of 1,841 and 1,915 pupils are projected on roll should this development proceed; a deficit of 74 places (of which 13 are existing and 61 are created by this development). The Local Education Authority advises that there are no other high schools within a three mile walking distance of this development. In order to provide the additional upper school places anticipated by the proposed development, the County Council requests a contribution for the upper school sector of £1,110,487.18. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby School. The applicants have confirmed that they are agreeable to making this contribution.

River Mease Special Area of Conservation (SAC) Contributions

As set out above, the applicants propose to make contributions as per the schedule set out in the District Council's Developer Contribution Scheme (DCS). As set out, the applicants have estimated a contribution of £134,310 would be payable, although the precise amount payable would need to be based upon the precise nature of the development proposed at the reserved matters stage(s).

Play and Public Open Space

The supporting documents proposed development would provide for significant areas of open space / green infrastructure, including on-site children's play facilities with a local play area designed to cater for younger age ranges from toddler to approximately 12 year olds and, in the wider landscape, informal play spaces and play "stations" created as part of the overall landscape structure. The Design and Access Statement also suggests that educational play items and interpretation boards would be provided to encourage engagement with local wildlife, ecology and the history of the area. The details of the areas of open space would need to be addressed as part of the reserved matters, but there appears to be no reason in principle why the detailed scheme could not provide for appropriate play areas in accordance with the District Council's Play Area Design Guidance Note SPG.

The submitted illustrative masterplan indicates the provision of significant areas of open space throughout the site, including to its northern, eastern and southern boundaries (and including areas of open space separating proposed built development from existing dwellings on Woodcock Way, Lockton Close, Bosworth Close and Plantagenet Way), and through a central swathe of it. The applicants confirm that the proposals would, overall, provide for public open space of 14.3 hectares (and equating to approximately 33% of the site as a whole).

In terms of future management of the open space, under the usual procedures provided for in the District Council's Play Area Design Guidance Note Supplementary Planning Guidance, this would normally be conveyed to the Town Council for future adoption / maintenance as the relevant open space authority. At this stage, the applicants have not determined whether they intend to do this or, instead, convey the relevant areas to a management company. It is considered that this issue could be addressed via the detailed negotiations on the Section 106 agreement (and including with Ashby de la Zouch Town Council; the Town Council has not however provided any detailed comments on this aspect of the application).

In terms of recreational open space / sports pitches, whilst no detailed, separate, provision appears to have been made in respect of youth / adult type facilities in accordance with the SPG, there would appear to be no overriding reason why this could not be adequately accommodated as part of the overall open space contribution as and when the detailed proposals were progressed.

Whilst, on the basis of the information submitted with the application, the details in respect of play appear to be limited at this stage, it is nevertheless considered that the proposed development has the potential to provide for an overall acceptable solution in terms of public open space facilities, subject to detailed resolution in due course.

National Forest Planting

The applicants' proposals show the provision of on-site National Forest planting as part of their wider landscaping and public open space proposals, and the National Forest Company notes that the illustrative proposals exceed the minimum National Forest woodland planting and open space standard of 30% of the site area. The National Forest Company raises a number of detailed issues in respect of the proposed planting strategy, but there appears to be no overriding reason why such measures could not be satisfactorily accommodated within the proposed development at the reserved matters stage. The proposals are therefore considered appropriate in this regard, particularly when considered in the context of the conclusions reached under Children's Play and Public Open Space above.

Library Services

A contribution is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council (initially calculated by the County Council at £32,800, but subject to amendment depending on the detailed breakdown of dwelling types to be erected on the site).

Healthcare

In respect of healthcare contributions, the application includes for the erection of a 2,000sqm health centre (including 1,200sqm GP area, 150sqm pharmacy and 400sqm future expansion space), together with parking area (80 spaces); the applicants advise that these proposals have been formulated in consultation with the former PCT. The supporting documents advise that access to the new health centre would be provided via two principal routes; vehicular access would be provided from Woodcock Way, together with a secondary car park to the north of the proposed health centre, which would be located on the northern side of the proposed bus gate (i.e. served from the proposed A511 access). The documents also confirm that pedestrian linkages would also be provided from North Street, along an upgraded Ivanhoe Way.

In terms of the form of the proposed contributions, the intention is to either deliver the health centre as set out above or, alternatively, make a financial contribution of £201,878.28 as per the contribution request from the NHS. In support of the financial contribution request, the NHS advises that the development would result in an increased patient population of approximately 1,452, and that these additional residents of the proposed housing development would access healthcare in the two existing Ashby Health Centre and North Street surgeries (resulting in approximately 1,220 and 232 new patients respectively). Whilst the North Street practice is understood to have sufficient capacity, the Ashby Health Centre does not. The NHS advises that this practice has been identified as a priority for primary care premises investment, and that NHS England is supporting a new surgery for the practice, with the ability to be extended to meet the needs arising from the proposed Money Hill development.

In addition to the proposed health centre forming part of these proposals, the scheme for which a resolution to permit was made on the Holywell Spring Farm site also includes for such a facility. It is understood that there is only likely to be a requirement for one additional health centre and, in effect, the proposed contribution would ensure that, were the current development permitted, there would be a choice for the NHS / surgery as to where to develop the new health centre (i.e. Holywell Spring Farm, Money Hill (or, potentially, somewhere else)). The NHS confirms, however, that it is satisfied with the approach suggested by the developer (i.e. to either build the centre, or contribute towards its construction elsewhere) in that this would enable a flexible approach to be taken as the proposals to provide the additional facilities progress. It is also considered by officers that such an approach would allow for the sensible delivery of essential services regardless of which developments are eventually delivered within the Ashby de la Zouch area, and would meet the relevant legal and policy tests for obligations as set out in the CIL Regulations and NPPF.

Community Hall

As set out above, it is the applicants' intention to provide a community hall as part of the development which, they advise, was a facility requested by members of the public during the public consultation exercise. The applicants anticipate that this community hall could accommodate activities such as Scouts, Guides, yoga and / or a community film club. This community hall would, they advise, be part of a cluster of mixed uses forming a civic space. This space will, they argue, be highly accessible from the town centre, with a pedestrian and cycle

entrance and would be a short-distance from a new bus linkage to be created through the site. A new landscaped pocket park would form a new gateway feature to the square. The applicants advise that they have had strong interest from the local Scout group in the building which would be 410sqm in terms of floorspace, and would be provided upon the occupation of the first 130 homes, with the ownership of the building transferred by way of a "Community Asset Transfer".

The proposed facility would, it is considered, represent an appropriate component of the development, providing a necessary community facility as part of the wider area of growth to the north of the town.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £203,187 in respect of policing as set out in the consultation response above. The contribution sought comprises:

Start up equipment / training	£25,456
Vehicles	£17,073
Additional radio call capacity	£1,240
Police National Database	£786
Additional call handling	£1,414
ANPR	£8,222
Mobile CCTV	£1,500
Additional premises	£146,286
Hub equipment	£1,210

In officers' view, the contributions do not appear to be justified at this time as there appears a limited relationship between the contribution requested and the development proposed. In other words, the request appears to relate to general contributions towards policing costs in the area, rather than being directly related to the residential development scheme under consideration and mitigating identified impacts on infrastructure provision specifically arising from the development. Whilst a detailed breakdown of how this sum would be spent has been provided, it is not clear how it would be able to be considered to comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 given the lack of justification as to:

- (i) what existing policing infrastructure capacity is;
- (ii) what the specific requirement for infrastructure arising from this particular development would be;
- (iii) whether the existing infrastructure has sufficient capacity to accommodate that requirement;
- (iv) if the existing infrastructure does not have sufficient capacity, the extent to which there would be a shortfall (and within which service areas given existing capacities and the nature of the development);
- (v) what works would be necessary to mitigate the shortfall;
- (vi) how much those works would cost; and
- (vii) what would be an appropriate, proportionate contribution towards those works

As such, it is considered unclear as to how the contribution sought is directly necessary such that it would render an otherwise unacceptable development acceptable. It is not considered that it has been demonstrated sufficiently that the contribution sought is required and that, in its absence, planning permission should be refused.

Overall, in terms of planning obligation issues, however, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development.

Conclusions

As set out above, the site is considered suitable in principle for the proposed development. Whilst the majority of the site is outside Limits to Development and, therefore, would be contrary to existing National and Development Plan policies designed to protect the countryside from unnecessary development, regard also needs to be had to other material considerations and, not least, the requirement to demonstrate and maintain a five year supply of housing land as set out in the NPPF. Whilst the majority of the site is located outside of Limits to Development as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as set out in that document.

In terms of technical issues affecting the proposed development, whilst the majority of the conclusions as set out in the applicants' Environmental Statement are accepted, a number of issues have been raised by the Local Highway Authority in respect of access and transportation. However, no objections are raised by the Local Highway Authority subject to the imposition of conditions. Whilst it is not considered that the recommended condition in respect of limiting vehicular access to no more than 400 dwellings from each point of access would be appropriate, it is nevertheless considered that the omission of such a condition would not render the development unacceptable in accessibility or highway safety terms. The scheme is considered to be acceptable in terms of other technical issues such that there appear to be no other reasons to prevent the site's development.

Whilst the proposed development would, for viability reasons, be unlikely to be able to support the full range of infrastructure requirements necessary to accommodate the development, the applicants are proposing to address this by way of making a reduced contribution to affordable housing as detailed in the report above. Whilst this would result in a reduced affordable housing contribution, on the assumption that the extent of the reduction vis-à-vis the usual requirement applicable to the Ashby de la Zouch area could be demonstrated as being the minimum reduction necessary to render the development viable, an appropriate contribution would nevertheless be considered to be made, and it is therefore recommended that outline planning permission be granted, subject to the Local Planning Authority's advisors (i.e. the District Valuer) being satisfied with the applicants' evidence in this regard. It is noted that the affordable housing "offer" relates to a *minimum* of 10%; hence if the District Valuer's findings indicate that a higher contribution can in fact be provided, it is recommended that the relevant Section 106 obligations secure this higher amount (up to a maximum of the policy-compliant 30% level).

RECOMMENDATION- PERMIT, subject to the withdrawal of the Secretary of State for Transport's TR110 Direction dated 22 May 2013, subject to Section 106 Obligations, subject to the following conditions, and subject to any additional conditions as directed by the Secretary of State for Transport:

- 1 Save for the details of vehicular access into the site from Woodcock Way and the A511, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for the relevant phase (as defined under Condition 5 below) shall be submitted to and approved in writing by the Local Planning Authority before any development begins in respect of the relevant phase.

Reason - This permission is in outline only.

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access (save for the details of vehicular access into the site from Woodcock Way and the A511), appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

- 3 Application for approval of the reserved matters for the relevant phase (as defined under Condition 5 below) shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters for that phase to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

- 4 The proposed development shall be carried out strictly in accordance with the following plans:
- Site location plan (020 Rev J 21.03.2013)
 - Parameters plans (021 Rev K 2.07.2013, 023 Rev J 21.03.2013, 024 Rev J 21.03.2013 and 025 Rev J 21.03.2013)
 - Site Access plans (04 Rev D and 06 Rev F)

Reason - To determine the scope of this permission.

- 5 Notwithstanding Conditions 1, 2 and 3 above, the first reserved matters application shall include a masterplan for the whole of the site setting out indicative details of site layout, areas of open space / children's play, landscaping, density parameters and scale, as well as details of any proposed phasing of development. The masterplan shall accord with the principles of the submitted Design and Access Statement. All subsequent reserved matters applications shall be in accordance with the approved masterplan unless any alteration to the masterplan is first agreed in writing by the Local Planning Authority. All development of the site shall thereafter be undertaken in accordance with the agreed phasing and timetable details (or any alternatives subsequently agreed in writing by the Local Planning Authority).

Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner, and to ensure that the proposed development delivers the proposed residential and non-residential development at the appropriate time.

- 6 A total of no more than 605 dwellings shall be erected.

Reason - To define the scope of this permission.

- 7 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as precise details of all means of mitigation measures as set out in the Environmental Statement, including timetables for their provision, have been submitted to and agreed in writing by the Local Planning Authority. The measures shall be implemented in accordance with the approved details and timetables unless in accordance with any variation first agreed in writing by the Local Planning Authority.

Reason - To ensure the development and associated impacts take the form envisaged in the Environmental Statement.

- 8 No development shall commence on the site until such time as a Design Code for the entirety of the site has been submitted to and agreed in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles and parameters described and illustrated in the Design and Access Statement, and demonstrate compliance with Building for Life 12 (or any subsequent replacement standard issued by the Design Council / CABE or any successor organisation). The development shall thereafter be carried out in accordance with the agreed details, or in accordance with any amendment to the Design Code subsequently agreed in writing by the Local Planning Authority.

Reason - To ensure an appropriate form of design, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.

- 9 Notwithstanding the submitted details, no work shall commence on site until such time as intrusive site investigation works in respect of potential risks to the proposed development arising from former coal mining operations together with precise details of any required mitigation and a timetable for its implementation have been submitted to and agreed in writing by the Local Planning Authority. Where the agreed details indicate that mitigation is required, the development shall be carried out strictly in accordance with the agreed mitigation and timetable.

Reason - To ensure the safe development of the site.

- 10 The development hereby permitted shall not be carried out other than in strict accordance with the submitted Flood Risk Assessment (FRA) dated 14 March 2013, ref. 031052 (ES Appendix 14-1) and Drainage Strategy Revision 01, Dated 20 March 2013, ref. 031052 (ES Appendix 14 -2) and the following mitigation measures detailed within the FRA:

- Limiting the discharge rate for surface water run-off and provision of surface water attenuation storage on the site, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site - FRA sections 6.0 and 7.4, and Drainage Strategy sections 3.1, 5.1, 7.1 to 7.3.6;
- Management of Silt and the prevention of pollution of the watercourse during the construction phase - FRA section 7.3;
- Provision of safe access and egress within the site - FRA section 7.2; and
- Finished floor levels - FRA section 7.1

Unless any alternative programme is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as the mitigation measures have been fully implemented.

Reason - To prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

- 11 Notwithstanding the submitted details, nor Condition 7 above, no development shall commence on the site until such time as a surface and foul water drainage scheme for the site (or, in the case of phased development, for the relevant phase of the site), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the agreed details and timetable. The scheme shall include:
- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
 - Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
 - Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm;
 - Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
 - Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.
- No development shall be carried out, nor any part of the development brought into use at any time unless in accordance with the agreed scheme and timetable.

Reason - To prevent the increased risk of flooding, to improve and protect water quality, to improve habitat and amenity, and to ensure the development is provided with a satisfactory means of drainage.

- 12 The development hereby permitted shall not be commenced until such time as a scheme to detail each individual watercourse crossing (including pedestrian footbridge and vehicular crossings) and demonstrating that no raising of ground levels, nor bridge soffit levels as set will result in elevated flood levels, and that there will be no loss of flood plain storage due to the provision of any new crossing of the Money Hill Brook, has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Environment Agency and Lead Local Flood Authority (LLFA). The scheme shall include, but not be exclusive of:
- Limiting the number of crossings of the Money Hill Brook, and removal / upgrade of any existing crossings;
 - Crossings to be provided as clear span bridges or arches in preference to any culverting (including the upgrading of existing crossings, where upgrading is required or proposed);
 - Bridge soffits set a minimum of 600mm above the modelled 100 year plus 20% (for climate change) flood level applicable at the crossing site;
 - Bridge abutments set back beyond the top of the natural bank of the watercourse;
 - Where necessary, culverts designed in accordance with CIRIA C689 (including up sizing

- to provide a free water surface and natural bed), and to have a minimum width / length of culvert essential for access purposes;
 - Provision of compensatory flood storage for all ground levels raised within the 100 year flood plain applicable at any crossing sites, including proposed location, volume (calculated in 200mm slices from the flood level) and detailed design (plans, cross, and long sections) of the compensation proposals;
 - Compensatory flood storage provided before (or, as a minimum, at the ground works phase) of the vehicle bridge and any other crossing construction;
 - Detailed designs (plans, cross, long sections and calculations) in support of any crossing;
 - Details of how the scheme shall be maintained and managed after completion; and
 - A timetable for the relevant works.
- The scheme shall be fully implemented and subsequently maintained in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Local Planning Authority in consultation with the Environment Agency and LLFA.

Reason - To avoid adverse impact on flood storage, to reduce the risk of flooding to the proposed development and future occupants, to reduce the risk of flooding to adjacent land and properties, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the surface water drainage system.

- 13 No development shall commence on the site until such time as a construction working method statement to cover all watercourse works (including pedestrian and vehicular crossings and any other works within 8 metres of any watercourse) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme (or any amended method statement subsequently submitted to and agreed in writing by the Local Planning Authority).

Reason - To protect local watercourses from the risk of pollution.

- 14 Notwithstanding the submitted details, nor Condition 7 above, no development (save for demolition works) shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a further Risk Based Land Contamination Assessment has been submitted to and agreed in writing by the Local Planning Authority. The Risk Based Land Contamination Assessment shall identify all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site and shall be carried out in accordance with:
- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
 - BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and,
 - CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.

Reason - To ensure that the land is fit for purpose, to ensure protection of controlled waters and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.

- 15 If, pursuant to Condition 14 above, any unacceptable risks are identified in the Risk

Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004, and the Verification Plan (which shall identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action) shall be prepared in accordance with the requirements of Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010, and CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004. If, during the course of development, previously unidentified contamination is discovered, development shall cease on the affected part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be undertaken in accordance with the agreed details and thereafter be so maintained.

Reason - To ensure that the land is fit for purpose, to ensure protection of controlled waters and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.

- 16 None of the development hereby permitted shall be brought into use until such time as a Verification Investigation for the relevant part of the site has been undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development. No part of the development (or, in the case of phased development, no part of the relevant phase) shall be brought into use until such time as a report showing the findings of the Verification Investigation has been submitted to and agreed in writing by the Local Planning Authority. The Verification Investigation Report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
 - Contain Test Certificates of imported material to show that it is suitable for its proposed use;
 - Demonstrate the effectiveness of the approved Remedial Scheme; and
 - Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

Reason - To ensure that the land is fit for purpose, to ensure protection of controlled waters and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.

- 17 There shall be no infiltration of surface water drainage into the ground at any time other than in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - To protect controlled waters receptors.

- 18 Unless any alteration is first agreed in writing by the Local Planning Authority, the development hereby permitted shall be undertaken strictly in accordance with the submitted Outline Construction Environmental Management Plan (Revision 01, March 2013, ref. 031052).

Reason - To minimise the environmental impacts of the development during construction.

- 19 Notwithstanding the submitted details, nor Condition 7 above, no development shall commence on the site until such time as a timetable for the undertaking of updated surveys in respect of badger in relation to commencement of site works on the relevant phase (and including the specification of maximum periods between undertaking of surveys and commencement of work on the relevant phase) has been submitted to and agreed in writing by the Local Planning Authority. No development shall thereafter be undertaken at any time unless the relevant surveys have been undertaken and the results (including mitigation measures and a timetable for such mitigation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority, and the development shall thereafter be undertaken strictly in accordance with the agreed mitigation measures and timetable.

Reason - In the interests of nature conservation.

- 20 No hedgerows, trees or shrubs shall be removed during the months of March to August inclusive unless first agreed in writing by the Local Planning Authority. Should nesting birds be found during construction work, all work within 5 metres of the nest shall cease immediately, and shall not resume until such time as the young have left the nest.

Reason - In the interests of nature conservation.

- 21 Notwithstanding the submitted details, nor Condition 7 above, the first reserved matters application in respect of the development (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall be accompanied by full details of all measures proposed in respect of the enhancement and / or management of the ecology and biodiversity of the area, including proposals in respect of future maintenance and a timetable for the implementation of the relevant measures. The development shall thereafter be undertaken and occupied in accordance with the agreed measures and timetable unless otherwise agreed in writing with the Local Planning Authority.

Reason - In the interests of nature conservation and to ensure the development contributes to the meeting of BAP and LBAP priorities.

- 22 Notwithstanding the submitted details, all reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes. None of the dwellings hereby permitted shall be occupied until such time as evidence to demonstrate the relevant dwelling's compliance with the relevant criteria has been submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the environmental integrity of the scheme is secured.

- 23 Notwithstanding the submitted details, all reserved matters applications for the erection

of non-residential development shall include full details of the proposed buildings' anticipated level of achievement in respect of criteria / sub-categories contained within the Building Research Establishment's Environmental Assessment Method (BREEAM). No building shall be brought into use until such time as an assessment of the building has been carried out by a registered BREEAM assessor and a BREEAM Certificate has been issued for the relevant building certifying that the relevant BREEAM Level has been achieved.

Reason - To ensure the environmental integrity of the scheme is secured.

- 24 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting that Order), the total gross floorspace of uses falling within Class A1 of that Order shall not exceed 560 square metres at any time, nor shall the total gross floorspace of any single retail unit exceed 460 square metres at any time, unless planning permission has first been granted by the Local Planning Authority.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, for the avoidance of doubt, to ensure satisfactory control over the impact of the development on nearby centres, and to comply with Policy R1 of the North West Leicestershire Local Plan.

- 25 The first reserved matters application submitted pursuant to this permission (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall include a detailed Archaeological Mitigation Strategy for the respective area(s). The Strategy shall be based upon the results of a programme of exploratory archaeological fieldwalking and trial trenching undertaken within the relevant area(s) in accordance with a Written Scheme of Investigation (WSI) first submitted to and agreed in writing by the Local Planning Authority. Both the WSI and final Strategy shall include an assessment of significance and research questions, and:
- The programme and methodology of site investigation, recording and post-investigation assessment (including the initial fieldwalking and trial trenching, assessment of results and preparation of an appropriate mitigation scheme);
 - The programme for post-investigation assessment;
 - Provision to be made for analysis of the site investigation and recording;
 - Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - Provision to be made for archive deposition of the analysis and records of the site investigation;
 - Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation; and
 - A detailed timetable for the implementation of all such works / measures
- Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall take place at any time other than in accordance with the agreed Written Scheme of Investigation, Strategy and timetable.

Reason - To ensure satisfactory archaeological investigation and recording.

- 26 Notwithstanding the submitted details, nor Conditions 1, 2 and 7 above, no development shall commence on the site until such time as a scheme of structural landscaping to the A511 (indicating species, densities, sizes and numbers of proposed planting both within and outside of the application site, as appropriate, together with all existing trees and

hedgerows on the land including details of those to be retained, and those to be felled / removed), together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No development shall be undertaken or occupied at any time unless all measures specified in the agreed scheme required to be implemented by the relevant stage / phase have been undertaken in full.

Reason - In the interests of amenity, and to ensure that the development is appropriate in this National Forest setting.

- 27 Notwithstanding the submitted details, nor Conditions 1, 2 and 7 above, no development shall commence on the site until such time as details specifying which of the proposed tree protection measures shown on drawing no. SJA TPP 12139-02a are proposed to be implemented in respect of the construction of the proposed accesses / roads (together with a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. No development shall be undertaken at any time unless all of the agreed protection measures relating to the relevant stage / phase are in place. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

Reason - To ensure that existing trees are adequately protected during construction in the interests of the visual amenities of the area.

- 28 Save for any works associated with the formation of the access as shown on drawing no. 06 Rev F, no development shall commence on site until such time as the A511 site access junction as shown on drawing no. 06 Rev F has been provided in full and is available for use by vehicular traffic.

Reason - To provide vehicular access to the site, including for construction traffic, in the interests of highway safety, and to comply with policy T3 of the North West Leicestershire Local Plan.

- 29 No part of the development hereby permitted shall be brought into use until such time as the site access junction at Woodcock Way as shown on drawing no. 04 Rev D has been provided in full and is available for use by vehicular traffic.

Reason - To provide vehicular access to the site, connectivity to the town centre, in the interests of road safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 30 No development shall commence on the site until such time as a scheme for the provision of a new or diverted bus service serving the development, and providing a connection between the site and Ashby de la Zouch town centre, has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include hours of operation, service frequencies, routing and provision of necessary on and off site infrastructure (including pole and flag, bus shelter, raised kerbs and information display cases). The scheme shall include any works / measures required for the initial implementation of the scheme, together with a phased programme for the implementation of any measures required by the scheme as the development progresses. No more than 130 dwellings shall be occupied within the application site until such time as the whole of the approved scheme is fully operational.

Reason - To ensure adequate steps are taken to provide a choice in mode of travel to and from the site.

- 31 No development shall commence on the site until such time as a construction management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reason - To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic associated with the development does not lead to on-street parking problems in the area.

- 32 No more than 130 dwellings shall be occupied within the application site until such time as the link road between the A511 and Woodcock Way as shown on drawing no. 06 Rev F has been provided in full and is available for use by vehicular traffic.

Reason - To allow for bus penetration through the site so as to ensure that adequate steps are taken to provide a choice in mode of travel to and from the site.

Plus any additional conditions recommended / directed by the Highways Agency / Secretary of State for Transport

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 Your attention is drawn to the attached report of the Coal Authority.
- 3 Your attention is drawn to the attached report of Severn Trent Water Limited.
- 4 Your attention is drawn to the attached report of the Environment Agency
- 5 Your attention is drawn to the attached report of the Highways Agency.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highways and transportation matters.
- 7 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer.
- 8 Your attention is drawn to the attached report of Leicestershire County Council's Principal Planning Archaeologist. The applicant is advised that the issues raised should be taken into account in the formulation of the detailed scheme at the reserved matters stage(s), and including the need to accommodate existing ridge and furrow features within that scheme.
- 9 Your attention is drawn to the attached report of Natural England.
- 10 Your attention is drawn to the attached report of the National Forest Company; the applicants are advised to have regard to the advice provided when formulating the detailed proposals at the reserved matters stage(s).
- 11 The applicants are advised that the Local Planning Authority will expect any associated

PLANNING APPLICATIONS- SECTION A

- reserved matters application to demonstrate compliance with Building for Life 12 and, in particular, to include have regard to the provision of a suitable gateway to the site from the A511.
- 12 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at www.gov.uk/defra
- 13 For the avoidance of doubt, all references within phases of development within the conditions above should be construed as being those phases of development to be set out and agreed pursuant to Condition 5.
- 14 This decision is in accordance with the resolution of the Planning Committee of 3 December 2013 and is subject to a Section 106 Obligation.

Erection of up to 105 dwellings, public open space, earthworks, balancing pond, structural landscaping, car parking, and other ancillary and enabling works (Outline - All matters other than vehicular access off Grange Road reserved)

Report Item No
A2

Land South Of Grange Road Grange Road Hugglescote
Leicestershire

Application Reference
12/00922/OUTM

Applicant:
Mr Andrew Tildesley

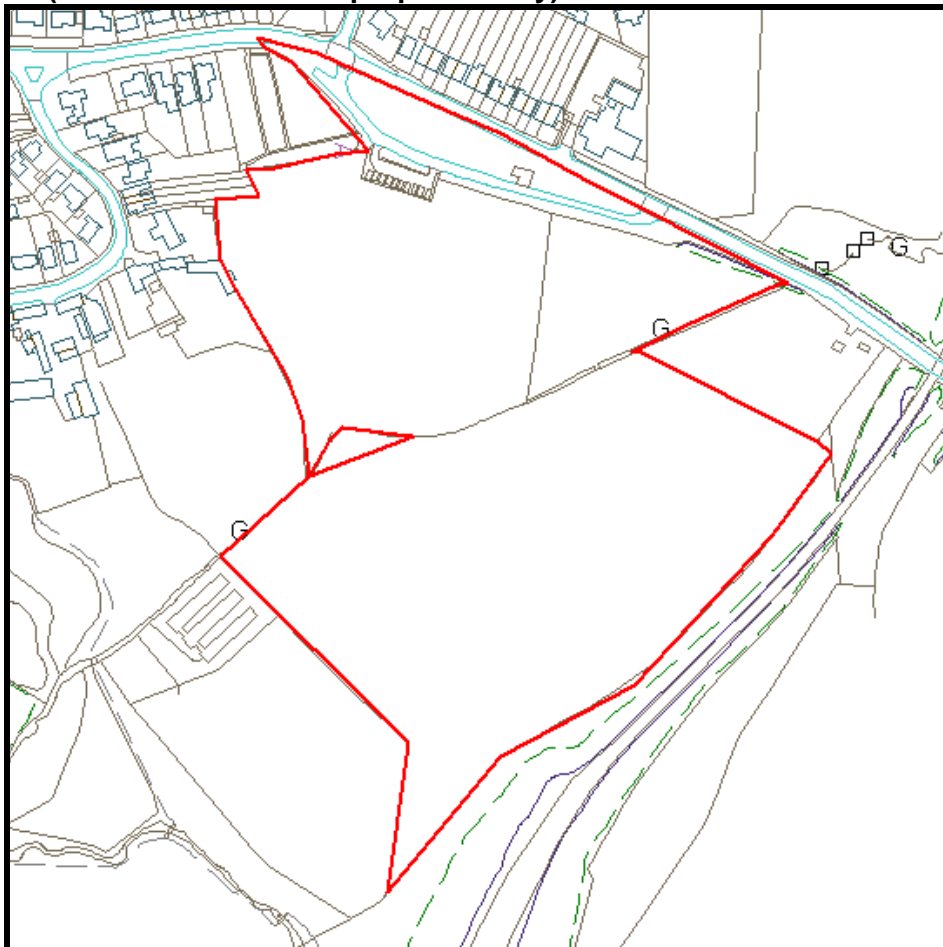
Date Registered
9 November 2012

Case Officer:
James Knightley

Target Decision Date
8 February 2013

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location (Plan is for indicative purposes only)



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Executive Summary of Proposals and Recommendation

Proposal

This application seeks outline planning permission for residential development of up to 105 dwellings and associated works.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (including from Hugglescote and Donington le Heath Parish Council); no other objections are raised by statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application, however, is the supply of housing in the context of the National Planning Policy Framework (NPPF).

Conclusion

The report below indicates that, whilst the site is a greenfield site outside Limits to Development, having regard to the site's general suitability for housing (including its proximity to the built up area of Coalville) and the need to demonstrate and maintain a five year supply of housing land within the District, the proposals would be considered to constitute sustainable development, and release of the site for residential development would be appropriate in principle. The proposed development would, it is considered, be able to be undertaken in a manner acceptable in terms of access issues; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities, albeit with a reduced contribution to affordable housing required so as to ensure the development remains viable whilst making appropriate contributions to highways and transportation infrastructure.

RECOMMENDATION:-

PERMIT, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

This is an outline planning application for residential development of a site of 7.3 hectares primarily in agricultural use for up to 105 dwellings on land to the south of Grange Road, Hugglescote.

Consideration of the application was resolved to be deferred at the Planning Committee of 3 September 2013 to allow for the receipt of further information. This further information related to the then impending release of potential options for the improvement of Hugglescote Crossroads by Leicestershire County Council arising from a Freedom of Information request made to the County Council. This information was released by Leicestershire County Council on 6 September 2013, and relates to draft options for potential improvement schemes at the Hugglescote Crossroads.

Following the release of this information, the application was reconsidered at the Planning Committee meeting of 12 November. At that meeting it was again resolved to defer the application so as to enable further consideration of the highway safety implications of the proposed site access to Grange Road and the issues of over-capacity at Hugglescote Crossroads.

All matters are reserved except for part access; whilst all other matters are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings (provided in two main areas of the site), together with areas of public open space / children's play, proposed and retained tree planting / landscaping and surface water attenuation facilities. The application as originally submitted included the means of vehicular access (from Grange Road) for consideration at the outline stage. At the time that the application was originally considered by the Planning Committee in September 2013, the proposed vehicular access was, following amendment of the application, also reserved. However, the applicants subsequently amended the application further such that this matter is now once again included for consideration at the outline stage (albeit including a different proposed vehicular access arrangement to that previously applied for).

The site is crossed by a watercourse, and is adjacent to various other land uses including woodland, open / "scrub" land, residential curtilage, a cemetery and a disused railway connecting to the former South Leicester Colliery in Ellistown, now used on an informal basis as a recreation route.

Vehicular access is proposed by way of a new priority access with ghost island, provided through an existing landscaped area separating Grange Road from an existing lay-by; the existing lay-by would be stopped up (for vehicular use) and a new lay-by formed to serve the existing pumping station. The existing lay-by would be downgraded to a bridleway.

In terms of other matters of access (and including non-vehicular routes into the site, and vehicular, cycle and pedestrian routes *through* the site), these are reserved for consideration at the reserved matters stage(s), although the illustrative masterplan indicates a network of routes linking the site to adjacent land / existing recreational routes.

2. Publicity

44 no. neighbours have been notified (Date of last notification 17 September 2013)

Site Notice displayed 21 November 2012

Press Notice published 28 November 2012

3. Consultations

LCC ecology consulted 5 February 2013

Hugglescote And Donington Le Heath Parish Council consulted 21 November 2012

County Highway Authority consulted 21 November 2012

Environment Agency consulted 21 November 2012

Severn Trent Water Limited consulted 21 November 2012

Head of Environmental Protection consulted 21 November 2012

Natural England consulted 21 November 2012

NWLDC Tree Officer consulted 21 November 2012

County Archaeologist consulted 21 November 2012

LCC ecology consulted 21 November 2012

NWLDC Urban Designer consulted 21 November 2012

LCC Development Contributions consulted 21 November 2012

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 21 November 2012

Development Plans consulted 21 November 2012

Head Of Leisure And Culture consulted 21 November 2012

Manager Of Housing North West Leicestershire District Council consulted 21 November 2012

Police Architectural Liaison Officer consulted 21 November 2012

LCC/Footpaths consulted 21 November 2012

Highways Agency- Article 15 development consulted 21 November 2012

Network Rail consulted 21 November 2012

National Forest Company consulted 21 November 2012

DEFRA consulted 21 November 2012

FRCA (MAFF)- loss of agricultural land consulted 21 November 2012

Ramblers' Association consulted 21 November 2012

LCC Fire and Rescue consulted 21 November 2012

Head Of Street Management North West Leicestershire District consulted 21 November 2012

Office Of Rail Regulation consulted 11 January 2013

4. Summary of Representations Received

Environment Agency has no objections subject to conditions (subject to the Local Planning Authority being satisfied in respect of the sequential test)

Highways Agency has no objections

Hugglescote and Donington le Heath Parish Council objects on the following grounds:

- Flood risk
- Proposed dwellings shown on top of an alleged culvert
- Children's play area shown in an area liable to flooding
- Additional congestion at Hugglescote Crossroads
- Air pollution
- Insufficient capacity at Hugglescote Primary School
- Should provide for a green corridor between the current urban areas and the old mineral line, providing a green lung
- Sign vehicular access and car parking for the closed cemetery should be maintained
- The lay-by should be the route to and from the development

- Amended site access unsafe / too narrow
- Traffic calming / speed cameras required at proposed site access
- Existing cemetery access, parking and turning should be retained

In addition, the Parish Council comments as follows:

- A sum of £1,400 per dwelling towards youth and adult play facilities is requested unless they can be provided on site - the Parish is woefully short of formal recreation space and the proposed development would exacerbate the situation
- Development has a significant impact on the need to make substantial changes to the Hugglescote Crossroads including the subsequent loss of the Community Centre and a contribution of £1,000 per dwelling should be paid to the Parish Council to contribute towards the purchase of the property and the building of a new Parish owned community facility - the building is currently owned by the Church and any CPO monies would not be available to provide a new facility
- Requests confirmation of commuted sums for future maintenance of public open space on the development

Leicestershire County Council Local Education Authority requests developer contributions of £304,895.05 in respect of additional provision in the primary school sector

Leicestershire County Council Library Services Development Manager requests a developer contribution of £5,710

Leicestershire County Council Highway Transportation & Waste Management Authority requests a developer contribution of £7,462 in order to mitigate the impact on civic amenity waste facilities in the local area.

Leicestershire County Council Ecologist has no objections subject to conditions

Leicestershire County Council Landscape Officer has no comments

Leicestershire County Council Highway Authority has no objections subject to conditions, and subject to Section 106 obligations

Leicestershire County Council Rights of Way Officer has no objections subject to conditions

Leicestershire Police objects unless a developer contribution of £35,844 in respect of policing is provided

National Forest Company comments that the proposals have the potential to meet the 20% woodland planting and landscaping requirement as set out in the National Forest Company's Guide for Developers and Planners and has no objections subject to a number of matters being secured as part of the reserved matters proposals

Natural England refers the Local Planning Authority to its standing advice in respect of protected species

Network Rail has no objections subject to conditions

NHS England (Leicestershire and Lincolnshire Area) requests a healthcare contribution of £8,703.55

North West Leicestershire District Council Environmental Health has no objections subject to conditions in respect of contaminated land.

Severn Trent Water has no objections subject to conditions

Third Party Representations

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

- Site liable to flooding
- Site liable to subsidence
- Agricultural / greenfield sites should not be developed when previously-developed sites are available
- Insufficient infrastructure (including schools, healthcare, and highway network capacity)
- More dwellings proposed than allowed for in the Strategic Housing Land Availability Proforma
- Site should be a natural corridor for wildlife and recreation
- Site not originally part of the Bardon Grange development in the Core Strategy
- Unsafe access
- Speeding traffic on Grange Road
- Unsafe proposed pedestrian crossing
- Loss of countryside
- Impact on visual amenity
- Reduction in separation between Hugglescote and Ellistown
- Bardon bypass required to alleviate congestion at Hugglescote Crossroads and on Grange Road
- Access to site should be via existing lay-by
- Mini-roundabouts should be provided
- Hedge to site frontage should be maintained
- Additional pedestrian crossing should be provided
- Construction traffic should avoid passing by existing dwellings and the Grange Road Surgery

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development.

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as set out in more detail in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

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

Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that "this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted."

"32 All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

"34 Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas."

"47 To boost significantly the supply of housing, local planning authorities should:
...- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

"49 Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

"57 It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"59 Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription

or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."

"61 Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"100 Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere."

"101 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding."

[Further advice on flooding is contained within the DCLG's Technical Guidance to the National Planning Policy Framework.]

"112 Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."

"118 When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;...
- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"120 To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location.... Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner."

"121 Planning policies and decisions should also ensure that:

- the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;...
- adequate site investigation information, prepared by a competent person, is presented."

"123 Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"124 Planning policies should sustain compliance with and contribute towards EU limit values

or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan."

"203 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

"204 Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development."

Adopted North West Leicestershire Local Plan (2002)

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan.

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst others, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to centres, design etc. Within Coalville and Ashby-de-la-Zouch town centres, local centres and other locations well served by public transport and accessible to services a minimum of 40 dwellings per ha will be sought and a minimum of 30 dwellings per ha elsewhere (in respect of sites of 0.3 ha or above).

Policy H7 seeks good quality design in all new housing developments.

Policy H8 provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 requires new development to respect the character of its surroundings.

Policy E6 seeks to prevent development where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part.

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria.

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

Policy L22 provides that major new development will only be permitted where adequate provision is made for open space for formal recreation use.

Other Policies

North West Leicestershire District Council Affordable Housing SPD

Key Principle AH2 provides that affordable housing will be sought on all sites of 15 or more dwellings in the Greater Coalville Area.

Key Principle AH3 requires a minimum of 20% of residential units to be available as affordable housing within the Greater Coalville area.

North West Leicestershire District Council Play Area Design Guidance SPG

The District Council's Play Area Design Guidance SPG sets out the relevant requirements in respect of children's play provision required in association with residential development.

Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville

On 11 June 2013, and following the completion of consultation on the draft policy, the District Council's Cabinet approved the revised policy document. The adopted policy states that "Where the Council is satisfied that a major residential development proposal in or around the Coalville area is proven to be unviable as a result of required developer financial contributions (e.g. off site highway works; education provision and affordable housing requirements), the Council will consider relaxing its normal affordable housing requirements proportionately so as to:

- (a) Give highway infrastructure investment the highest priority for funding
- (b) Ensure all other essential infrastructure is provided
- (c) Continue to contribute to affordable housing provision as far as possible whilst ensuring that the development scheme is viable.

For development proposals where the Council accepts no affordable housing or a lower proportion of affordable housing contribution (both on site provision and/or a financial contribution in lieu of provision) the Council will reduce the time period for any planning permission to be commenced to 2 years and shall include in the Section 106 agreement provision to enable the Council to periodically revisit the affordable housing contribution if the economic factors determining the level of affordable housing improves before the development is commenced."

In addition to agreeing the policy, Cabinet agreed that, for major developments in Coalville, the Planning Committee be asked to consider the policy through Section 106 agreements and recommended that Planning Committee, where appropriate, prioritises the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the policy.

South East Coalville Development Brief

A Development Brief for the South East Coalville Strategic Development Area has been prepared by consultants on behalf of the developers' consortium with interests in the land in conjunction with the Local Planning Authority, and including input from other professional consultants, stakeholders and members of the local community, in order to inform the process of planning and development of land at South East Coalville.

The draft Development Brief was considered by the District Council's Cabinet at its meeting of 23 July 2013 where it was resolved that the production of the Development Brief for South East Coalville be noted, that regard be had to the Development Brief when negotiating on and determining planning applications in the South East Coalville Broad Location, and that the Development Brief form part of the evidence base for the [then] submission Core Strategy.

Submission Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

6. Assessment

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 (2002 (as amended)).

In terms of the adopted North West Local Plan, the site is outside Limits to Development. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3.

Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and National policies.

In terms of the North West Leicestershire Local Plan, Policy H4/1 identifies that, in releasing

appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
 - the latest urban capacity information;
 - the need to maintain an appropriate supply of available housing land;
 - lead times before houses will be expected to be completed and build rates thereafter;
- and
- other material considerations.

Whether or not this site would be considered "appropriate" is a matter of judgement; having regard to its location outside Limits to Development, it could be argued that it would not be. This policy nevertheless sets out criteria relevant to release of land. Insofar as the site's location is concerned, and whilst it is outside Limits to Development, it is well related to the existing built up area of the settlement.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan. Furthermore in respect of Policy H4/1, this would represent a policy relating to the supply of housing and, as such, its relevance also needs to be considered in the context of Paragraph 49 of the NPPF (considered in more detail under Housing Land Supply below).

Housing Land Supply and Limits to Development

The NPPF requires that the Council should be able to identify a five year supply of housing land and include an additional buffer of 5% or 20% depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the "Sedgefield" approach should be used (an approach to assessing land availability also suggested as appropriate within the draft National Planning Practice Guidance) and that a buffer of 20% should be allowed for. On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.33 years which represents a significant shortfall vis-à-vis the requirements of the NPPF. Furthermore, this figure has been calculated having regard to the potential development of this site; if the development were not to proceed, the figure would be reduced (to 4.2 years).

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". Policy S3 of the adopted Local Plan (Limits to Development) is not considered to be a relevant policy for the supply of housing (see the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal), notwithstanding that a contrary view has been taken elsewhere (and including by the Secretary of State on appeal), and accordingly the policy should not be considered to be out of date. Nevertheless, as the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements up until the end of the Plan Period (i.e. to 2006) less weight should be attributed to any conflict with Policy S3 in the overall planning balance.

In addition, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute

sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to housing land supply and the inclusion of appropriate contributions to local services as detailed below, would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of land outside of the defined Limits to Development, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and, by virtue of its location, close to the existing built up area and associated services, would perform well in terms of need to travel and the movement towards a low carbon economy.

At the time that the then Pre-Submission Core Strategy was considered by the District Council in April 2012, the report considered by members included a proposed Study Area which was anticipated to form the basis of a defined extent of the proposed South East Coalville Broad Location. The application site falls within the identified Study Area. Whilst the site falls within the Study Area, the applicants are not currently part of the developer consortium which is intending to bring forward the wider South East Coalville development. Nevertheless, the application site has been included within the consortium's emerging masterplan documents (including the South East Coalville Development Brief referred to above), and the general location of proposed development within this part of the Study Area as indicated by the consortium generally accords with that shown on the illustrative masterplan forming part of the application documents, as does the proposed use (i.e. residential). Insofar as the comprehensive development of South East Coalville is concerned, it would be considered preferable for the developers of the application site to be part of the consortium. Having said that, however, it is noted that, by virtue of the former railway (now used as an informal recreational route), the site (which is on the edge of the Study Area) is separated from other development areas (physically, visually and in terms of the logical means of vehicular access) within the Study Area. In view of this, it is considered that the bringing forward of this site in isolation from the remainder of the Study Area would not, in this case, lead to any material harm in terms of the proper planning of the area, nor would it prejudice the comprehensive development and proper planning of the South East Coalville area as a whole, and would therefore, in this regard, satisfy adopted Local Plan Policy E6. This position would appear to be supported by the overall form of development currently being proposed by the wider consortium. The site is also adjacent to a smaller parcel of "scrub" / woodland (understood to have formerly been used as a nurseries) to the north eastern corner of the site (adjacent to the former railway bridge) which also lies within the Study Area. On the basis of the illustrative masterplan, there would appear to be no reason why the proposed development would necessarily preclude development of this site if this were to be proposed in the future; the County Highway Authority also advises that, in capacity terms, the proposed access onto Grange Road would be likely to be more than sufficient to accommodate the number of dwellings likely to be achievable on a site of this size. Again, therefore, no prejudice of the development of adjacent land would appear likely.

Loss of Agricultural Land

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. Part of the site is currently in active agricultural use and, insofar as the proposed built development is concerned, this would result in an irreversible loss to non-agricultural use.

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is

demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the five year housing land supply issue as set out above, it would seem inevitable that land outside Limits to Development (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification. Whilst the applicants have not provided a detailed assessment of the agricultural quality of the site, they note that the provisional data provided by MAFF indicates it would be Grade 3b (and not, therefore, BMV).

However, also of relevance to this issue is the limited size of the site (and, hence, the limited impact on loss of agricultural land). Whilst the NPPF does not suggest that release of smaller BMV sites is acceptable, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process. Also relevant is the extent to which change of use of the BMV land is irreversible. Whilst the submitted masterplan is illustrative only, it is noted that it indicates that a significant proportion would be given over to National Forest planting and public open space which, it is considered, would not necessarily preclude its future re-establishment in active agricultural use if circumstances so dictated.

Overall in terms of agricultural land quality, therefore, the evidence available indicates that the land would not constitute BMV but, even if some or all of it were, given the limited extent of land lost, it is not considered that this would be a significant loss. However, this would need to be weighed against other material considerations and, whilst some (albeit limited) adverse impacts in this regard cannot be ruled out, these concerns would not be so significant as to outweigh the considerations in favour of the scheme. When considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the agricultural land quality issue would not be sufficient to suggest that planning permission should be refused. DEFRA has been consulted on this issue, but no response has been received.

Conclusions in respect of the Principle of Development and Planning Policy

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The site is outside Limits to Development in the adopted Local Plan and its development for housing would therefore be contrary to Local Plan Policy S3, a policy designed to protect the countryside for its own sake.

However, the site's general suitability for housing (including its proximity to the built up area of Coalville) is also material, together with the need for the District to release significant areas of land for housing to ensure the provision and maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF). An important consideration is that the Council must demonstrate and maintain a five year supply of housing land (with a 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance.

Having regard to all of the above it is considered overall that the proposed development of the site is acceptable in principle.

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.

Means of Access and Transportation

As set out above, all matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned). The point of access proposed shows vehicular access via a new ghost island priority junction to Grange Road, with the access road passing through the existing grassed area of highway land separating the carriageway from the existing lay-by; the County Highway Authority confirms that this access has been subject to a Stage 1 Road Safety Audit. Under the proposed details, the existing lay-by would become a pedestrian route and new pedestrian crossings to Grange Road provided. The illustrative layout also shows other potential pedestrian links into and through the site; these would also be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility of the site still ought to be considered in those terms).

The application is accompanied by a Transport Assessment as well as a Residential Travel Plan. The amended Transport Assessment indicates that, in the applicants' consultants' opinion, the development is in a location that offers opportunities for journeys to local facilities to be undertaken by foot, including schools, shops, public houses, Hugglescote Surgery and the Millfield Recreation Ground. Whilst there are no bus routes currently passing the site frontage, various services are available from Central Road.

Insofar as the affected junctions on the wider highway network (and the associated junction capacity assessments contained within the applicants' submissions) are concerned, the County Highway Authority comments as follows:

Dennis Street / Grange Road priority junction:

The submitted PICADY assessment is agreed. It is agreed that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2017 "with development" scenario.

Hugglescote Crossroads:

No junction capacity assessment has been submitted for Hugglescote Crossroads. In the submitted Transport Assessment it is acknowledged that the junction is currently operating over capacity.

The development will have an impact at Hugglescote crossroads. However, as stated in the Transport Assessment, Leicestershire County Council will be investigating options for junction capacity improvements at this location.

Until such time as a scheme has been identified, a scenario of "short term pain" for "long term gain" is considered to be acceptable. Therefore, it is agreed that this development should contribute towards improvements to the wider highway network in Coalville (which includes for Hugglescote Crossroads) as considered appropriate by North West Leicestershire District Council.

The need for improvements at the Hugglescote Crossroads is recognised in the South East Coalville Development Brief. This junction already experiences congestion and delays, and it is predicted that the growth will exacerbate these issues; this affects access to the town centre and local facilities (such as the Primary School) for all road users, including cyclists and

pedestrians, and will impact on the quality of life for local residents (e.g. noise, visual intrusion and pollution impacts). There is, therefore, a clear link between growth in the town and the need to undertake improvements to the junction. However, the exact nature of such improvements and any associated costs are unknown; further assessment of this issue in the light of the recent release of potential options for works at the crossroads by Leicestershire County Council in response to a Freedom of Information request is set out below, as are additional comments from the County Highway Authority provided by the County Council in order to clarify its position following the deferral at the November 2013 Planning Committee meeting.

Birch Tree roundabout:

The submitted ARCADY assessment is agreed. It is agreed that no mitigation is required because it can be demonstrated that the junction will operate within capacity in the 2017 "with development" scenario.

Site access junction:

The submitted PICADY assessment is agreed. It is agreed that the junction would operate well within capacity in the 2017 "with development" scenario. [NB The revised access arrangements have been designed so as to have regard to the proposed development on land to the north of Wainwright Road (including that subject of a current full application for 75 dwellings, ref. 13/00802/FULM); the amended access design increases the separation between the proposed site access and the existing Wainwright Road junction, thus avoiding potential conflict between the two junctions, were the use of the Wainwright Road junction to increase as a result of development on the site to the north of Wainwright Road.]

Further to the concerns raised by Planning Committee on 12 November 2013, the County Highway Authority has provided further information setting out its position in respect of the safety of the proposed site access. In this respect, it confirms as follows:

Stage 1 Road Safety Audit:

As set out above, the proposed access has been subject to a Stage 1 Road Safety Audit. The County Highway Authority confirms that the only problem identified by the Audit is that a proposed splitter island (in effect, a small pedestrian refuge within the hatched areas between the east and westbound carriageways) may need to be relocated in order to allow for an existing private drive, but confirms that this could be resolved at detailed design stage. The County Highway Authority also confirms, however, that there are no *safety* problems with the proposed access identified within the Stage 1 Road Safety Audit.

Traffic Speeds

The County Highway Authority confirms that speed surveys were carried out by the County Council on 25 April 2013, and the surveys found the following:

- Outside no. 107 Grange Road (just to the west of the junction of Grange Road with Wainwright Road), 85th percentile wet weather speeds were recorded as 31.0mph eastbound, and 31.6mph westbound
- East of the surgery (at the point where the speed limit changes from 60mph to 30mph) 85th percentile wet weather speeds were recorded as 41.2mph eastbound, and 39.9mph westbound.

Accident Records

The County Highway Authority confirms that the County Council's accident records for the past 5 years show there are no recorded accidents on Grange Road at the site frontage.

The County Highway Authority therefore confirms that it is satisfied that the junction as

proposed is safe and appropriate.

Other mitigation proposals required by the County Highway Authority (and sought as Section 106 contributions) are as follows:

- A Construction Traffic Routeing Agreement to be submitted to and approved in writing by Leicestershire County Council
- One Travel Pack per dwelling to inform new residents from first occupation what sustainable travel choices are available in the surrounding area (which can be provided through Leicestershire County Council at a cost of £50.18 per pack/dwelling if required)
- Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation (which can be provided through Leicestershire County Council at a cost of £325.00 per pass if required)
- Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development to ensure effective implementation and monitoring of the site wide Travel Plan submitted in support of the planning application;
- A contribution of £6,000 towards iTrace monitoring (transportation monitoring software)
- A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council (i.e. in accordance with the District Council's contribution strategy - addressed in more detail below)

In view of the conclusions as set out above, the County Highway Authority raises no objections to the proposals on highway safety grounds subject to conditions, and subject to the contributions as set out above. Insofar as the strategic highway network is concerned, the Highways Agency does not consider that the proposed development would have a material impact on the closest strategic route (the M1) and raises no objections.

Whilst Hugglescote and Donington le Heath Parish Council has raised concerns regarding the suitability of the proposed site access, the applicants confirm that it has been designed in accordance with relevant National and local design guidance (including the Design Manual for Roads and Bridges and the 6Cs Design Guide), and has been subject to a Road Safety Audit. They also advise that the visibility splays proposed are appropriate to traffic speeds along Grange Road, following the undertaking of a speed survey by the applicants' transportation consultants.

Insofar as access to the adjacent cemetery is concerned, the applicants confirm that the existing lay-by on Grange Road is shown to be removed, at the request of the Local Highway Authority, and that pedestrian access to the cemetery would remain.

On 15 January 2013, the District Council's Cabinet considered a report relating to Delivering Growth and Prosperity in Coalville which set out proposals to prioritise highways infrastructure contributions in Coalville above affordable housing contributions given the need for significant transportation infrastructure to be provided so as to enable otherwise stalled development to be delivered. Cabinet resolved to (i) agree to the preparation and consultation of an interim Section 106 policy which establishes the approach towards prioritising highway infrastructure contributions in Coalville, which will be reported back to cabinet after the consultation exercise; (ii) agree that for major developments in Coalville, the Planning Committee be asked to consider the emerging policy through Section 106 agreements; and (iii) to recommend that Planning Committee, where appropriate, prioritise the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the emerging policy proposals. The District Council consulted on

a draft policy between 22 February 2013 and 5 April 2013 and, following the conclusion of that consultation, reported back to Cabinet on 11 June 2013. At that meeting, Cabinet resolved to approve the policy.

The report to Cabinet of 15 January 2013 included an indicative list of potential transportation infrastructure measures to which the financial contributions made would be expected to contribute; based on the figures available at that time, the calculations provided to Cabinet suggested a potential contribution of between £4,419 and £4,884 per dwelling. As of the current position, discussions are ongoing with the County Highway Authority and Highways Agency to establish an appropriate mechanism for securing contributions but, as matters stand, having regard to Local Highway Authority and Local Planning Authority officers' assessment of factors such as infrastructure scheme priority in terms of the importance on the wider highway network, estimated date of site delivery, and proximity of the respective potential developments to the relevant junctions / infrastructure schemes, the intention is that this site would be likely to need to contribute towards improvements at the Hugglescote Crossroads, and an appropriate contribution of £500,000 has been calculated. It is also noted that objection has been raised in terms of the impacts on air quality at the Hugglescote Crossroads. Whilst the District Council's Environmental Protection team have been monitoring air quality in this location for some time, air quality levels are not such that designation as an AQMA is currently proposed; no objections are raised by the Environmental Protection team on air quality grounds.

As set out in more detail under Affordable Housing below, in order to accommodate this sum within the scheme whilst retaining its viability, and in accordance with the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, the applicants have undertaken some initial calculations (which would need to be submitted to the District Council in due course and subject to more detailed independent assessment on behalf of the Local Planning Authority) so as to demonstrate the impact that payment of the transportation infrastructure contribution would have on the viability of the scheme. They advise that the initial calculations indicate that the scheme is not viable (when providing for the transportation infrastructure contribution along with other developer contributions and with a full affordable housing contribution as per the District Council's Affordable Housing SPD), and that the quantum of affordable housing would need to be reduced so as to render the scheme viable.

The sum proposed (i.e. £500,000) would, it is considered, represent a reasonable contribution towards those schemes identified as being necessary to enable development to proceed in the Coalville area including those which, insofar as this particular development is concerned, would be necessitated by this development. Separate contributions are also proposed in respect of other highways works which would be required to accommodate this development (i.e. as required by the County Highway Authority and as set out above).

The intention of the District Council's contributions strategy is that the costs of undertaking improvements to the local and strategic highway networks necessary to accommodate anticipated growth are met by developers in an appropriate and equitable way. The contribution proposed in respect of this application is considered to be commensurate to its anticipated impact and the contribution will be used in line with the approved developer contribution strategy.

As set out under Proposals and Background above, Leicestershire County Council has recently released draft options for works to improve the Hugglescote Crossroads; at this time, no consultation on these (or, potentially, other) options has been undertaken by the County Council.

There are four draft options available at this time, all of which would appear to affect the existing Hugglescote Community Centre on the south eastern corner of the junction to a greater or lesser degree, and it is noted that Hugglescote and Donington le Heath Parish Council has requested a contribution of £1,000 per dwelling be made to the Parish Council to go towards the purchase of the existing Community Centre and the building of a new Parish Council owned facility. As a final design for the improvement of Hugglescote Crossroads has yet to be decided upon, however, a specific contribution of this nature would not meet the statutory tests for planning obligations set out in the CIL Regulations. Obviously, the County Council should be encouraged to consider design options that retain the existing Community Centre if at all possible. If demolition of the Centre could not be avoided, however, the loss would need to be mitigated by the funding from the Developer Contribution Scheme of suitable replacement community facilities.

As set out above, the application was deferred at the Planning Committee meeting of 12 November 2013 so as to enable, amongst others, further consideration of the impacts on capacity at the Hugglescote Crossroads. Work to assess the transportation implications of growth on Coalville has identified impacts on the Crossroads. This junction already experiences congestion and delays, and it is predicted that the growth would significantly exacerbate these issues; this affects access to the town centre and local facilities (such as the Primary School) for all road users, including cyclists and pedestrians, and could (potentially) impact on the quality of life for local residents (e.g. noise, visual intrusion and pollution impacts). There is, therefore, a clear link between growth in the town and the need to undertake improvements to the junction.

Preliminary work undertaken by the Local Highway Authority has established that it will not be possible to deal satisfactorily with the impacts of growth by improving the junction within the existing highway boundary; in terms of its capacity, the junction is at the limit of what can be achieved within the constraints of the current road layout. Thus, the broad nature of improvement required has been established.

The Local Highway Authority has undertaken initial work to gain some sense of the potential extent of the works that might be required. So far, and as set out above, it has identified four options, each of which would have differing impacts on properties adjacent to the junction; each is estimated to cost in the region of £2m. However, Leicestershire County Council advises that it is a long way from identifying its preferred option, which might be one of the four options so far identified or another proposal entirely. The Highway Authority recognises that this is a sensitive and controversial issue, and further work is required to look at how best to achieve a balance between ensuring that the junction operates efficiently in the future versus managing future traffic levels through Hugglescote versus the impacts on adjoining properties. The Local Highway Authority also advises that it is keen to minimise the potential risk of claims for blight.

As part of the Highway Authority's implementation of its Local Transport Plan Strategy, this further work will take place as part of a wider project to identify and develop improvement proposals for a number of key junctions around the County. As and when proposals are more fully developed they will be subject to public consultation and approvals by Members as necessary.

Until the Highway Authority have identified a solution for the junction it is not possible to seek an exact sum against the detailed designed mitigation measures required for relieving congestion at the crossroads. The Contribution Strategy however, provides the mechanism whereby contributions can be sought from developers towards junction improvements. Once any agreed Section 106 highway contribution is extracted from a consent on this site it will be possible to

allocate it against the priority junction improvements such as Hugglescote Crossroads.

In terms of the accessibility of the site generally, this is considered in more detail above under Principle of Development. Whilst not part of the access proposals submitted at this outline stage, the illustrative masterplan indicates that non vehicular links to adjacent land would be anticipated at the reserved matters stage. The route of public Right of Way N84 passes through the northern part of the site (connecting Grange Road with Dennis Street), and the site abuts Right of Way N50 to the south east, which also connects the site with Dennis Street (Right of Way N79), along with the Millfield Recreation Ground and land to the south of Grange Road (via the former railway). Potential linkages are also shown to the south east of the site, again connecting to the former railway, currently used as an informal recreational route. Whilst all means of access other than the principal vehicular point of access into the site are reserved (and any other accesses would therefore need to be subject to a reserved matters application(s)), it is considered that the information submitted indicates that, in principle, a suitable range of non-vehicular connections could be provided between the site and adjacent land. However, it would need to be demonstrated at the relevant reserved matters stage that the scheme proposed provided an appropriate level of accessibility / permeability for pedestrians. In terms of Right of Way N84, Leicestershire County Council's Rights of Way Officer notes that the route of the right of way as shown on the illustrative masterplan does not follow the definitive map route (it appears to follow the currently walked route, the definitive map route not currently being passable), and advises that the applicants would need to apply for a diversion order, and should provide suitable surfacing of the route. Whilst the illustrative masterplan would not appear to preclude use of either the definitive or walked route, any matters relating to how the right of way were incorporated into the development would be more appropriately considered at the reserved matters stage(s); were a formal diversion necessary to accommodate the development subsequently proposed, this would need to be pursued under the appropriate legislation at that time if required.

Subject to the above, therefore (and including the applicants making an appropriate contribution towards transportation infrastructure), the proposed development is therefore considered acceptable in terms of Means of Access and Transportation issues.

Landscape and Visual Impact

The application is accompanied by a Landscape and Visual Assessment, as well as an Arboricultural Assessment. In order to implement the proposed vehicular access to Grange Road, the formation of a new road would be required, crossing an existing grassed area of highway to the site frontage; a number of trees on this area of verge are protected by Tree Preservation Order (TPO) T181.

The Landscape and Visual Assessment considers the site's context in relation to surrounding development / landscape, and considers the impact upon a total of 16 viewpoints, both within and outside of the application site; longer distance views are, however, not considered likely given the surrounding topography and vegetation which serve to limit the visibility of the site from further afield. Overall, the Landscape and Visual Assessment concludes that development in accordance with the Illustrative masterplan would allow a sympathetic urban extension to be created that, subject to appropriate detailed design, would not appear discordant with the character of the area, nor result in any material impact on the quality of the surrounding landscape. In view of the context of the site, it is accepted that these conclusions are reasonable.

In terms of retained / proposed planting, the site is in the National Forest, and the scheme's performance vis-à-vis the relevant National Forest standards is set out under the relevant section below. In terms of the extent of landscaping and other open space cover proposed in respect of the development, it is noted that the illustrative masterplan indicates that substantial areas of existing vegetation would be retained throughout the site and, in particular, to the central area of the site. Also proposed are other areas of landscaping within the site, with the total quantum of public open space / landscaping constituting approximately 55% of the total site area as indicated on the illustrative masterplan (or approximately 50% when excluding the retained highway verge forming part of the site). It is considered that the scheme as indicated on the illustrative masterplan represents a suitable balance between built development and landscaping, and the development of the site in the manner indicated on the illustrative masterplan (i.e. two principal parcels of development either side of a central open space based around the watercourse) would serve to provide for a suitable form of development which, whilst lying adjacent to the existing built up area of the town, is outside Limits to Development as defined in the adopted Local Plan, and would in a sense form a "semi-rural" gateway to the settlement of Hugglescote.

Trees cover much of the site, including TPO protected trees along Grange Road, and a significant number of unprotected trees in the vicinity of the watercourse within what would, on the basis of the illustrative material, be likely to be retained as open space. In general terms the Tree Officer has no objections to the proposed development, although makes observations in respect of some of the trees' protection zones. No overriding concerns are raised, however, and there would appear to be no reason why the most important trees could not be adequately accommodated at the reserved matters stage(s). In terms of impact of the proposed vehicular access through the area affected by the TPO, it is noted that the scheme as amended indicates the removal of two trees adjacent to the access where it meets Grange Road, both of which are specifically protected under the TPO; the trees in question are a weeping ash and a cherry. The ash is categorised in the submitted Arboricultural Assessment as retention category C (i.e. "Low"); the cherry is categorised as retention category U (i.e. unsuitable for retention on arboricultural grounds, in this instance by virtue of the tree's condition, the tree having an open wound with exposed heartwood). As such, only the ash would be proposed to be removed specifically to enable access to be formed. However, having regard to the relatively low value of the tree, and the need to provide for a suitable form of access, it is considered that the impacts on these trees would be acceptable.

Overall, in respect of issues relating to Landscape and Visual Impact, the view is taken that the proposals are acceptable.

Flood Risk and Drainage

A Flood Risk Assessment (FRA) and a Foul Water Drainage Strategy have been submitted in support of the application. The Environment Agency flood zone maps indicate that the majority of the site lies within Flood Zone 1, although parts of the central part of the site (i.e. adjacent to the existing watercourse) fall within Zones 2 and 3. However, it is not proposed to erect any dwellings within these higher risk areas, and the dwellings (which would be located in Zone 1 only) are proposed to have their finished floor levels 0.6m above the 1% with climate change flood level. Whilst the proposed dwellings would be located outside of Zones 2 and 3, the Environment Agency advises that the sequential test would nevertheless still need to be applied as the application site includes such areas. In this instance it is considered that the sequential test would be satisfied given the limitation of proposed dwellings' siting to areas within Zone 1. Whilst the site includes land falling outside of Zone 1, it is considered reasonable to accept that this in itself should not prevent the sequential test being passed, particularly when having regard

to the availability of alternative sites, and the need to release land for housing as set out above. It is noted that areas of public open space / children's play could be subject to flooding during extreme events. However, the approach to location of appropriate uses as set out in the NPPF does not preclude such uses, and it is accepted that no significant harm would be likely to result from the inaccessibility of these areas for a limited period during such extreme events, given the relatively low frequency of such events. The Environment Agency raises no objection to the application subject to the Local Planning Authority determining that the sequential test is passed. Insofar as the proposed access road crossing the watercourse is concerned, the FRA confirms that it will be designed so as to ensure that the performance of the floodplain remains unaffected; this is reflected in the conditions recommended to be attached by the Environment Agency. The FRA also confirms that, as the existing floodplain would be unaffected by the development, no compensatory storage would be required (in as far as the floodplain is concerned).

In terms of on-site surface water drainage, the application documents indicate that the development would direct surface water into the existing watercourse. In order to attenuate any increased rates of discharge into the watercourse, it is proposed to incorporate two storage ponds (i.e. one either side of the watercourse) so as to accommodate the 1 in 100 year plus 30% storm event.

Insofar as foul drainage is concerned, it is proposed to connect to existing combined sewers which cross the site. Given the topography of the site, it is proposed to discharge foul water by gravity to two new pumping stations (one either side of the watercourse) from which the foul sewerage would be conveyed into the public combined sewers. The Environment Agency and Severn Trent Water have no objections to this element of the proposals.

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development.

Design

The application is supported by a Design and Access Statement (and including a Building for Life assessment) setting out the applicants' proposals, and explaining the approach taken in terms of design. Having reviewed the proposals and the Design and Access Statement, the District Council's Urban Designer considers that, when assessed against Building for Life 12, subject to the indicative pedestrian links being retained, the application would secure "Greens" in 3 of the 12 criteria, with the remaining 9 being "Amber" but with potential to raise to Green. He comments that, due to the outline nature of the application, it is not possible to determine conclusively the design quality of the scheme in many respects and, therefore, the "Amber" indicators should not be seen as a reason for concern at this stage. At any future reserved matters stage, however, the District Council's Urban Designer considers that careful consideration should be afforded to how the northern part of the development can robustly reflect the positive architectural characteristics of the settlement and how the southern half can reflect the ideas being developed for the south village area of the proposed wider South East Coalville development.

The development is therefore considered acceptable in this regard, and the District Council's Urban Designer raises no objections subject to the attachment of the note to applicant as set out in the recommendation below.

Residential Amenity

In terms of amenity issues, the impacts of the proposed development need to be considered both in terms of the impacts on the future living conditions of residents of the proposed development, having regard to the site's location, as well as on existing residents arising from the proposed development. These are considered in turn below.

In terms of future residents' amenities, it is noted that the site is not located in close proximity to any existing incompatible land uses and, in principle, there appears no reason why the development would not be appropriate in this regard, and no objections are raised by the District Council's Environmental Protection team.

Insofar as the impacts on neighbouring occupiers arising from the proposed development are concerned, whilst an illustrative masterplan has been submitted, all matters are reserved for subsequent approval. Any reserved matters scheme would need to be appropriately devised at the edges of the site adjacent to other dwellings (primarily to the north western part of the site where the illustrative masterplan shows proposed dwellings in the vicinity of existing dwellings off Dennis Street) so as to ensure that occupiers of both existing and proposed dwellings were afforded an appropriate level of amenity but there is no reason to suggest that the eventual form of development proposed under the reserved matters would necessarily result in undue loss of amenity to adjacent occupiers, and the scheme is, at this outline stage, acceptable in this regard.

In terms of potential impacts to occupiers of existing dwellings on Grange Road, on the basis of the submitted masterplan, these would appear likely to be insignificant. Whilst there would be likely to be some impacts on occupiers of dwellings directly adjacent to the proposed vehicular access (and including from vehicular movements and, for example, car headlights of vehicles emerging from the site), it is accepted that such impacts would not represent unacceptably adverse loss of amenity, and a refusal of planning permission on such an issue would be unlikely to be sustainable on appeal.

Ecology

The application is supported by an Ecological Appraisal of the site. This provides that the closest statutorily designated sites of nature conservation of importance to the application site are approximately 2km from the site (being the Bardon Hill Quarry and Bardon Hill Sites of Special Scientific Interest (SSSIs)); no adverse impacts are anticipated in terms of these sites. In terms of non-statutory designation, none are located within 1km of the application site, although the site itself includes a potential Local Wildlife Site, and a number of other potential Local Wildlife Sites are within close proximity. In terms of the potential Local Wildlife Site within the application site itself, it is proposed that this be retained within the proposals (i.e. as part of the public open space), and suitably buffered and protected in order to minimise potential effects during and after construction. In terms of the other potential Local Wildlife Sites located in close proximity to the site boundary, again the Appraisal recommends that appropriate protection during construction would be required in order to minimise disturbance effects.

In terms of the biodiversity value of the site, this is generally considered to be low, largely comprising grazed species poor grassland. Features of ecological interest identified within the Appraisal include swamp, standing and running water, hedgerows, scrub, hedgerows and trees which, it confirms, would largely be retained within the proposals.

Insofar as protected species are concerned, the Appraisal identifies potential habitat / foraging areas for bats, birds, badger, reptiles and great crested newt within the site (although no direct

evidence of badger or great crested newts was found on the site). Having regard to the overall findings, and subject to various recommendations in respect of mitigation measures and additional future survey work, the Appraisal concludes that no adverse impacts on ecological interests would result.

Leicestershire County Council's Ecologist has been consulted on the proposals, and raises no objections subject to conditions securing the various mitigation measures and a management plan for the potential Local Wildlife Site. Natural England has no objections but refers to its standing advice; this appears to indicate that the proposals are acceptable subject to conditions.

The proposals are therefore considered to be acceptable in terms of their ecological impacts, subject to the imposition of suitably-worded conditions.

Heritage Issues

The application is supported by an archaeological Geophysical Survey Report. This concludes that, whilst there are various mining-related remains within the site, there would appear to be little else likely to be of archaeological interest; no representations have been received from the County Archaeologist.

In terms of other heritage issues, it is noted that there are no listed buildings or Conservation Areas within the immediate vicinity of the site, nor are there considered to be any non-designated heritage assets affected by the proposals.

Geo-Environmental Conditions

A geo-environmental site assessment has been submitted with the application which provides an assessment of the site's ground conditions, and indicates that there are no impediments to the site's development in terms of contamination or general ground conditions. It is noted that concern has been raised regarding potential subsidence within the site; the submitted geo-environmental assessment confirms that eight seams of coal have been worked underneath the site at depths of between 80 and 240 metres (having last been worked in 1983) and that ground movements from those workings should now have ceased. The site is not within a Coal Authority referral area but is subject the Coal Authority's standing advice (and as set out in Informative 3 within the recommendation below). The District Council's Environmental Protection team raises no objection to the application subject to conditions, and including in respect of further investigations and mitigation measures where required.

Other Matters

Developer Contributions

Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the proposed development.

Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.

The relevant developer contributions (save for those already considered under Means of Access

and Transportation) are listed below.

Affordable Housing

The applicants initially proposed to make an affordable housing contribution of 20% (i.e. up to 21 dwellings) as per the Local Planning Authority's current requirements for the Coalville area for a scheme of this scale. However, in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, this would now appear likely to be reduced. As set out above, the applicants have undertaken some initial viability calculations, and that these indicate that, when allowing for the full range of CIL compliant contributions (and including the transportation infrastructure contribution as set out under Means of Access and Transportation above), the scheme would be unviable. In accordance with the approach to the prioritisation of transportation infrastructure over affordable housing as set out in the District Council's policy, they have also considered whether the scheme could be rendered viable by reducing affordable housing, and they advise that they are able to provide a minimum affordable housing contribution of 10%.

Clearly an affordable housing contribution of 10% would fall below the minimum 20% contribution the District Council's Affordable Housing SPD seeks to secure from new housing development in Coalville but, for the reasons as set out under Means of Access and Transportation above, is considered an acceptable approach if this level of contribution is the highest that can be demonstrated as viable; if a higher contribution is subsequently found to be viable by the Local Planning Authority's independent assessors, then it is considered that this higher level should be secured. Having regard to the approach suggested in the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, and given the under-provision of affordable housing vis-à-vis the adopted Affordable Housing SPD, it would be considered appropriate to limit the implementation period of any planning permission granted accordingly.

Children's Play and Public Open Space

The illustrative masterplan shows a significant extent of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space, with the open space including an on-site equipped children's play area. In terms of the extent of the equipped parts of the play area, on the basis of the illustrative details, this would be in the order of 400 square metres. Under the Local Planning Authority's Play Area Design Guidance SPG, children's play areas should be provided at a rate of 20 square metres per dwelling. Therefore, for a development of 105 dwellings, an area for children's play of 2,100 square metres would normally be required. Whilst this represents a shortfall in this regard, the extent of the "play area" in its general terms (which is the figure to which the SPG relates) is normally calculated in its wider sense and, when taking into account the other landscaped open space in the immediate vicinity of the equipped play area (and as discussed under Landscape and Visual Impact above), the minimum requirements of the SPG would be comfortably met.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG requires that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity, as well as a "kickabout" area. In addition, formal recreation open space (e.g. sports pitches) should also be provided for. Whilst on-site "kickabout" and recreational open space provision is not proposed, the applicants have advised that they would be agreeable to making a financial contribution to the nearby Millfield Recreation Ground subject to appropriate justification. As set out in the

summary of representations above, Hugglescote and Donington le Heath Parish Council has requested a financial contribution of £1,400 per dwelling although, at this time, no information has been provided by the Parish Council in support of its requested sum setting out what impact on capacity would arise from the proposed development, what measures to remedy any identified capacity shortfall would be proposed, and how the level of contribution has been calculated. It is considered that, in principle, such a contribution could comply with the requirements of the Community Infrastructure Levy (CIL) Regulations 2010 and National Planning Policy Framework (NPPF). However, whilst a contribution may be justified (and at a level also to be determined as appropriate), this issue needs to be addressed further, and will need to be resolved between the relevant parties in due course prior to any Section 106 agreement being entered into (and any planning permission issued). Again, the implications of making such a contribution would need to be taken into account in the detailed viability calculations.

As such, it is recommended that, subject to appropriate evidence to demonstrate these matters being provided, these issues (and including agreement on maintenance commuted sums) be concluded as part of the Section 106 agreement negotiations, and with the level of the any contribution(s) secured being delegated to the Head of Regeneration and Planning.

National Forest planting

The applicants' proposals show the provision of on-site National Forest planting as part of their wider landscaping and public open space proposals and, as per the National Forest Company's comments as set out under the summary of representations above, the illustrative proposals meet the National Forest woodland planting and open space standards of 20% of the site area. The proposals are therefore considered appropriate in this regard, particularly when considered in the context of the conclusions reached under Children's Play and Public Open Space above.

Education

In respect of the proposed education contributions, Leicestershire County Council comments as follows:

Primary School Requirements:

The site falls within the catchment area of Hugglescote Community Primary School. The School has a number on roll of 424 and 647 pupils are projected on the roll should this development proceed; a deficit of 223 places (of which 197 are existing and 26 would be created by this development).

The County Council also refers to four other primary schools within a two mile walking distance of the development, namely Belvoirdale Community Primary School, Ellistown Community Primary School, Broom Leys School and All Saints Church of England Primary School. Belvoirdale Community Primary School and Broom Leys School have surpluses of 94 and 46 places respectively; Ellistown Community Primary School and All Saints Church of England Primary School have deficits of 12 and 35 places respectively. Having regard to these other schools, the overall deficit including all schools within a two mile walking distance of the development is 130 places. The 26 deficit places created by this development could not therefore be accommodated at nearby schools and a claim for an education contribution in respect of 26 school places in the primary sector (equating to £304,895.05) is made. The County Council also comments that, as there are plans for a new primary school in this area, this contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing facilities at the primary school that the

children from the development would be expected to attend.

High School Requirements:

The site falls within the catchment areas of Newbridge High School. The School has a net capacity of 590 and 635 pupils are projected on roll should this development proceed; a deficit of 45 pupil places (of which 34 are existing and 11 would be created by this development). However taking the two other high schools into account within a three mile walking distance of the development (namely Ibstock Community College and Castle Rock High School), there would be an overall surplus for the area of 109 places, and no contribution in respect of the High School sector is therefore requested.

Upper School Requirements:

The site falls within the catchment area of King Edward VII Science & Sports College. The College has a net capacity of 1193 and 1105 pupils are projected on roll should this development proceed; a surplus of 88 places after taking into account the 11 pupils generated by this development, and no contribution in respect of the Upper School sector is therefore requested.

The applicants are agreeable to making the contributions requested.

Civic Amenity

A contribution of £7,462 is proposed to be made by the developer for Civic Amenity facilities in accordance with the requirements of Leicestershire County Council.

Library Services

A contribution of £5,710 is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council.

Healthcare

NHS England requests a developer contribution of £8,703.55 in respect of healthcare as set out in the consultation response above. This request has been supported by detailed information setting out the projected impacts on capacity arising from the proposed development (with the principal impacts being on other surgeries rather than the nearby Hugglescote surgery) together with commensurate costs of mitigation. It is considered that this request would meet the relevant CIL and NPPF tests, and the applicants have confirmed that are agreeable to making the contribution sought.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £35,844 in respect of policing as set out in the consultation response above.

In officers' view, the contributions do not appear to be justified at this time as there appears a limited relationship between the contribution requested and the development proposed. In other words, the request appears to relate to general contributions towards policing costs in the area, rather than being directly related to the residential development scheme under consideration and mitigating identified impacts on infrastructure provision specifically arising from the

development. Whilst a detailed breakdown of how this sum would be spent has been provided, it is not clear how it would be able to be considered to comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 given the lack of justification as to:

- (i) what existing policing infrastructure capacity is;
- (ii) what the specific requirement for infrastructure arising from this particular development would be;
- (iii) whether the existing infrastructure has sufficient capacity to accommodate that requirement;
- (iv) if the existing infrastructure does not have sufficient capacity, the extent to which there would be a shortfall (and within which service areas given existing capacities and the nature of the development);
- (v) what works would be necessary to mitigate the shortfall;
- (vi) how much those works would cost; and
- (vii) what would be an appropriate, proportionate contribution towards those works

As such, it is considered unclear as to how the contribution sought is directly necessary such that it would render an otherwise unacceptable development acceptable. It is not considered that it has been demonstrated sufficiently that the contribution sought is required and that, in its absence, planning permission should be refused.

Insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations.

Conclusions

As set out in the main report above, whilst the site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, and constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Whilst the site is located outside of Limits to Development as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as set out in that document. The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. Whilst the proposed development would, for viability reasons, be unlikely to be able to support the full range of infrastructure requirements necessary to accommodate the development (and, in particular, the necessary improvements to local transportation infrastructure), the applicants are proposing to address this by way of making a reduced contribution to affordable housing, in accordance with the District Council's *Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville* policy, thus ensuring that appropriate infrastructure contributions are made. Whilst this would result in a reduced affordable housing contribution, an appropriate contribution would nevertheless be made, when having regard to the approach taken in the District Council's financial contributions priorities policy. It is therefore recommended that outline planning permission be granted.

RECOMMENDATION- PERMIT, subject to Section 106 Obligations, and subject to the following conditions:

- 1 Save for the details of vehicular access into the site from Grange Road, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.

Reason - This permission is in outline only.

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access (save for the details of vehicular access into the site from Grange Road), appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

- 3 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission and the development hereby permitted shall begin before the expiration of one year from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended), and to accord with the requirements of the Local Planning Authority's emerging policy relating to developer contributions.

- 4 The proposed development shall be carried out strictly in accordance with the following plan:
 - Site location plan (CSa/1940/108 Rev B) deposited with the Local Planning Authority on 9 November 2012
 - Proposed site vehicular access (0058) deposited with the Local Planning Authority on 13 September 2013

Reason - To determine the scope of this permission, and for the avoidance of doubt.

- 5 Notwithstanding Conditions 1, 2 and 3 above, the first reserved matters application shall include a masterplan for the whole of the site setting out indicative details of access (both to and within the site), site layout, areas of open space / children's play, landscaping, density parameters and scale, as well as details of any proposed phasing of development. All subsequent reserved matters applications shall be in accordance with the approved masterplan unless any alteration to the masterplan is first agreed in writing by the Local Planning Authority. All development of the site shall thereafter be undertaken in accordance with the agreed phasing and timetable details (or any alternatives subsequently agreed in writing by the Local Planning Authority).

Reason - To ensure that the development of the site takes place in a consistent and comprehensive manner.

6 A total of no more than 105 dwellings shall be erected.

Reason - To define the scope of this permission.

7 The development permitted by this planning permission shall not be carried out other than in strict accordance with the approved Flood Risk Assessment (FRA) dated August 2012, ref. TRN10736/reports/fra Hugglescote undertaken by Waterman and the following mitigation measures detailed within the FRA:

- Finished floor levels set no lower than 600mm above the 100 year plus 20% (for climate change) flood level applicable at each phase of the development (to Ordnance Datum (AOD));
- No built development within the 100 and 1,000 year flood plain outlines (Flood Zones 2 and 3) as established by this (see Appendix F);
- Provision of watercourse crossings in accordance with current best practice guidance; and
- Limiting the discharge rate for surface water run-off and provision of surface water attenuation storage on the site, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

Unless any alternative programme is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as the mitigation measures have been fully implemented.

Reason - To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the watercourse.

8 No development shall commence on the site until such time as a surface water drainage scheme for the site (or, in the case of phased development, for the relevant phase of the site), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable. The scheme shall include:

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
- Limiting the surface water run-off generated by the all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
- Provision of surface water attenuation storage on the site to accommodate the difference between the allowable discharge rate and all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm;
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
- Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

Reason - To prevent flooding by ensuring the satisfactory storage / disposal of surface water

from the site and to reduce the risk of flooding to the proposed development and future occupants.

- 9 The development hereby permitted shall not be commenced until such time as a scheme to detail each individual watercourse crossing (including pedestrian footbridge and vehicular crossings) and demonstrating that there will be no raising of ground levels, that bridge soffit levels as set will not result in elevated flood levels, and that there will be no loss of flood plain storage due to the provision of any new crossing of the Hugglescote Brook, has been submitted to, and approved in writing by the Local Planning Authority, in consultation with the Environment Agency and Lead Local Flood Authority (LLFA). The scheme shall include, but not be exclusive of:
- Limiting the number of crossings of the Hugglescote Brook, and removal of the existing footpath crossing where applicable;
 - Crossings to be provided as clear span bridges or arches in preference to any culverting (including the upgrading of existing crossings, where upgrading is required or proposed);
 - Bridge soffits set a minimum of 600mm above the modelled 100 year plus 20% (for climate change) flood level applicable at the crossing site;
 - Bridge abutments set back beyond the top of the natural bank of the watercourse;
 - Where necessary, culverts designed in accordance with CIRIA C689 (including up sizing to provide a free water surface and natural bed), and to have a minimum width / length of culvert essential for access purposes;
 - Provision of compensatory flood storage for all ground levels raised within the 100 year flood plain applicable at any crossing sites, including proposed location, volume (calculated in 200mm slices from the flood level) and detailed design (plans, cross, and long sections) of the compensation proposals;
 - Compensatory flood storage provided before (or, as a minimum, at the ground works phase) of the vehicle bridge and any other crossing construction;
 - Detailed designs (plans, cross, long sections and calculations) in support of any crossing;
 - Details of how the scheme shall be maintained and managed after completion;
 - Modelling - re-run with the detailed design of watercourse crossings; and
 - A timetable for the relevant works.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Local Planning Authority in consultation with the Environment Agency and LLFA.

Reason - To avoid adverse impact on flood storage, to reduce the risk of flooding to the proposed development and future occupants, to reduce the risk of flooding to adjacent land and properties, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the surface water drainage system.

- 10 No development shall commence on the site until such time as a construction working method statement to cover all watercourse works (including pedestrian and vehicular crossings) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme (or any amended method statement subsequently submitted to and agreed in writing by the Local Planning Authority).

Reason - To protect local watercourses from the risk of pollution.

- 11 No development shall commence on the site (or, in the case of phased development, within the relevant phase of the site) until such time as a scheme of foul drainage for the site / phase, and including a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and timetable. The submitted scheme shall demonstrate that any additional flows discharging into the foul sewerage drainage network will not cause deterioration in the operation of any combined sewer overflows either upstream or downstream on the network and that there will not be an increase in spill frequency or volume from any CSOs affected by the increase in volume within the sewerage network.

Reason - To ensure that the development is provided with a satisfactory means of drainage, and an increase in spill frequency or volume would result in the discharge of raw sewage to the River Sence thereby risking deterioration of the water body and failure to meet Water Framework Directive standards.

- 12 Notwithstanding the submitted details, no development shall commence on the site until such time as a plan of the trial pit and window sample locations to which the investigations set out in the submitted geoenvironmental site assessment relate has been submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure that the land is fit for purpose, and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.

- 13 No development shall commence on the site until such time as a Risk Based Land Contamination Assessment report on the further works outlined in section 9.1.1 of RSK report Project No. 301011-1(00) Grange Road, Hugglescote dated May 2012 has been submitted to and agreed in writing by the Local Planning Authority. The assessment shall be carried out in accordance with:

- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
- BS 8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);
- BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004)

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004); the Verification Plan shall be prepared in accordance with the requirements of:

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1 (Environment Agency 2010); and
- CLR 11 Model Procedures for the Management of Land Contamination (Environment Agency 2004)

If, during the course of development, previously unidentified contamination is discovered, development shall cease on that part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination

Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the land is fit for purpose, to ensure protection of controlled water receptors and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.

- 14 None of the dwellings shall be occupied until such time as a verification investigation has been undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme relevant to either the whole development or that part of the development, and the report showing the findings of the verification investigation has been submitted to and agreed in writing by the Local Planning Authority. The verification report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - Contain Movement permits of all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
 - Contain test certificates of imported material to show that it is suitable for its proposed use;
 - Demonstrate the effectiveness of the approved remedial scheme; and
 - Include a statement signed by the developer or the approved agent, confirming that all the works specified in the Remediation Scheme have been completed

Reason - To ensure that the land is fit for purpose, and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.

- 15 No work shall commence on site until such time as precise details of proposed mitigation and / or management measures (and including a timetable for their implementation) as set out in sections 4.1 to 5.10 (inclusive) of the Ecological Appraisal (Rev A dated 23.08.12), sections 5.1 to 5.6 (inclusive) of the Reptile Report (dated 27.09.12), and sections 4.1 to 5.10 (inclusive) of the Bat Survey Report (dated 16.01.13) (all prepared by FPCR) have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetable.

Reason - In the interests of nature conservation.

- 16 No work shall commence on site until such time as a conservation management plan for the candidate Local Wildlife Site (and including a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out and occupied in accordance with the agreed management plan and timetable.

Reason - In the interests of nature conservation.

- 17 All reserved matters applications for the erection of dwellings shall include full details of

the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes. Unless any alternative timescale is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as evidence to demonstrate compliance with the relevant criteria has been submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the scheme provides for a sustainable form of development.

- 18 None of the dwellings hereby permitted shall be occupied until such time as the Grange Road site access junction as shown on drawing no. 0058 has been provided in full and is available for use.

Reason - To provide vehicular access to the site, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 19 No development shall commence on the site until such time as a construction management plan, including wheel cleansing facilities and construction vehicle parking facilities, and a timetable for their provision, has been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative management plan has first been submitted to and agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in accordance with the approved details and timetable.

Reason - To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic associated with the development does not lead to on-street parking problems in the area.

- 20 No work shall commence on site until such time as a scheme of works to the Bardon Hill level crossing has been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative timescale is first agreed in writing by the Local Planning Authority, no part of the development shall be occupied until such time as the agreed works have been carried out in full in accordance with the agreed scheme of works.

Reason - In the interests of railway safety.

- 21 No site works of any description in respect of the formation of the vehicular access to Grange Road shall take place on the site at any time unless the existing trees shown as retained on drawing no. 5104-A-04 Rev A deposited with the Local Planning Authority on 14 October 2013 are securely fenced off in accordance with measures for their protection as detailed within the submitted Arboricultural Assessment dated August 2012. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

Reason - To ensure that existing trees are adequately protected during construction in the interests of the visual amenities of the area.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant both at the pre-application stage and during the application determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at www.defra.gov.uk
- 3 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:
 - Collapse of shallow coal mine workings.
 - Collapse of, or risk of entry into, mine entries (shafts and adits).
 - Gas emissions from coal mines including methane and carbon dioxide.
 - Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
 - Transmission of gases into adjacent properties from underground sources through ground fractures.
 - Coal mining subsidence.
 - Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine

workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

- 4 Your attention is drawn to the attached report of Severn Trent Water Limited.
- 5 Your attention is drawn to the attached report of the Environment Agency.
- 6 Your attention is drawn to the attached report of Natural England.
- 7 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highway matters.
- 8 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer. The applicants are advised to have regard to the issues raised when preparing any reserved matters scheme.
- 9 Your attention is drawn to the attached report of the National Forest Company.
- 10 Your attention is drawn to the attached report of Network Rail.
- 11 The applicants' attention is drawn to the presence of protected and unprotected trees within the site, and any applications for the relevant reserved matters should have regard to the need to minimise loss of trees in this National Forest setting, as well as be supported by an appropriate arboricultural report and impact assessment. Notwithstanding the details shown on the submitted illustrative masterplan, the details submitted at the reserved matters stage(s) should have regard to the presence of existing trees and, in particular, those subject to Tree Preservation Orders.
- 12 The applicants' attention is drawn to the attached assessment of the District Council's Urban Designer.
- 13 This decision is in accordance with the resolution of the Planning Committee of 3 December 2013 and is subject to a Section 106 Obligation.

Residential development of up to 135 dwellings including the demolition of 138,140 and 142 Bardon Road along with new access and highway improvements to Bardon Road and associated open space and landscaping (Outline - All matters other than part access reserved)

**Report Item No
A3**

Land Rear Of 138 Bardon Road Coalville Leicestershire

**Application Reference
13/00818/OUTM**

Applicant:

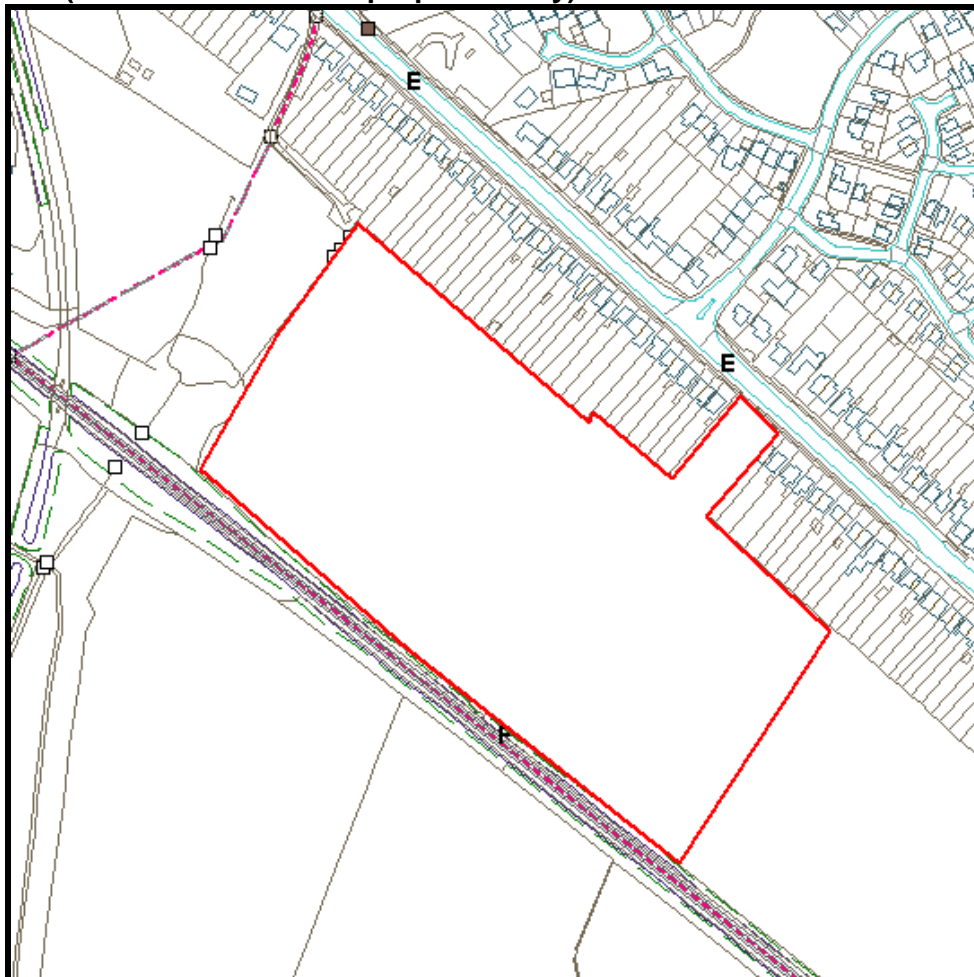
**Date Registered
16 October 2013**

**Case Officer:
James Mattley**

**Target Decision Date
15 January 2014**

**Recommendation:
PERMIT Subject to a Section 106 Agreement**

Site Location (Plan is for indicative purposes only)



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Executive Summary of Proposals and Reasons for Approval

Proposal

This application seeks outline planning permission for residential development of up to 135 dwellings including the demolition of 138,140 and 142 Bardon Road along with new access and highway improvements to Bardon Road and associated open space and landscaping. The application is identical to planning application 13/00218/OUTM that was refused at the Planning Committee in September 2013 on highway safety grounds based on the local knowledge of the Local Planning Authority.

Consultations

Members will see from the main report below that objections have been received in respect of the proposals (and including from the neighbouring Hugglescote and Donington le Heath Parish Council); no other objections are raised by statutory consultees.

Planning Policy

The application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application, however, is the supply of housing in the context of the National Planning Policy Framework (NPPF).

Conclusion

The report below indicates that, whilst the site is a greenfield site outside Limits to Development, having regard to the site's general suitability for housing (including its proximity to the built up area of Coalville) and the need to demonstrate and maintain a five year supply of housing land within the District, release of the site for residential development would be appropriate in principle. The proposed development is considered acceptable in terms of access issues which have been ratified by an independent transport consultant; there are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities.

RECOMMENDATION:- PERMIT, SUBJECT TO SECTION 106 OBLIGATIONS, AND SUBJECT TO THE IMPOSITION OF CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommended reasons for approval, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Outline planning permission is sought for a residential development of up to 135 dwellings including the demolition of 138,140 and 142 Bardon Road along with new access and highway improvements to Bardon Road and associated open space and landscaping. The site measures 6.18 hectares and is located to the south of existing properties along Bardon Road. Whilst all matters other than part access are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings, together with a central area of children's play and landscaping and on site National Forest planting.

Vehicular access is proposed onto Bardon Road and would necessitate the demolition of 138, 140 and 142 Bardon Road. The proposal includes a new right hand turn lane on Bardon Road in order to access the development. Existing residential development is located to the north of the site, the land to the south of the site is subject to proposed residential development. The National Forest Railway line is located adjacent to the southern boundary of the site. The proposed Bardon link road would be located to the north-west of the application site and the applicants are agreeable to providing a contribution for the capital cost of constructing an access road from the application site to the new Bardon link road.

The previous planning application on the site (13/00218/OUTM), which is identical to the current planning application, was called to the Planning Committee by Councillor Specht due to local concern and highway issues. That application was refused at the Planning Committee in September for the following reason:

Policy T3 of the North West Leicestershire Local Plan requires development to make adequate provision for vehicular access, circulation and servicing arrangements. The proposed scheme is considered by the Local Planning Authority, based on its local knowledge, to be unacceptable from a highway safety perspective and, therefore, would not be in accordance with Policy T3 of the Local Plan.

The applicants have appealed against this planning decision and a hearing date is expected in March 2014.

2. Publicity

157 no. neighbours have been notified (Date of last notification 22 October 2013)

Press Notice published 30 October 2013

Site Notices posted 24 October 2013

3. Consultations

Hugglescote And Donington Le Heath Parish Council consulted 22 October 2013

County Highway Authority consulted 23 October 2013

Environment Agency consulted 23 October 2013

Severn Trent Water Limited consulted 23 October 2013

Head of Environmental Protection consulted 23 October 2013

Natural England consulted 23 October 2013

NWLDC Tree Officer consulted 23 October 2013

County Archaeologist consulted 23 October 2013

LCC ecology consulted 23 October 2013

Airport Safeguarding consulted 23 October 2013

NWLDC Urban Designer consulted 23 October 2013
HM Railway Inspectorate consulted 23 October 2013
Highways Agency- affecting trunk road consulted 23 October 2013
LCC Development Contributions consulted 23 October 2013
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 23 October 2013
DEFRA consulted 23 October 2013
Development Plans consulted 23 October 2013
Head Of Leisure And Culture consulted 23 October 2013
Manager Of Housing North West Leicestershire District Council consulted 23 October 2013
Police Architectural Liaison Officer consulted 23 October 2013
National Forest Company consulted 23 October 2013
FRCA (MAFF)- loss of agricultural land consulted 23 October 2013
LCC Fire and Rescue consulted 23 October 2013
Network Rail consulted 23 October 2013

4. Summary of Representations Received

Environment Agency has no objection subject to the inclusion of relevant conditions.

Highways Agency has no objection to the planning application subject to the inclusion of relevant conditions.

Hugglescote and Donington Le Heath Parish Council note that the application site is located within a neighbouring parish but does not support the application due to the access and exit arrangements.

Leicestershire County Council Ecologist states that the ecologist report is satisfactory and raises no objections to the proposal subject to conditions.

Leicestershire County Council Highway Authority states that it cannot be demonstrated that there are any highway safety implications associated with this proposal and raises no objections subject to conditions and obligations.

Leicestershire County Council Highway Transportation & Waste Management Authority requests a developer contribution of £9,381 in order to mitigate the impact on civic amenity waste facilities in the local area.

Leicestershire County Council Library Services Development Manager requests a contribution of £7,730.

Leicestershire County Council Local Education Authority requests a contribution of £36,297.03.

Leicestershire Police requests a contribution of £55,174.

National Forest Company welcomes the level of strategic landscaping and raises no objection to the proposed condition subject to the inclusion of relevant planning conditions.

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £22,945.72.

North West Leicestershire District Council Environmental Health has no objections subject

to the recommendations contained within the submitted noise report.

North West Leicestershire District Council Contaminated Land Officer has no objections subject to relevant conditions.

The following consultees have not responded to the current application but the comments that they made for planning application 13/00218/OUTM have been repeated.

Leicestershire Fire and Rescue Service has concerns regarding the design of internal roads within the development.

Leicestershire County Council Archaeologist raises no objection to the proposal subject to the imposition of archaeology conditions.

Natural England supports the recommendations made in the submitted ecology report and raises no objections to the proposed development.

Network Rail has no objection in principle to the development subject to a number of requirements including a developer contribution of £8,500 towards improvement works at an existing level crossing.

Severn Trent Water has no objection to the proposal subject to the inclusion of drainage conditions.

Third party representations:

A total of 17 representations have been received which object to the application on the following grounds:

- The proposal will increase traffic along Bardon Road which cannot cope with the amount of traffic that already uses it;
- The access arrangements are unsafe and there have already been accidents along Bardon Road;
- No dwelling should be allowed to be built unless the Bardon Link Road has been constructed;
- Traffic calming measures should be provided;
- Proposal would bring further traffic through smaller streets such as Botts Way and Waterworks Road;
- Existing traffic calming measures are ineffective;
- The proposal would create a staggered crossroads with the Botts Way junction;
- The proposed right turn lane will conflict with the existing right turn filter lane;
- Traffic from the proposed development should be forced to turn left;
- No mention of how traffic will be able to turn right when exiting the proposed development;
- Construction vehicles would struggle to leave the site given the volume of traffic along Bardon Road;
- No traffic calming on Botts Way which will become a rat run should this development be approved;
- Proposal would result in increased pedestrian traffic crossing Bardon Road;
- The local infrastructure and services cannot cope with additional housing;

- This proposal has already been refused planning permission once;
- Proposal would bring further noise pollution and vibration;
- Plans do not take into account the views of local residents;
- Vehicles exiting the site will illuminate habitable rooms and infringe on privacy;
- The proposal has unacceptable drainage arrangements;
- The proposal would impact upon existing flood plain;
- Proposal would lead to increased air pollution;
- The proposal would not be well related to the wider south-east Coalville area;
- The indicative masterplan shows back gardens on new properties butting up to the rear of existing gardens and many of these gardens have access directly onto the application site;
- Dwellings would be located in close proximity to the existing railway line serving Bardon Quarry;
- Proposal would result in suburban development with no suitable access to the natural environment;
- The site is sectioned off from the wider Pegasus area by the railway line that would prevent interaction and the sharing of amenities between the sites;
- New residents would be reliant on the private car;
- Impact upon ecology.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development.

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as set out in more detail in the relevant section below are consistent with the policies in the NPPF and should be afforded weight in the determination of this application.

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

Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that "this means:

- approving development proposals that accord with the development plan without delay;
- and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted."

"32 All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

"34 Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas."

"47 To boost significantly the supply of housing, local planning authorities should:

- identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land..."

"49 Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

"57 It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"59 Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally."

"61 Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"100 Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere."

"101 The aim of the Sequential Test is to steer new development to areas with the lowest

probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding."

[Further advice on flooding is contained within the DCLG's Technical Guidance to the National Planning Policy Framework.]

"112 Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."

"118 When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;...
- opportunities to incorporate biodiversity in and around developments should be encouraged..."

"123 Planning policies and decisions should aim to...avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development..."

"124 Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan."

"203 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

"204 Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development."

Adopted North West Leicestershire Local Plan (2002)

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst others, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account housing mix, accessibility to centres, design etc. Within Coalville and Ashby-de-la-Zouch town centres, local centres and other locations well

served by public transport and accessible to services a minimum of 40 dwellings per ha will be sought and a minimum of 30 dwellings per ha elsewhere (in respect of sites of 0.3 ha or above).

Policy H7 seeks good quality design in all new housing developments.

Policy H8 provides that, where there is a demonstrable need for affordable housing, the District Council will seek the provision of an element of affordable housing as part of any development proposal.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings, and presumes against residential development where the amenities of future occupiers would be adversely affected by the effects of existing nearby uses.

Policy E4 requires new development to respect the character of its surroundings.

Policy E6 seeks to prevent development where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part.

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows

Policy E8 requires that, where appropriate, development incorporates crime prevention measures.

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 requires that parking provision in new developments be kept to the necessary minimum, having regard to a number of criteria.

Policy L21 sets out the circumstances in which schemes for residential development will be required to incorporate children's play areas. Further guidance is contained within the Council's Play Area Design Guidance Note Supplementary Planning Guidance.

Policy L22 provides that major new development will only be permitted where adequate provision is made for open space for formal recreation use.

Other Policies

North West Leicestershire District Council Affordable Housing SPD

Key Principle AH2 provides that affordable housing will be sought on all sites of 15 or more dwellings in the Greater Coalville Area.

Key Principle AH3 requires a minimum of 20% of residential units to be available as affordable housing within the Greater Coalville area.

North West Leicestershire District Council Play Area Design Guidance SPG

The District Council's Play Area Design Guidance SPG sets out the relevant requirements in respect of children's play provision required in association with residential development.

Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville

On 11 June 2013, and following the completion of consultation on the draft policy, the District Council's Cabinet approved the revised policy document. The adopted policy states that "Where the Council is satisfied that a major residential development proposal in or around the Coalville area is proven to be unviable as a result of required developer financial contributions (e.g. off site highway works; education provision and affordable housing requirements), the Council will consider relaxing its normal affordable housing requirements proportionately so as to:

- (a) Give highway infrastructure investment the highest priority for funding
- (b) Ensure all other essential infrastructure is provided
- (c) Continue to contribute to affordable housing provision as far as possible whilst ensuring that the development scheme is viable.

For development proposals where the Council accepts no affordable housing or a lower proportion of affordable housing contribution (both on site provision and/or a financial contribution in lieu of provision) the Council will reduce the time period for any planning permission to be commenced to 2 years and shall include in the Section 106 agreement provision to enable the Council to periodically revisit the affordable housing contribution if the economic factors determining the level of affordable housing improves before the development is commenced."

In addition to agreeing the policy, Cabinet agreed that, for major developments in Coalville, the Planning Committee be asked to consider the policy through Section 106 agreements and recommended that Planning Committee, where appropriate, prioritises the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the policy.

South East Coalville Development Brief

A Development Brief for the South East Coalville Strategic Development Area has been prepared by consultants on behalf of the developers' consortium with interests in the land in conjunction with the Local Planning Authority, and including input from other professional consultants, stakeholders and members of the local community, in order to inform the process of planning and development of land at South East Coalville.

The draft Development Brief was considered by the District Council's Cabinet at its meeting of 23 July 2013 where it was resolved that the production of the Development Brief for South East Coalville be noted, that regard be had to the Development Brief when negotiating on and determining planning applications in the South East Coalville Broad Location, and that the Development Brief form part of the evidence base for the [then] submission Core Strategy.

Submission Core Strategy (April 2012)

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

6. Assessment

Principle of Development

In terms of the principle of development, 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 (2002 (as amended)).

In terms of the adopted North West Local Plan, the site is outside Limits to Development. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3.

Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and National policies.

In terms of the North West Leicestershire Local Plan, Policy H4/1 identifies that, in releasing appropriate land for housing, the Council will have regard to:

- up-to-date housing land availability figures;
 - the latest urban capacity information;
 - the need to maintain an appropriate supply of available housing land;
 - lead times before houses will be expected to be completed and build rates thereafter;
- and
- other material considerations.

Whether or not this site would be considered "appropriate" is a matter of judgement; having regard to its location outside Limits to Development. This policy nevertheless sets out criteria relevant to release of land. Insofar as the site's location is concerned, and whilst it is outside Limits to Development, it is well related to the existing built up area and included within the South East Coalville Draft Development Brief. In terms of the sustainability credentials of the site, the site is located the following (approximate) distances away from a range of services:

Newsagent - 320 metres
Petrol Station (with shop) - 500 metres
Post Office - 1000 metres
Broom Leys Primary School - 850 metres
Newbridge High School - 1400 metres
Co-Op Mini Supermarket - 1000 metres
Bus Stop - 150 metres

The 29/29A bus service provides a regular bus service (runs every 30 minutes) and would be located in close proximity to the site access which would allow future residents an alternative to using a private car. In addition, within approximately 2km walking distance of the site are a range of shops and services located in Coalville Town Centre as well as potential employment destinations such as Bardon Industrial Estate, Whitwick Business Park and Bardon Hill Quarry. The application site is located in fairly close proximity to the range of services/facilities listed and

would also be in close proximity to other services and facilities that are proposed to be provided in the future as part of the wider South-East Coalville area. Taking these matters into account, it is considered that the site would be located within a sustainable area.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the Local Plan. Furthermore in respect of Policy H4/1, this would represent a policy relating to the supply of housing and, as such, its relevance also needs to be considered in the context of Paragraph 49 of the NPPF (considered in more detail under Housing Land Supply below).

Housing Land Supply

The NPPF requires that the Council should be able to identify a five year supply of housing land and include an additional buffer of 5% or 20% depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the "Sedgefield" approach should be used and that a buffer of 20% should be allowed for.

On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.33 years (based on the "Sedgefield" approach and a 20% buffer) which represents a significant shortfall in relation to the requirements of the NPPF. Granting planning permission on this site would increase supply to 4.46 years (based on 90 of the 135 dwellings being built in the 5 year period). [NB The 4.33 year figure above includes for the land to the south of Grange Road, Hugglescote (see application 12/00922/OUTM); if that site was not included, this figure would reduce to 4.2 years.]

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites". Policy S3 of the adopted Local Plan (Limits to Development) is not considered to be a relevant policy for the supply of housing (see the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal), notwithstanding that a contrary view has been taken elsewhere (and including by the Secretary of State on appeal), and accordingly the policy should not be considered to be out of date. Nevertheless, as the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements up until the end of the Plan Period (i.e. to 2006) less weight should be attributed to any conflict with Policy S3 in the overall planning balance.

In addition, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to housing land supply and the inclusion of appropriate contributions to local services as detailed below, would ensure that the scheme would sit well in

terms of the economic and social dimensions. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of land outside of the defined Limits to Development, as set out in more detail below, the proposed development would not result in any unacceptable impacts on the natural, built or historic environment and, by virtue of its location, close to the existing built up area and associated services, would perform well in terms of need to travel and the movement towards a low carbon economy.

One of the main principle issues with the application is whether this proposal would be well connected and has a functional relationship with existing and proposed development in the area, particularly as the applicants have not joined the consortium of developers that are working on a masterplan for the wider area. In relation to this matter, the indicative masterplan shows that the main access point to the development would be from Bardon Road but the indicative layout would not prevent the adjacent land being developed and the applicants have agreed to provide the capital cost of constructing an access road from the application site to the new link road (when the link road has been constructed). This would help to ensure that the proposal links in with the wider south east Coalville Area. It is further noted that the indicative masterplan also includes a possible future pedestrian connection from the site to the land to the south of the railway line. In addition, the applicants have confirmed that they would not include any ransom strips either side of the development. Whilst this would not strictly be a planning matter it could be controlled to some extent by an obligation in the legal agreement to ensure that there is unfettered access to the land to the east and west of the application site. Indeed, this has been requested by the County Highway Authority and the applicants are agreeable to this obligation.

It is clear that the proposed future connection between the application site and the proposed Bardon link road would not be provided immediately (as the applicants do not control the land and the link road has yet to be constructed) and it is unclear as to whether the proposed pedestrian link over the railway is deliverable. These matters impact on whether the scheme can be considered to be well connected and have a functional relationship with both existing and proposed development in the area. However, the pedestrian link over the railway is not included in the current South East Coalville Draft Development Brief and, on this basis, it is difficult to argue that this is essential to make the proposed development acceptable in planning terms. Therefore, it is considered that refusal of the scheme on this basis would not be warranted; particularly as the reserved matters scheme could be designed for this link to connect into the site should Network Rail (or any other body) decide to construct a pedestrian bridge over/under railway line. On the basis of these matters, it is considered the scheme would be relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved to proposed development should the connection be provided to the Bardon Link Road.

Policy E6 of the existing local plan states that development will not be permitted where it would prejudice the comprehensive development and proper planning of a larger area of land of which the site concerned forms part. Taking into account the range of measures proposed, such as the agreement that there would be no ransom strips included as part of the development, it is not considered that the granting of this planning application would impact on the comprehensive planning of the wider south east Coalville area and, therefore, the scheme is considered to be compliant with Policy E6 of the Local Plan.

The range of infrastructure expected to be delivered to accommodate growth in the south-east Coalville area includes a range of measures, contributions to various of which are proposed (such as off-site highway works), and are as set out in the relevant sections below. It is clear that this application on its own could not provide for the full range of infrastructure but it would

contribute towards some of the measures and more importantly, it would not prevent the full range of measures being provided as part of the comprehensive planning for the wider area.

Conclusions in respect of the Principle of Development and Planning Policy

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The site is outside Limits to Development in the adopted Local Plan and its development for housing would therefore be contrary to Local Plan Policy S3, a policy designed to protect the countryside for its own sake.

The site is outside Limits to Development in the adopted Local Plan and its development for housing would therefore be contrary to Local Plan Policy S3, a policy designed to protect the countryside for its own sake.

However, the site's general suitability for housing (including its proximity to the built up area) is also material, together with the need for the District to release significant areas of land for housing to ensure the provision and maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF). An important consideration is that the Council must demonstrate and maintain a five year supply of housing land (with a 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance.

Having regard to all of the above, it is considered overall that the proposed development of the site is acceptable in principle

Means of Access and Transportation

All matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned). The points of access proposed show vehicular access via a new junction to Bardon Road. Whilst the illustrative layout shows internal access roads and pedestrian links through the site, these would be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility and connectivity of the site still ought to be considered).

The application is accompanied by a Transport Assessment as well as a Travel Plan. The Transport Assessment indicates that, in the applicants' consultants' opinion, the development is located within a comfortable walking distance of a range of local amenities. It also comments that there are several existing bus services operating from Coalville Town Centre to the north of the site with bus stops in close proximity along Bardon Road. The County Highway Authority advises that various measures to encourage public transport use should be secured by way of a Section 106 obligation.

The Transport Assessment also concludes that the development would exacerbate existing capacity issues at the following junctions:

- A511 Hoo Ash Roundabout;
- A511 Thornborough Road Roundabout;
- A511 Whitwick Road/Hermitage Road Roundabout;

- A511 Broom Leys Road Signals;
- A511 Bardon Road/Bardon Roundabout;
- Hugglescote Crossroads.

However, the assessments presented in the report demonstrate that the impact on these junctions is minor and, therefore, no off-site junction improvements are considered to be justified. The County Highway Authority do not disagree with these findings in the Transport Assessment.

Other mitigation proposals outlined in the Transport Assessment and Travel Plan include various measures designed to encourage walking / use of public transport by residents. The relevant measures are included within the County Highway Authority's requested contribution / Section 106 requirements below:

1. A Construction Traffic Routeing Agreement to be submitted to and approved in writing by the Leicestershire County Council. During the period of construction, all traffic to and from the site shall use the agreed route at all times.

Justification: To ensure that all construction traffic associated with the development does not use unsatisfactory roads to and from the site.

2. One Travel Pack per dwelling; can be provided through LCC at a cost of £52.85 per pack/dwelling. If not supplied by LCC, a sample Travel Pack shall be submitted to and approved in writing by LCC.

Justification: To inform new residents from first occupation what sustainable travel choices are available in the surrounding area.

3. Two six-month bus passes per dwelling; can be provided through LCC at an average cost of £325.00 per pass.

Justification: To encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation.

4. Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development.

Justification: To ensure effective implementation and monitoring of the site wide Travel Plan submitted in support of the Planning Application.

5. An iTrace monitoring fee of £6000.00.

Justification: To enable Leicestershire County Council to provide support to the appointed Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure that Travel Plan outcomes are being achieved, and to take responsibility for any necessitated planning enforcement.

6. A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council.

Justification: To accommodate the wider growth in Coalville, including the impact from this development, as per NWLDC Cabinet Report dated 15 January 2013 entitled 'Delivering growth

and prosperity in Coalville'.

7. A contribution towards the design and construction of a vehicular connection between the application site and the Bardon link road.

Justification: To accommodate the wider growth in Coalville, including the impact from this development, as per NWLDC Cabinet Report dated 15 January 2013 entitled 'Delivering growth and prosperity in Coalville'.

8. The downgrading of the vehicular access to Bardon Road to pedestrian/cycle/emergency use only following the opening of the Bardon link road between Bardon Road/Stephenson Way and the connection to the application site and including that connection.

Justification: To accommodate the wider growth in Coalville and in the interests of highway safety to prevent traffic rat running to avoid the proposed signalised junction at Bardon Road/Stephenson Way.

9. Unfettered access to the land to the immediate east and west of the application site so as not to prejudice future development of these land parcels, including for vehicular access to the Bardon link road.

Justification: To accommodate the wider growth in Coalville.

In respect of the proposed access arrangements, the County Highway Authority comments that the proposed access arrangement include for a ghost island junction on Bardon Road which has been subjected to an independent Stage 1 Road safety Audit. No road safety issues were identified and, on this basis, the County Highway Authority raises no highway safety objections to the proposed access arrangements. It is noted that the application was refused at the Planning Committee in September 2013 on highway safety grounds and the applicants have appealed this decision. On learning that the appeal had been lodged, the Local Planning Authority sought independent advice from a transport consultant on the acceptability of the access arrangements. The transport consultant has assessed the design of the site access junction against the DMRB standards and has found to comply in most respects. Whilst some concerns were originally expressed regarding the ability of the junction to accommodate HGVs this has now been addressed following the submission of swept path analysis and is not raised as an issue in the Stage 1 RSA. The Stage 1 RSA has also been reviewed and the transport consultant concurs with its conclusions. The overall conclusions of the independent transport consultant are that, *The TA and access arrangements have been assessed in relation to highway safety and no significant concerns have been identified.*

The County Highway Authority notes that this application is in outline only and, therefore, the proposed indicative internal layout as shown on the submitted Indicative Masterplan has not been checked in terms of its suitability for adoption by the Highway Authority (and would need to include various details including traffic calming measures). However, it is not clear from the submitted masterplan how the indicative alignment of the proposed internal access road would allow for connection to the proposed Bardon link road. This would need to be addressed at the reserved matters stage and suitable notes to applicant are recommended in respect of this.

The County Highway Authority require that a vehicular connection should be provided between the application site and the proposed Bardon link road. This vehicular connection should be

available for use at the same time as the Bardon link road and the applicant should contribute to the design and construction of this connection. As stated previously, this could be secured by a suitably worded legal agreement. The County Highway Authority also require that at such time as the Bardon link road between Bardon Road/Stephenson Way and the vehicular connection to the application site and the connection itself is available for use by vehicular traffic, the proposed vehicular access at Bardon Road should be downgraded to a pedestrian/cycle/emergency access only. This is required on highway safety grounds to prevent traffic 'rat running' through the site to avoid the proposed signalised junction at Bardon Road/Stephenson Way. The applicants are agreeable to paying this contribution subject to undertaking future viability assessment work.

On 15 January 2013, the District Council's Cabinet considered a report relating to Delivering Growth and Prosperity in Coalville which set out proposals to prioritise highways infrastructure contributions in Coalville above affordable housing contributions given the need for significant transportation infrastructure to be provided so as to enable otherwise stalled development to be delivered. Cabinet resolved to (i) agree to the preparation and consultation of an interim Section 106 policy which establishes the approach towards prioritising highway infrastructure contributions in Coalville, which will be reported back to cabinet after the consultation exercise; (ii) agree that for major developments in Coalville, the Planning Committee be asked to consider the emerging policy through Section 106 agreements; and (iii) to recommend that Planning Committee, where appropriate, prioritise the requirement for highways infrastructure contributions in Coalville above affordable housing contributions where such contributions are necessary, in accordance with the emerging policy proposals. The District Council consulted on a draft policy between 22 February 2013 and 5 April 2013 and, following the conclusion of that consultation, reported back to Cabinet on 11 June 2013. At that meeting, Cabinet resolved to approve the policy.

The report to Cabinet of 15 January 2013 included an indicative list of potential transportation infrastructure measures to which the financial contributions made would be expected to contribute; based on the figures available at that time, the calculations provided to Cabinet suggested a potential contribution of between £4,419 and £4,884 per dwelling. As of the current position, discussions are ongoing with the County Highway Authority and Highways Agency to establish an appropriate mechanism for securing contributions but, as matters stand, having regard to Local Highway Authority and Local Planning Authority officers' assessment of factors such as infrastructure scheme priority in terms of the importance on the wider highway network, estimated date of site delivery, and proximity of the respective potential developments to the relevant junctions / infrastructure schemes, the intention is that this site would be likely to need to contribute towards the proposed Bardon Grange link (i.e. linking the allocated housing site on land north of Grange Road with the A511 Stephenson Way), and an appropriate contribution of £600,000 has been calculated. The applicants are agreeable to paying this contribution subject to undertaking future viability assessment work.

As set out in more detail under Affordable Housing below, in order to accommodate this sum within the scheme whilst retaining its viability, and in accordance with the District Council's Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville policy, the applicants have undertaken some initial calculations (which would need more detailed independent assessment on behalf of the Local Planning Authority) so as to demonstrate the impact that payment of the transportation infrastructure contribution would have on the viability of the scheme. This indicates that the scheme is not viable (when providing for the transportation infrastructure contribution along with other developer contributions and with a full affordable housing contribution as per the District Council's Affordable Housing SPD), and the quantum of

affordable housing would need to be reduced so as to render the scheme viable.

Whilst there would be officer concerns in respect of a number of applications for major development in Coalville without full assessment in accordance with the recently agreed approach towards infrastructure provision, it is accepted in this case that, given that all other matters are now essentially resolved, the Local Planning Authority is now in a position wherein it can make a reasoned assessment of the application. The sum proposed would, it is considered, represent a reasonable and essential contribution towards 'kick starting' those schemes identified as being necessary to enable development to proceed in the Coalville area including those which, insofar as this particular development is concerned, would be necessitated by this development. This scheme is also likely to be one of the first to contribute towards prioritising highway infrastructure contributions in accordance with the cabinet resolution of June 2013. Separate contributions are also proposed in respect of other highways works which would be required to accommodate this development.

The Highway Agency has been consulted on the application and considers that the proposed development is not expected to have a material impact on the closest strategic route (M1 motorway). To reiterate, the County Highway Authority raise no highway safety objections to the proposed scheme subject to the inclusion of relevant conditions and obligations. Taking these matters into account, therefore (and including the applicants making an appropriate contribution towards transportation infrastructure), the proposed development is considered acceptable in terms of Means of Access and Transportation issues.

Neighbours' and Future Occupiers' Amenities

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves are concerned, this would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 135 units could not be provided on the site in a manner which would not adversely impact upon neighbours' amenities.

In terms of the impacts on existing and future occupiers the main issues are considered to be that of air quality, vibration and noise arising predominantly from Bardon Road and the nearby railway line. The application is accompanied by a Noise, Vibration and Air Quality Assessment.

With regard to road noise, the new dwellings located along the north eastern site boundary (closest to Bardon Road) would be most affected and there would need to be sound reduction mitigation carried out to ensure that noise standards are satisfied. Appropriate sound reduction can be achieved by the use of thermal double glazing to these units and passive acoustic ventilators can be installed to allow for windows to open on those properties that are located closest to Bardon Road. With regards to railway noise impacting on future occupiers, dwellings located on the southern boundary would also have to use similar sound reduction mitigation to ensure that appropriate noise standards are reached.

In terms of additional traffic noise affecting existing properties, the main area of concern would be the section of access directly onto Bardon Road. The indicative proposals indicate that there are potentially four dwellings proposed to the west of this access road and these would screen some of the existing dwellings and gardens from vehicles using the new access. There are no dwellings proposed on the indicative masterplan on the other side of the access but the erection of a 1.8 metre high acoustic barrier would ensure against any significant noise impacts.

With regards to railway vibration, the submitted report indicates that given the low incidence of

train movements coupled with the low likelihood of complaint that no specific vibration control measures would be required to the proposed dwellings. In terms of air quality issues, the site is not located within the Coalville Air Quality Management Area. The report concludes that there would be no significant change to the air quality adjacent to Bardon Road and, therefore, it is not considered that the proposal would cause significant air quality issues to either existing or proposed dwellings.

On the basis of the mitigation measures proposed (which can be secured by way of planning conditions), the Environmental Services Manager has no objections and it is not considered that the proposal would result in significant adverse impacts on health or quality of life. Accordingly, the requirements Policy E3 of Local Plan are considered to have been met by the scheme and the proposal would not conflict with paragraph 123 of the NPPF.

A letter of objection has stated that vehicles exiting the site would illuminate habitable rooms and infringe on privacy. As already stated it is considered that the proposed new dwellings and acoustic barrier would protect properties to the south of Bardon Road. In terms of vehicles headlights shining into properties over the road from vehicles exiting the site this would be no different to the existing situation from vehicles exiting Botts Way (located around 50 metres away). Taking this into account, and that the Council's Environmental Services Manager does not raise concerns surrounding this matter, then this is not considered to be a significant issue that would warrant a reason for refusal.

Design

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABE's new Building for Life criteria which scores on the basis of red/amber/green rather than a points based scoring system. The Council's Urban Designer has reviewed the proposals and considers that the scheme offers the potential to perform well against Building for Life. Given the outline nature of the application, and the scope that the Urban Designer considers there to be for building on the scores achieved thus far on the illustrative layout at the reserved matters stage(s), the Urban Designer raises no objection to the scheme.

However, he advises that, a key challenge for any future reserved matters application relates to the creation of character and how a place with a local or otherwise distinctive character can be created by drawing influence from the positive and distinctive characteristics of the local area and/or the National Forest. It would be possible to draw from selected local characteristics in terms of building form and materials without resorting to a pastiche approach, combining these with a strong landscape character and in turn create a locally distinctive or National Forest inspired identity.

Therefore, whilst the scheme is not sufficiently advanced to be assessed fully against Building for Life, it is considered that it has been demonstrated that, in principle, an appropriate scheme could be secured at the reserved matters stage(s), and would comply with the relevant Development Plan policies and advice in the NPPF.

Density

Local Plan Policy H6 provides that, for sites of 0.3 hectares and above, residential development should meet a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services, and a minimum density of 30 dwellings per hectare elsewhere. The NPPF states that local planning authorities should set their own approach to

housing density to reflect local circumstances. The former advice in PPS3 provided that net dwelling density includes those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas. Whilst this has now been superseded in the NPPF the methodology contained within it for working out net dwelling density would, in the absence of any other guidance in the NPPF or the Local Plan, still be relevant.

The application site area is given as 6.18 hectares and the maximum of 135 dwellings proposed by the developers would therefore equate to a maximum density of 21.8 dwellings per hectare, which would fall short of the requirements set out in Policy H6. However, when considering that significant parts of the site would be taken up by the creation of strategic landscape and habitat areas and public open space, the net dwelling density would be in the region of 32 dwellings per hectare. This is considered to be an acceptable density in relation to the advice in Policy H6 of the Local Plan. In coming to this conclusion it is also recognised that the Council's Urban Designer raises no objection to the density and layout of the development on the site.

Landscape and Visual Impact

The application has been accompanied by a landscape and visual impact assessment.

The site is not protected by any national landscape designations. The application site is located on the south eastern edge of Coalville and would be confined between existing residential properties fronting onto Bardon Road and the railway embankment along the south west boundary. The surrounding landscape is characterised by large industrial development and Bardon Quarry as well as plans for further housing development to the south of the railway line in addition to the already approved Bardon Grange scheme. Taking into account the nature of the surrounding area, the report indicates that the landscape is low/medium sensitivity to the type of development proposed and could absorb suitably designed development without causing any significant detrimental harm to the wider landscape.

The visual impact assessment considers the impacts of the proposed development from a total of eight viewpoints, including points in the immediate vicinity of the application site, as well as from more distant viewpoints. In terms of the anticipated impacts on public views, the most significant effects would be limited to properties on Bardon Road whose rear gardens back onto the site and a public footpath close to the north-west boundary of the site. However, the visual impact arising from the proposal would be at worst moderate and slightly adverse respectively.

These conclusions are considered reasonable, and it is accepted that, subject to appropriate landscaping, the visual impacts of the proposals would be reasonable and that, notwithstanding the site's location outside Limits to Development, unacceptable impacts on the amenities of the surrounding area would not be likely to arise. Overall, therefore, and subject to an appropriate form of development being proposed at the reserved matters stage(s), it is considered that the landscape and visual effects of the proposed development are acceptable.

Ecology and Trees

The application is supported by an ecological appraisal. This concludes that the site is dominated by poor semi-improved grassland, scrub and ornamental communities of negligible nature conservation value along with some mature trees and hedges.

The appraisal concludes that there are no statutory designated sites within or in close proximity

to the site boundary, the closest non-statutory designated sites are located 50m to the west and 208m to the north and would be highly unlikely to be affected by the proposed development. The site is considered to be of low biodiversity value. Some of the habitats provide interest to wildlife, in particular the trees provide potential habitats for invertebrates, nesting birds and other wildlife. It is noted that the majority of the trees on the site would be retained as part of the proposal. The hedgerows are considered to be of low to moderate nature conservation and some of these would be cut through and some would be completely lost in order to provide the access into the site. The report accepts that this hedgerow loss would result in a minor negative impact but this can be compensated for through the use of suitable planting within the area of public open space.

In response to the application, Leicestershire County Council's ecologist considers that the report is satisfactory and no species or habitats of more than local significance were identified. The ecologist considers that the indicative masterplan is good in terms of protection of existing habitat feature and enhancements and the two SUDS features have the potential to provide wetland/marshy grassland habitats. Overall, the Leicestershire County Council's ecologist raises no objections subject to the inclusion of relevant planning conditions.

For its part, Natural England does not consider, subject to conditions, that protected species or landscapes would be impacted upon. Natural England makes suggestions in relation to nature conservation enhancements, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes, which would need to be addressed at the reserved matters stage.

As noted above, the majority of the trees on the site would be retained as part of the proposal and the Council's Tree Officer raises no objection to the proposal. The tree officer notes that a TPO tree (T1 Hawthorn) within the curtilage of 138 Bardon Road would be removed but this is not a prime specimen and mitigation planting at the proposed entrance would offset its loss. A tree protection plan is recommended as a condition and recommendations for the layout of dwellings are suggested in relation to the submission of future reserved matters applications.

Therefore, subject to the imposition of suitably-worded conditions and notes to applicant the submitted scheme is considered acceptable in ecological terms and in terms of the impact upon trees.

Flood Risk and Drainage

A Flood Risk Assessment (FRA) and associated documents have been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within Flood Zone 1, and on this basis the site would appear suitable for development in principle (and in flood risk sequential terms, would meet the requirements of the NPPF).

It is proposed that the surface water drainage system for the proposed development will be split into two separate eastern and western systems due to the topology of the site. This drainage strategy would result in the creation of two attenuation ponds in the south-west corner of the site and a separate attenuation pond in the south-east corner of the application site.

In terms of foul water drainage, this would also be split into two separate systems. The eastern system would drain via gravity to the south east of the application site where it would be pumped via a rising main to a Severn Trent Water sewer in Bardon Road. The western system would drain via gravity to the west of the application site where it would be pumped via a rising main to a Severn Trent Water sewer in Bardon Road. In order to facilitate the flows in Bardon Road, it is understood that Severn Trent Water would undertake some minor improvement

works to the existing Bardon Road pumping station to increase available capacity. It is also understood, due to the wider development proposals in the area, Severn Trent Water consider it likely they would need to provide a new foul gravity sewer to the west of the development site which would drain south and, therefore, Severn Trent Water would look to remove the pumping station on site and enable the site to drain by gravity to this new sewer line.

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development. In coming to this conclusion it is noted that the Environment Agency and Severn Trent Water raise no objections to the proposed development subject to the inclusion of relevant planning conditions.

Developer Contributions

Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:

- necessary to make the proposed development acceptable in planning terms;
- directly related to the proposed development; and
- fairly and reasonably related in scale and kind to the proposed development.

Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.

The relevant developer contributions are listed below.

Affordable Housing

The development originally proposed to provide 20% of the scheme as affordable housing (i.e. 27 units, assuming the construction of the maximum 135 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 79% social rented and 21% intermediate housing will be sought.

However, in response to the Cabinet report referred to above in respect of the prioritisation of transportation infrastructure over affordable housing, this would now appear likely to be reduced, particularly as the applicants now intend to provide the capital cost of constructing a connection to the Bardon Link Road in addition to the off-site highway contribution, although it is noted that the applicants have indicated that, regardless of the outcome of the viability assessment work, they would anticipate that a minimum contribution of 10% would be provided. Clearly this would fall below the minimum contribution the District Council's Affordable Housing SPD seeks to secure from new housing development in Coalville but, for the reasons as set out under Means of Access and Transportation above, is considered an acceptable approach. Having regard to the approach suggested in the emerging Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville policy, and given the under-provision of affordable housing vis-à-vis the adopted Affordable Housing SPD, it would be considered appropriate to limit the implementation period of any planning permission granted accordingly.

Transportation Contributions

As set out under Highway Safety above, the County Highway Authority has requested the following developer contributions, required in the interests of encouraging sustainable travel to

and from the site, achieving modal shift targets, reducing car use and highway safety:

- A Construction Traffic Routeing Agreement;
- One Travel Pack per dwelling; can be provided through LCC at a cost of £52.85 per pack/dwelling. If not supplied by LCC, a sample Travel Pack shall be submitted to and approved in writing by LCC;
- Two six-month bus passes per dwelling; can be provided through LCC at an average cost of £325.00 per pass;
- Improvements to one bus stop on Bardon Road (including raised and dropped kerbs to allow level access) at a cost of £3263.00;
- Appointment of a Travel Plan Co-ordinator for a period to 5 years after completion of the development;
- An iTrace monitoring fee of £6000.00;
- A contribution towards improvements to the wider highway network in Coalville as considered appropriate by North West Leicestershire District Council;
- A contribution towards the design and construction of a vehicular connection between the application site and the Bardon link road;
- The downgrading of the vehicular access to Bardon Road to pedestrian/cycle/emergency use only following the opening of the Bardon link road between Bardon Road/Stephenson Way and the connection to the application site and including that connection;
- Unfettered access to the land to the immediate east and west of the application site so as not to prejudice future development of these land parcels, including for vehicular access to the Bardon link road.

The applicants are agreeable to making the majority of these contributions but state that the requirement for free bus passes must be based on formal application for those passes (i.e. not simply handed out to all 135 households).

Education

In respect of the proposed education contributions, Leicestershire County Council comments as follows:

Primary School Requirements:

The site falls within the catchment area of Coalville Broom Leys Primary School. The School has a net capacity of 595 pupils and 598 pupils are projected on roll should this development proceed; a deficit of 3 places (a surplus of 27 is existing and a deficit of 3 is created by this development). There are four other primary schools within a two mile walking distance of the development and the 3 deficit places created by this development can therefore not be accommodated at nearby schools. In order to provide the additional primary school places anticipated by the proposed development the County Council request a contribution of £36,297.03. The applicant's are agreeable to making this contribution.

High School Requirements:

The site falls within the catchment area of Castle Rock High School. The school has a net capacity of 600 pupils and 529 pupils are projected on roll should this development proceed; a surplus of 71 places after taking into account the 13 pupils created by this development. Therefore, no education contribution is requested in respect of the High School sector.

Upper School Requirements:

The site falls within the joint catchment area of Coalville King Edward V11 Science and Sport College. The College has a net capacity of 1193 pupils and 1103 pupils are projected on roll should this development proceed; a surplus of 90 places after taking into account the 13 pupils created by this development. Therefore, no education contribution is requested in respect of the Upper School sector.

Play and Public Open Space

The indicative masterplan shows that provision is proposed to be made for 0.78ha of public open space on site that would be located centrally and includes a children's equipped play area. Taking into account the overall size of the recreation area, a suitable sized children's equipped play area could be provided at the reserved matters stage. Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the Play Area Design Guidance SPG.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG requires that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity, as well as a "kickabout" area. In addition, formal recreation open space (e.g. sports pitches) should also be provided for. Whilst no on-site "kickabout" area is proposed, the applicants are of the view that they are nevertheless providing for a significant on-site contribution to what they consider to be both formal and informal public open space within the development as a whole. As set out under Landscape and Visual Impact above, the total proportion of the site proposed to be given over to green space (excluding private gardens) is in the order of approximately one third of the total application site and, having regard to this, the overall contribution of public open space is considered acceptable. In this regard, whilst the full requirements of the District Council's SPG would not be met, it is accepted that, in view of the design approach employed in this case, the applicants' proposals are appropriate in terms of provision of formal public open space.

However, the Council's Leisure Service team consider that an off-site contribution would be applicable in this instance and request a developer contribution of £135,000. The leisure request is, at the current time, not sufficiently evidenced nor based on an assessment of capital project expenditure that would be required as a direct result of this development. Therefore, it is concluded that the leisure request cannot be considered CIL compliant, and will therefore not be secured by the Section 106 Agreement. The Council's Leisure Service team has been asked to provide more details on their submitted request and any response will be reported to members on the update sheet.

National Forest Planting

The applicants propose 1.2ha of strategic landscaping which is considered to meet the National Forest Company's Planting Guidelines. The National Forest Company welcomes the commitment to meet the planting guidelines and requests that the reserved matters application(s) show significant areas of tree planting, which along with the retained trees, would help create a wooded character to the development. Subject to the inclusion of relevant conditions which include, amongst other things, tree protection measures, drainage and management plans the National Forest Company raise no objection to the proposed development.

Civic Amenity

The nearest civic amenity site is located at Coalville and residents of the proposed development are likely to use this site. Therefore, a civic amenity contribution of £9381 is requested.

Library Services

The proposed development on Bardon Road is within 1.7km of Coalville Library and the proposal would impact on local library services in respect of additional pressures on the availability of local library facilities. Therefore, a library contribution of £7890 is requested.

Healthcare

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £22,945.72 based upon a contribution commensurate to the anticipated increased population arising from this development. The applicants are agreeable to making this contribution.

Network Rail

Network Rail consider that the proposed development could potentially increase the use of an existing level crossing (Bardon Hill No.1) and that improvement works should be carried out to improve the safety of this level crossing. A developer contribution of £8,500 is sought in respect of this matter. The applicants have considered this request and state that the crossing has no relationship to the proposed development. The proposals provide no direct link to this route and in order to access the crossing a pedestrian would need to walk around 750m from the centre of the site. They estimate that the site would generate around 50 walking trips per day and most of these would be consumed by trips to the schools and local amenities. Based on the fact the crossing and public footpath provides access to no facilities it seems unlikely this will be used to any significant degree.

On the basis of the information submitted, it is not clear how the requests are directly associated with the proposed housing scheme and not clear as to why, if not provided, this would make the scheme unacceptable in planning terms. Therefore, it is not considered that the requested contributions comply with Regulation 122 of the CIL Regulations, and it would therefore not be lawful for such contributions to be taken into account as a reason for granting planning permission.

Contributions sought by Leicestershire Police

Leicestershire Police requests a developer contribution of £55,174 in respect of policing as set out in the consultation response above. This money is requested in relation to staff, equipment, , police vehicles, improving force communications and database capacity, CCTV, contribution towards vehicles and extension to premises in Coalville, Enderby and Loughborough. On the basis of the information submitted, it is not clear how the requests are directly associated with the proposed housing scheme and not clear as to why, if not provided, this would make the scheme unacceptable in planning terms. Therefore, it is not considered that the requested contributions comply with Regulation 122 of the CIL Regulations, and it would therefore not be lawful for such contributions to be taken into account as a reason for granting planning permission.

Insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in Circular 05/2005 and the CIL Regulations and are in accordance with paragraph 204 of the NPPF which states that planning obligations should only be sought

where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Other

The proposal would result in the demolition of three properties along Bardon Road but the dwellings are not considered to be of such amenity value that they should be retained. It is noted that the indicative masterplan includes for a replacement dwelling (specified as a feature building) along Bardon Road and the design of this dwelling would need to be assessed at the reserved matters stage.

Letters of objection have been received raising concern that the proposal would result in increased levels of pedestrian traffic crossing Bardon Road. The County Highway Authority do not consider this to be a significant issue. It is also noted that an existing pedestrian crossing is located around 150 metres to the east of the site access which would allow for the safe crossing of pedestrians.

In terms of issues with construction vehicles accessing and exiting the site, the County Highway Authority request a condition in relation to a construction management plan as well as a construction traffic routing agreement that would have to be included within the legal agreement. Subject to these matters it is considered that issues regarding construction vehicles would be adequately addressed and, in any case, this construction traffic would be temporary in nature.

With regards to neighbour concerns raised but not addressed above, issues regarding property values, financial compensation, private access and maintenance are not planning matters and, therefore, should not be considered in the determination of this planning application. The application specifies that the proposal would relate to a residential scheme of up to 135 dwellings; the precise number of dwellings would be specified at the reserved matters stage(s). The proposed children's play area would be available to the wider community.

Conclusions

As set out in the main report above, whilst the site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, and constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Whilst the site is located outside of Limits to Development as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, benefit from a presumption in favour of such development as set out in that document.

The scheme is considered to be relatively well connected to existing development, given its access immediately to Bardon Road, and its connectivity could potentially be further improved once the connection to the Bardon link road has been provided. The applicants are agreeable to providing a financial contribution towards the capital cost of delivering this connection.

The scheme is considered to be acceptable in terms of technical issues (and including in respect of transportation and highway safety issues), such that there appear to be no other reasons to prevent the site's development for housing. The development is considered to be

acceptable in terms of access issues and this has been ratified by an independent transport consultant. Whilst the proposed development would, for viability reasons, be unlikely to be able to support the full range of infrastructure requirements necessary to accommodate the development (and, in particular, the necessary improvements to local transportation infrastructure), the applicants are proposing to address this by way of making a reduced contribution to affordable housing, in accordance with the District Council's Priorities for Developer Financial Contributions for infrastructure provision relating to Major Residential Development Proposals in and around Coalville policy, thus ensuring that appropriate infrastructure contributions are made. Whilst this would result in a reduced affordable housing contribution, an appropriate contribution would nevertheless be made, when having regard to the approach taken in the District Council's financial contributions priorities policy. It is therefore recommended that outline planning permission be granted.

RECOMMENDATION - PERMIT, subject to the following conditions and the completion of a Section 106 legal agreement;

- 1 Save for the details of vehicular access into the site from Bardon Road, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins in respect of the relevant phase.

Reason - This permission is in outline only.

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access (save for the details of vehicular access into the site from Bardon Road), appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 3 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of one year from the date of this permission and the development hereby permitted shall begin before the expiration of one year from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended), and to accord with the requirements of the Local Planning Authority's emerging policy relating to developer contributions.

- 4 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
 - Site location plan (5195_L_101_A) deposited with the Local Planning Authority on 16 October 2013;
 - Proposed site access arrangements (20337_03_002) deposited with the Local Planning Authority on 16 October 2013.

Reason - To determine the scope of this permission.

- 5 Notwithstanding Conditions 1, 2 and 3 above, the first reserved matters application shall include a masterplan for the whole of the site setting out indicative details of site layout,

areas of open space / children's play, landscaping, density parameters and scale, as well as details of any proposed phasing of development. All subsequent reserved matters applications shall be in accordance with the approved masterplan unless any alteration to the masterplan is first agreed in writing by the Local Planning Authority. All development of the site shall thereafter be undertaken in accordance with the agreed phasing and timetable details (or any alternatives subsequently agreed in writing by the Local Planning Authority).

Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner.

6 A total of no more than 135 dwellings shall be erected.

Reason - To define the scope of this permission.

7 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a scheme for the disposal of foul and surface water drainage has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason - To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

8 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated March 2013, Ref: 20337/PH/03-13/3318 undertaken by M-EC and the following mitigation measures detailed within the FRA:

_ Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site - Sections 7.0, 8.0 and 9.0 (specifically Paragraphs 7.3, 8.6 (Table 2), 8.7, 9.3 to 9.5 and 9.7 to 9.10);

_ Provision of compensatory flood storage for any raising of land currently below 151.45m AOD - Paragraphs 6.10 and 9.14, and as outlined on Drawing No. 20337 02 003 revision F;

_ Finished floor levels are set no lower than 151.55m above Ordnance Datum (AOD) - Paragraphs 6.11 and 9.13. Please Note: The Environment Agency recommend internal finished floor levels are set a minimum of 600mm above the predicted flood level of 151.45m, at 152.05m AOD.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the risk of flooding to the proposed development and future occupants.

- 9 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall also include:

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.
- Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

Reason - To prevent the increased risk of flooding, to improve and protect water quality and improve habitat and amenity.

- 10 No development approved by this planning permission shall take place until such time as a scheme to provide compensatory flood storage on a like for like level basis, has been submitted to, and approved in writing by, the local planning authority. The scheme shall be fully implemented at the ground works phase of the development, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason - To prevent an increase in the risk of flooding to the proposed development, adjacent properties, land and infrastructure.

- 11 No development shall take place until a construction working method statement to cover the compensatory flood storage works has been submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority.

Reason - To ensure against significant risks of damage to water dependent species and habitat and to diffuse pollution of the water environment arising from ground works.

- 12 No development shall commence on the site until such time as a programme of archaeological work, commencing with an initial phase of geophysical survey and trial trenching, has been detailed within a Written Scheme of Investigation first submitted to and agreed in writing by the Local Planning Authority. The scheme shall include an

assessment of significance and research questions, and:

- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme);
- The programme for post-investigation assessment;
- Provision to be made for analysis of the site investigation and recording;
- Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation; and
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation

No development shall take place at any time other than in accordance with the agreed Written Scheme of Investigation. None of the dwellings shall be occupied until such time as the site investigation and post investigation assessment has been completed in accordance with the programme set out in the agreed Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason - To ensure satisfactory archaeological investigation and recording, and to comply with the NPPF.

- 13 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) at any time after 1 May 2015 unless, within a period of not more than two years prior to the commencement of development, a survey of badgers present on and using the site has been undertaken and the results (together with precise details of any associated mitigation measures and a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with any agreed mitigation measures and timetable.

Reason - In the interests of nature conservation, and to comply with the NPPF.

- 14 No work shall commence in respect of the erection of any dwelling until such time as precise details of all measures proposed in respect of protection of occupiers of the relevant dwelling from noise (based on the conclusions contained in Paragraph 8 of the 'Noise, Vibration and Air Quality Assessment') and a timetable for their implementation have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in full in accordance with the agreed details, and in accordance with the agreed timetable.

Reason - To ensure that occupiers of the proposed dwellings are protected from noise, in the interests of amenity.

- 15 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a site specific tree protection plan has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details.

Reason - As the existing tree protection measures are not considered satisfactory and to ensure

that existing trees are adequately protected during construction in the interests of the visual amenities of the area.

- 16 Save for any works associated with the formation of the access as shown on M-EC drawing no. 20337_03_002 rev B, no development shall commence on the site until such time as the Bardon Road site access junction as shown on M-EC drawing no. 20337_03_002 rev B has been provided in full and is available for use by vehicular traffic.

Reason - To provide vehicular access to the site, including for construction traffic, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 17 No development shall commence on the site until such time as a construction management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reason - To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic associated with the development does not lead to on-street parking problems in the area.

- 18 Notwithstanding the submitted Residential Travel Plan, no development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a scheme of measures to reduce the amount of single occupancy car journeys to/from the site, including a timetable for their implementation, has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with the submitted details and timetable.

Reason - To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to/from the site.

- 19 All reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes. Unless any alternative timescale is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as evidence to demonstrate compliance with the relevant criteria has been submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the scheme provides for a sustainable form of development.

- 20 The first reserved matters application in respect of the matter of landscaping shall provide for an ecological / landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), together with a timetable for its implementation. The development shall be carried out in accordance with the landscape management plan, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure the protection of wildlife and supporting habitat, to secure opportunities for the enhancement of the nature conservation value of the site in line with National planning policy and to provide for an appropriate form of development.

Notes to applicant

- 1 This is an Outline application with all matters (except access) reserved. Therefore, the suitability of the proposed indicative internal layout has not been checked in terms of its suitability for adoption by the Highway Authority.

The Applicant should be advised to refer to Leicestershire County Council's adopted highway design guidance 'The 6C's Design Guide'. Table DG1 of that Guide provides details of the general geometry of internal residential roads, including design speed, and the criteria for shared surfaces.

- 2 All works within the limits of the public highway shall be carried out to the satisfaction of the Highway Area Manager (telephone 0116 305 2202).
- 3 The Developer will be required to enter into an Agreement with the Highway Authority under s278 of the Highways Act 1980 for works within the highway and detailed plans shall be submitted and approved in writing by the Highway Authority. The s278 Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
- 4 C.B.R tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements.
- 5 All street furniture or lining that requires relocation or alteration shall be carried out entirely at the expense of the Developer, who shall first obtain separate consent of the Highway Authority.
- 6 If you intend to provide temporary directional signing to your proposed development, you must ensure that prior approval is obtained from the County Council's Area Manager for the size, design and location of any sign in the highway. It is likely that any sign erected in the highway without prior approval will be removed.

Before you draw up a scheme, the Area Manager's staff (telephone 0116 305 2104) will be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable.

- 7 - Provision of on-site affordable housing (level to be agreed)
- National Forest Planting
- Financial contribution in respect of healthcare
- Financial contribution in respect of education
- Financial contribution in respect of libraries
- Financial contribution in respect of civic amenity
- Provision / maintenance of a children's play area
- Provision of travel packs to first occupiers of the new dwellings
- Provision of bus passes to first occupiers of the new dwellings
- Improvements to the nearest bus stop
- Construction traffic routeing
- Appointment of a travel plan co-ordinator
- An 'i-trace' monitoring fee
- Off-site highway infrastructure contributions
- Contribution towards the design and construction of a link road between the application site and the Bardon link road
- Unfettered access to the land to the immediate east and west of the application site
- Downgrading of the Bardon Road access following the opening up and connection being

- established to the Bardon link road
- Section 106 monitoring
- 8 At the reserved matters stage, the Local Planning Authority and County Highway Authority would expect the internal access roads to be compatible with the proposed Bardon link road. At this stage it is anticipated that the main highway through the site would have to be re-positioned further to the south along the western boundary.
- 9 The Council's Urban Designer advises the following:
- That any future RM will be required to meet 'Building for Life 12', i.e. secure 12 green indicators.
 - That any future RM application adheres to the Development Framework submitted (Figure 10, Design and Access Statement, p.30) guided by the street typology characteristics detailed on pages 35-39 of the submitted Design and Access Statement.
 - That sufficient budget provision is allocated for hedgerow boundary treatments to all plots, allowing for a strong landscape character to be established throughout the development.
 - That the trees along the main street network are arranged to create a formal avenue, with trees semi-mature standard planted, i.e. min height 5.5m and girth of 25-30cms. The applicant will be expected to consult with the Council's Tree Officer at an early stage when preparing any future reserved matters application.
- 10 In relation to Condition 11 the Environment Agency would expect the method statement to cover the following requirements:
- _ timing of works;
 - _ methods used for all channel, bankside water margin works;
 - _ machinery (location and storage of plant, materials and fuel, access routes, access to banks etc);
 - _ protection of areas of ecological sensitivity and importance
 - _ site supervision
- 11 Under the terms of the Land Drainage Act 1991, the prior written consent of Lead Local Flood Authority (Leicestershire County Council) is required for any proposed works affecting the flow of any ordinary watercourse or to any existing or proposed structure forming part of the ordinary watercourse drainage system.
- 12 The 1200mm and 900mm diameter culverts and 750mm diameter surface water sewers may need trash or security screens installing as part of this development. Any such screens should be designed in accordance with the Trash Screen Guidance 2009 (available from the EA on request).
- 13 According to the OS map the head of a watercourse lies adjacent to the railway at grid reference SK 43868 13098, the Environment Agency therefore recommend further investigations are undertaken at this location, because should an additional culvert exist passing from the site underneath the railway, then this may provide an alternative discharge point for surface water from the eastern part of the site.
- 14 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further

- details of the Regulations are available from the Environment Agency.
- 15 It is recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Power showers are not recommended as they can consume more water than an average bath. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors consider installing a water butt, or even a rainwater harvesting system, to provide a natural supply of water for gardens. Simple treatment systems exist that allow rainwater to be used to supply WC's within the home. Following the above recommendations will significantly reduce water consumption and associated costs when compared to traditional installations. Rainwater harvesting utilises a free supply of fresh water and reduces the cost to the environment and the householder.
- 16 In relation to condition 20, it is recommended that details of biodiversity enhancements (such as roosting opportunities for bats and/or the installation of bird nest boxes) are included.
- 17 Your attention is drawn to the comments of Network Rail in their e-mail response of 25 April 2013 15:38.
- 18 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England)) Order 2010 (as amended).

Erection of 2 no. 250 KW wind turbines and associated infrastructure including access track

Report Item No
A4

Land Off Farm Town Lane Farm Town Coleorton Coalville

Application Reference
13/00266/FUL

Applicant:
Hallmark Power Ltd

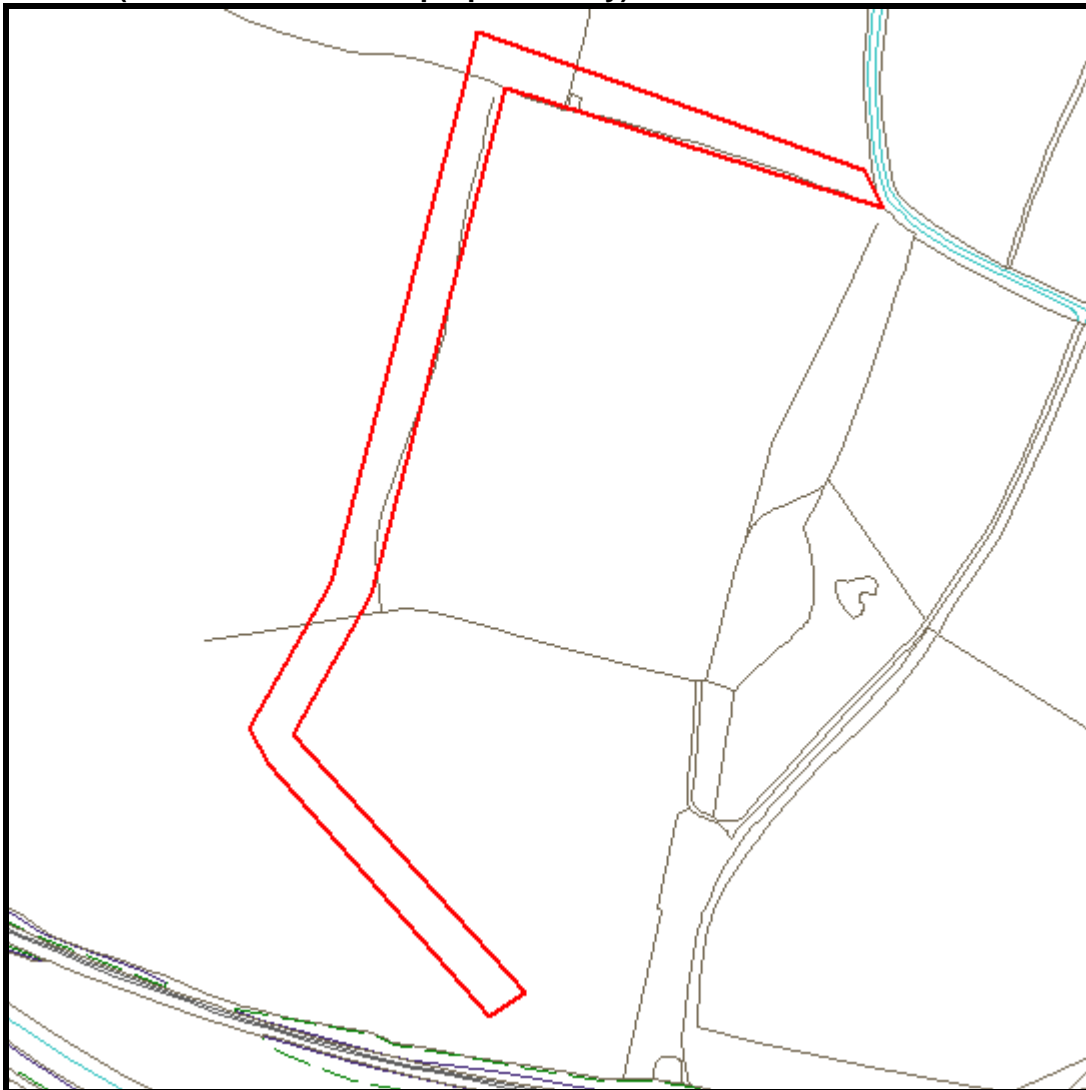
Date Registered
17 April 2013

Case Officer:
Hannah Exley

Target Decision Date
12 June 2013

Recommendation:
PERMIT

Site Location (Plan is for indicative purposes only)



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL:

Call In

This application is reported to Members at the request of Councillor Stevenson on the basis that the proposal is a matter of local concern.

Proposal

The application proposes two no. 250kw wind turbines. The turbines are 3-blade models with a hub height of 30m and a blade diameter of 30m, giving a total maximum height of 45m. The turbine construction will require square concrete foundations, having dimensions of 8.7m to a depth of 1.5m.

An access track of permanent construction is also proposed to allow access for maintenance over a 20 year period. The track would begin at the highway (Farm Town Lane) utilising the existing gated access and upgrading an access track. Where the existing track ends, a new track would be created up to the turbines and would require the removal of a short section of existing hedgerow. The newly created access/upgraded track would be constructed of limestone hardcore that will be imported onto the site.

The two turbines would be located within a field which abuts a railway line which is routed alongside the A511. The nearest part of the field is approximately 70-80m to the south west of Farm Town.

Consultation

Nine representations from third parties have been received objecting to the application and objections have also been received from Coloerton Parish Council. All other statutory consultees have no objections.

Planning Policy

The development would comply with all relevant policies of the Local Plan as well as Paragraphs 17, 98, 118, 119, 123, 131, 132, 134, 188, 189 and 215 of the NPPF; and the Habitats Regulations, Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System), River Mease Water Quality Management Plan - August 2011 and Planning for Renewable Energy: A Companion Guide to PPS 22.

Conclusion

In the circumstances that the proposal would accord with the aims of Policy S3 of the Local Plan, as well as the fact that the NPPF does not explicitly prevent renewable energy proposals from being located within the countryside, it is considered that the principle of the development would be acceptable. It is considered that the landscape could accommodate two turbines without its overall character being significantly harmed. Although there would be some impact on, and change to, the landscape, the turbines would not significantly undermine or change its character or that of the National Forest and therefore on balance this impact is not so significantly detrimental to the landscape or its visual amenities to justify a reason for refusal. As such, the development would not conflict with Policy E4 of the Local Plan. In Addition, there would not be a significant effect in terms of cumulative impact due to the heights and locations of turbines, which already exist or are proposed within the surrounding area, as well as the intervening landforms and vegetation. It is also considered that the significance of the setting of the surrounding heritage assets would be preserved given the position of the turbines in relation to the heritage assets as well as the presence of built forms of development, infrastructure, vegetation and an undulating landform.

There would also be some public benefit to the provision of the turbines by virtue of their being a renewable energy form, and the reduced farming costs to the landowner, and as such the development accords with Paragraphs 131, 132 and 134 of the NPPF. The development would not have an adverse impact on the amenities of neighbouring properties in terms of noise, vibration, shadow flicker or outlook which would ensure compliance with Paragraphs 98 and 123 of the NPPF and Policy E3 of the Local Plan. There would be no adverse impacts on pedestrian or highway safety, or aviation (subject to a Grampian condition), which would ensure compliance with Policy T3 of the Local Plan.

It is considered that the proposal will not have an adverse impact on bats, birds or other protected species or their habitats, subject to appropriate conditions, and as such the proposal would accord with Paragraphs 118 and 119 of the NPPF, the Habitats Regulations and Circular 06/05. . It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, due to there being no foul drainage connection and provision being made to discharge surface water run-off to permeable or porous areas within the site and as such the development would accord with Paragraph 118 of the NPPF, the 2010 Habitats Regulations and Circular 06/05.

It is considered that the wider public interest of tackling climate change by reducing carbon emissions should be taken into account and the proposal would not raise any significant concerns in relation to other material considerations, and other matters raised by third parties would not provide sufficient justification to refuse the application. It is therefore recommended that the application be permitted.

RECOMMENDATION - APPROVE SUBJECT TO CONDITIONS.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommended reasons for approval, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

This application is reported to Members at the request of Councillor Stevenson on the basis that the proposal is a matter of local concern.

Approval is sought for two no. 250kw wind turbines and associated access track. The turbines are 3-blade models with a hub height of 30m and a blade diameter of 30m, giving a total maximum height of 45m. The turbine construction will require square concrete foundations, having dimensions of 8.7m to a depth of 1.5m.

The access track will be a permanent construction to allow access for maintenance over a 20 year period. The track would begin at the highway (Farm Town Lane) utilising the existing gated access and upgrading an access track. Where the existing track ends, a new track would be created up to the turbines and would require the removal of a short section of existing hedgerow. The newly created access/upgraded track would be constructed of limestone hardcore that will be imported onto the site.

The two turbines would be located within a field which abuts a railway line which is routed alongside the A511. The nearest part of the field is approximately 70-80m to the south west of Farm Town.

During the construction phase, the supporting information details that a temporary crane construction/equipment storage area will be required (approximately 60m by 60m) but this will be returned to agricultural use after the construction phase is complete.

The application submission was accompanied by the following supporting documents:

- Ecological Appraisal by Avianecology (dated 13 March 2013);
- Landscape and Visual Impact Assessment by AAH Planning Consultants (dated March 2013);
- Attenuation Noise Specifications by Wind Technik Nord;
- Planning Statement including Design and Access Statement by Hallmark Green Power;
- NATS Clee Hill Cumulative Impact Assessment by Pagerpower (dated July 2013).

No relevant planning history found.

2. Publicity

40 No neighbours have been notified. (Date of last notification 25 April 2013)

Site Notice displayed 1 May 2013

Press Notice published 1 May 2013

3. Consultations

Coleorton Parish Council consulted 25 April 2013
English Heritage- major dev in CA consulted 29 April 2013
National Air Traffic Services consulted 30 July 2013
County Highway Authority consulted 26 April 2013
Head of Environmental Protection consulted 26 April 2013
Natural England consulted 26 April 2013
LCC ecology consulted 26 April 2013
Airport Safeguarding consulted 26 April 2013
NWLDC Conservation Officer consulted 26 April 2013

Development Plans consulted 26 April 2013
Highways Agency- Article 15 development consulted 26 April 2013
MOD Safeguarding consulted 26 April 2013
National Forest Company consulted 26 April 2013
Ramblers' Association consulted 26 April 2013
Leicester & Rutland Wildlife Trust consulted 26 April 2013
National Air Traffic Services consulted 26 April 2013

4. Summary of Representations Received

9 letters of neighbour representation have been received, raising objection on the following grounds:

- concern about noise from the turbines adversely affecting the health of residents;
- concern about the cumulative noise impacts of the turbines, the A42/A511 and the HS2 rail link when it arrives;
- concern about the visual impact of the turbines which would spoil the landscape;
- the wind turbines would be visible from properties within Farm Town and existing views across the rural landscape will be affected for many residents and impacts will be at least moderate, if not potentially high and therefore, further photomontages should be requested for these properties to ensure actual impacts can be assessed;
- impact on the Farm Town Conservation Area;
- the site is within the National Forest where lots of planting attracts walkers and wildlife but the turbines would attract neither;
- concern about wildlife, in particular bats and owls;
- disruption to adjacent woodland and flora/fauna;
- concern about the adequacy of the ecological appraisal submitted and the time that surveys were undertaken;
- concern about the suitability of the local highway network for the vehicles that will be required during the construction phase;
- noise and disruption to local residents during the construction phase;
- approval of the proposal would not make sense in the context of tight planning controls that have been imposed on residents in Farm Town over the years;
- concern about the proposal setting a precedent for further wind turbine developments;
- another 90m turbine is already proposed nearby;
- there are other sites within the District that would be more suitable and would have less impact on local communities;
- loss of property values;
- the energy benefits arising from the turbine would not outweigh the harm and inconvenience to local residents;
- the electricity generated by the proposed turbines would exceed domestic requirements;
- the application should be determined at a planning committee so that local residents can be represented;
- concern that wind turbines are sometimes less effective than envisaged, which leads to them being decommissioned within a few years and therefore, the turbines should be properly researched;

Coloerton Parish Council would like to object in the following terms:

- There seems to be no economic argument for the erection of these wind turbines. They will not feed local properties and there are still questions around the economic viability of on-shore wind power. The economic argument from developers depends on government

- subsidies. Both the Royal Academy of Engineering and Ofgem suggest that wind power is an expensive way of generating electricity and that subsidies could reach £32b. There seem therefore to be only costs to the local community, not benefits.
- The area is part of the National Forest and has been extensively planted recently. NWLDC's website says that such developments are to 'create habitats for wildlife and a beautiful landscape for people to enjoy'. Wind turbines do not sit well with this aim and are in fact likely to dissuade people from walking in and enjoying this area.
 - The wildlife survey seems to have been undertaken as a desk-based exercise. The application documentation itself notes the survey limitations (paragraph 2.3) which seem to the Councillors to be significant. The development of the National Forest has provided improved habitats for wildlife, so at the very least a walking survey should be carried out at a time of year when there is plant and animal activity before conclusions are drawn about the effects on local habitat.
 - The access roads are very narrow and not well-maintained. They are not suited to the transportation of the heavy machinery that would be required during the construction phase. The Councillors also understand that it is necessary to give access to heavy vehicles during operation of wind turbines and it is absolutely clear that the local infrastructure would not support such activity. Nor do local residents wish to have the local roads significantly upgraded. This is a rural location served by lanes appropriate to the landscape and usage by farm equipment and residents.
 - The noise levels will adversely affect the residents of Farm Town and properties on that side of Coleorton village. Although the application says they will be quieter during the day, they will still be disturbing to those living in this very quiet area which in fact hears almost no noise from the nearby main roads. There is increasing evidence of the negative health impacts on people living close to wind turbines.
 - The landscape itself will be despoiled by these structures and they will impact greatly on those Farm Town properties closest to them. The photo-montages provided do not include any pictures taken from near these properties. What is currently a tranquil, rural location will be turned into a semi-industrial site.

Coleorton Parish Council has had considerable discussion with the affected residents of Farm Town and shares their concerns which we understand have been shared with you as objections to this application. Coleorton residents want to protect their landscape and wildlife for future generations, not allow it to be used to make a quick profit for companies that are not putting anything back into the local community. The landowner does not live within sight or sound of the proposed turbines.

Coleorton Parish Council would like to know NWLDC's policy on wind turbines. The only policy references I can find on your website are, from the 2005 Development and Control Policies: Development of wind turbines will only be permitted where they would not have an adverse effect on Areas of Particularly Attractive Countryside or other areas afforded special protection in this Local Plan, or where they would not have a materially detrimental effect on the character and visual amenity of the countryside generally.

From Appendix 2 of the Appraisal of Core Strategy Policies:

On larger greenfield development sites there is potential for innovative solutions to be delivered to achieve decentralised, low carbon power and or heat. This could include wind turbines (taking into consideration risks from the airport), energy from waste or biomass energy centres.

From the 2013 Sustainability appraisal of the North West Leicestershire Core Strategy:

The scale of the site may increase the potential for renewable or low carbon generation, for instance from energy from waste or through a neighbourhood wind turbine. There is some background evidence that this could be achieved, although nothing appears as policy.

None of these appear to give a policy remit to permit wind turbines in the middle of a rural landscape with no link to a specific development. Coleorton Parish Council is concerned about precedent that would be set by allowing this application, not only for its area but for the whole of North West Leicestershire. The Council therefore wishes to object to this application in the strongest possible terms.

County Highways Authority has no objections subject to a condition.

Environmental Protection Officer has no objections.

Natural England raises no objections but raises a number of issues suitable for a note to applicant.

County Ecologist has no objections subject to conditions.

East Midlands Airport as safeguarding authority has no objections subject to a condition.

Conservation Officer advises that the proposed turbines are not located on or near heritage assets, and would have no impact on the setting of heritage assets. Therefore, I have no objection. .

Highways Agency advises that the proposed development is not expected to have a material impact on the closest strategic route, the A42 and therefore, has no objection to the proposal.

National Air Traffic Services has reviewed the application and considered the cumulative impact of the application with neighbouring developments and raises no objection.

English Heritage advise that the application should be determined in accordance with national and local policy guidance and on the basis of local specialist conservation advice.

County Archaeologist No comments.

MOD Safeguarding No comments have been received .

National Forest Company No comments have been received.

Ramblers Association No comments have been received.

Leicester and Rutland Wildlife Trust No comments have been received.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the

- benefits when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.

The NPPF (Para 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking which include:

- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;

Paragraph 98 indicates that when determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application (unless material considerations indicate otherwise) if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas;

Paragraph 118 outlines that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both

the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;

Paragraph 119 states that 'The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined;

Paragraph 123 indicates that planning policies and decisions should aim to:

- avoid noise from giving rise to the significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put them on because of changes in nearby land uses since they were established;

Paragraph 131 outlines that in determining planning applications, local planning authorities should take account of, amongst other things, the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional; Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional;

Paragraph 134 indicates that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use;

Paragraph 188 outlines that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community;

Paragraph 189 states that local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they do offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community before submitting their applications.

The following policies of the North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

North West Leicestershire Local Plan:

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan;

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development;

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees;

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings;

Policy E4 seeks to achieve good design in new development and requires new development to respect the character of its surroundings;

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows;

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting;

Policy F2 states that the Council will have regard to the existing landscape character of the site and the type of development when seeking new planting;

Policy F3 seeks to secure implementation of agreed landscaping and planting schemes for new development by the imposition of planning conditions and/or the negotiation of a planning agreement;

Policy T3 requires development to make adequate provision for vehicular access, circulation and servicing arrangements;

Policy T20 seeks to prevent development that would adversely affect the operational integrity or safety of East Midlands Airport;

Submission Version Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

Other Guidance:

The Habitat Regulations

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs) and the key issues relating to protected species;

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

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The

Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites;

River Mease Water Quality Management Plan - August 2011

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition;

Planning for Renewable Energy: A Companion Guide to PPS22

The Companion Guide offers practical advice as to how the policies in the former PPS22 (which has been cancelled by the NPPF) can be implemented on the ground. This document has not been explicitly cancelled by the NPPF although the support for renewable energy in policy terms has been carried forward in the NPPF and therefore the information and advice set out within the Companion Guide can be given some weight and used as a reference guide when considering applications relating to renewable energy;

Footnote 17 on Page 22 of the National Planning Policy Framework

In assessing the likely impacts of potential wind energy development when identifying suitable areas, and in determining planning applications for such development, planning authorities should follow the approach set out in the National Policy Statement for Renewable Energy Infrastructure (read with the relevant sections of the Overarching National Policy Statement for Energy Infrastructure, including that on aviation impacts). Where plans identify areas as suitable for renewable and low carbon energy development, they should make clear what criteria have determined their selection, including for what size of development the areas are considered suitable.

6. Assessment

The main considerations in the determination of this application relate to the principle and sustainability of the development and its impact on landscape character and visual amenities, the historic environment, residential amenities, protected species, aviation, highway safety and the River Mease Special Area of Conservation.

Principle of the Development:

The application site is located outside the limits to development where permission for new development would not normally be granted unless it is for certain uses as set out under Policy S3 of the Local Plan. The supporting information states that the proposal is a diversification opportunity for the farm which will help sustain the farm business in the long term by reducing farming costs for the landowner. As such it can be considered to be a farm diversification scheme and would fall within category (b) of Policy S3. It is also considered that the proposal would fall within criteria (c) (is a public service or utility which cannot, for operational reasons, be accommodated within the defined Limits) of Policy S3 and as such would constitute an acceptable form of development in this location. This view is further supported by the appeal decision for application reference 12/00343/FUL (Wind Monitoring Mast at Stretton en le Field) (Appeal Ref: APP/G2435/A/12/2185513) where the planning inspector stated: "the mast is however a utility, as it relates to the provision of electricity, and it would be unlikely to be able to be accommodated within the LP defined Limits of Development."

Paragraph 97 of the NPPF outlines that Local Planning Authorities should "recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources" in order to help increase the use and supply of renewable energy, and one of the core planning principles at Paragraph 17 of the NPPF is that decisions should "support the

transition to a low carbon future and encourage the use of renewable resources (for example by the development of renewable energy)." At Paragraph 98 it also states that "applicants should not be required to demonstrate the overall need for renewable energy and that planning applications should be approved if their impacts are or can be made acceptable."

In the circumstances that the NPPF supports proposals which provide energy from renewable energy, as well as the fact that Policy S3 of the Local Plan would support renewable energy projects in the countryside, it is considered that the overall principle of the provision of two wind turbines would be acceptable.

The government recently announced that it will amend secondary legislation to make pre-application consultation with local communities compulsory for the more significant onshore wind applications and that it will issue new planning practice guidance shortly to assist local councils in their consideration of planning applications for onshore wind proposals. The requirement for compulsory pre-application consultation has not yet come into operation and the proposed guidance has not yet been published and therefore neither can be a material consideration in the determination of this application.

In terms of involvement with the community, the planning statement accompanying the application provides that "No pre-application advice has been sought from the Council. There are very few local residents who will be directly affected by the proposal. The nearby Parish Councils and the closest residents will clearly be notified of the proposal as part of the normal planning process."

Landscape and Visual Impact:

It is identified, in Paragraph 17 of the NPPF, that planning should "recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it," and Paragraph 109 states that the planning system should protect and enhance valued landscapes. Paragraph 98 of the NPPF also states that when determining wind turbine planning applications, local planning authorities should "approve the application if its impacts are (or can be made) acceptable."

A Landscape and Visual Impact Assessment has been provided within the application submission and evaluates the effect of the proposed turbine on landscape character and visual amenity. The effect of the development depends on its scale, as well as the sensitivity of its surroundings and the capacity of those surroundings to absorb the impact of the turbine given its physical characteristics, the topography, consistency and content of the landscape, and the cumulative effects of other development.

The LVIA follows the Guidelines for Landscape and Visual Impact Assessment, Second Edition (Landscape Institute and IMEA 2002). This assessment includes the potential effects on local landscape character and landscape designations, as well as the potential effects on views experienced by people from nearby residential properties on the surrounding roads, as well as those people cycling and walking in the local area along public footpaths and road users.

Photomontages from twelve viewpoints have been provided which range from 694m to 2.5km from the turbines. Although these were not agreed with the Local Authority, it is identified that the viewpoints tie in with the 'zone of theoretical visibility' (ZTV) which shows widespread fragmented visibility to central, north-eastern, southern and south-western areas across the study area, albeit, in reality, pockets of vegetation and built form will restrict views from some of these areas. It is considered that the viewpoints selected offer a useful range of study, which illustrates the typical extent of view experienced by the viewer, at close to middle distances. The

level of study is considered to be proportionate to this scale of scheme and there are no local, national or international landscape designations affected. The ZTV indicate that the turbines could be theoretically visible from much of the nearby countryside within 3-5km of the site, with theoretical visibility generally extending further to the south than the north. However, it should be noted that topography will affect how visible the turbines will be in these views and that the ZTV does not take into account any screening from vegetation or buildings.

Impact on the Character of the Landscape:

The turbines will be located within a field to the south of Farm Town and to the north of the A511. The site is characterised by a varying topography as land levels rise in a northerly direction across the site. The turbines will be sited within the southern part of the field where land levels are lower.

In terms of the conditions of the landscape surrounding the turbines, the existing conditions are typically defined arable fields with vegetated boundaries. Adjoining the application site along its northern, western and eastern boundaries is open and flat farm land, which extends across the surrounding landscape in all directions, with generally well established field boundaries. The southern site boundary is demarcated by a railway line and beyond that the A511, separating the site from further farmland beyond. The track proposed to access the turbines would link up with Corkscrew Lane which is located approximately 400m to the north of the proposed turbines.

With regard to the wider landscape it is considered that this is predominately characterised by undulating and gently rolling open agricultural farmland (arable/pasture fields). The largest nearby settlements are Ashby De La Zouch to the west and Coalville to the east and there are other settlements such as Farm Town, Swannington, Ravenstone, Packington, Coleorton, Griffydham, Newbold, Sinope and Lount within 5km of the application site as well as dispersed residential and non-residential farmsteads within the wider landscape. Several sizeable plantation woodlands also exist within the wider surrounding landscape as well as the 'heart' of the National Forest. The surrounding land topography would also be described as 'varied' with the areas to the north being more generally elevated than those to the south and steep sided embankments along the railway line.

Although there is a lack of formal landscape designation, it is accepted that character of the area is likely to be 'valued' by its residents. Paragraph 17 of the NPPF also recognises that the "intrinsic character and beauty of the countryside" is a material planning consideration.

In terms of Local Landscape Designations within 15km, there are no Areas of Great Landscape Value (AGLV) but there are nine registered parks and gardens (RPG's) which are Swarkestone Old Hall (11km to the north); Garendon (11km to the east); Melbourne Hall (8km to the north); Whatton House (13km to the north-east); Coleorton Hall (1km to the north-east); Calke Abbey (5km to the north); Bretby Hall (8km to the north-west); Staunton Harold Hall (4km to the north); Stapenhill Cemetery (13km to the north-west).

The site lies within Natural England's Landscape Character Area of the Leicestershire and South Derbyshire Coalfield (National Character Area (NCA) 71) and some of its key characteristics include mixed and arable pasture, gently undulating landform of shallow valleys and ridges and localised areas of small fields and dense hedgerows. NCA71 provides the overriding landscape features and characteristics of the site within a wider landscape context, a more localised assessment of character can be found within the National Forest Landscape Character Assessment (LCA) of 2004, as well as Leicester, Leicestershire and Rutland Landscape and Woodland Strategy of 2001 by Leicestershire County Council

The site would lie within the Coalfield Character Area identified in the Leicester, Leicestershire and Rutland Landscape and Woodland Strategy and within the 'Enclosed Farmlands' Character Area identified in the National Forest Strategy. Whilst it is recognised that there is a distinctive landscape character found to the very north east of 'The Coalfield' area towards Coleorton, Newbold and Griffydham (which was a medieval coal mining area dating back to the 13th century) most of the area is characterised by a gently undulating landform. In the north east of 'The Coalfield' area the settlement pattern is generally smaller in scale and contains small irregular fields, with small linear settlements and scattered individual cottages and network of footpaths. Whilst the application site is found towards this area, the LVIA identifies that it remains somewhat separate due to the undulating topography, combined with some individual strong woodland blocks (and recently planted broadleaved woodlands) and mature tree lines aligning road and rail corridors to the south, which shield views and limit inter-visibility between areas. The LVIA concludes that "the immediate landscape is considered less sensitive and more ordinary than the medieval landscape to the north east".

In terms of the County-wide Landscape and Woodland Strategy, the turbines would also be visible in longer views from the Mease/Sence Lowlands Landscape Character Area that covers the southern part of the District and the Langley Lowlands Landscape Character Area covering a north-eastern part of the District as well as parts of Charnwood Borough Council's Administrative Area. These areas are mainly characterised by an undulating landscape with frequent small valleys and mixed arable and pasture farmland (Mease/Sence Lowlands) and a rolling landform with a well wooded appearance influenced by woodland within and beyond the character area (Langley Lowlands).

The Zone of Theoretical Visibility within the Coalfield Character Area shows that views of the turbines would be fragmented and that even closer distance views will be intermittent due to the undulating landform and the established roadside/field boundary vegetation screening assisting in absorbing the turbines into the surrounding context. In terms of the Mease/Sence Lowlands Character Area, it is considered that this areas greater distance from the application site, as well as the fragmented ZTV, undulating landform and presence of wooded areas/hedgerow trees, will lead to any prominent views of the turbine being highly unlikely. With regards to the Langley Lowlands Character Area it is again considered that there would be a fragmented ZTV, due to the rolling landform and well wooded landscape, and in the circumstances that the turbines are visible they would appear as an insignificant element on the horizon line in the background landscape. Any 'significance of change' to the landscape character would be slight/moderate for the Coalfield and slight/negligible for the Mease/Sence Lowlands and Langley Lowlands. In the circumstances that the main features of the landscape character would not be altered as a result of the proposed turbines, it is considered that the development would not sufficiently detract from any of the existing landscape elements.

It is also considered that the lack of any statutory landscape designations on or around the site is significant in assessing the level of harm arising from the proposal, although it is noted that the site lies within the National Forest. In any case, the application site does not have a particularly high scenic quality but does contribute to the rural landscape in the immediate vicinity of the site which would undoubtedly be altered by the presence of the proposed turbines. Given their stature, most local residents, visitors and passers-by would probably regard the turbines, initially at least, as an alien feature and the majority of the people would be likely to perceive the development as detracting from the character of the landscape.

The LVIA concludes that "the introduction of the turbines would have a limited impact on the main features of interest within the landscape area which contribute more significantly to the

character, such as the gently undulating landform (and increasing level of land cover through the National Forest) and settlement pattern would remain unaffected. Similarly, the field patterns, land use activity and vegetation would remain largely unaffected."

Although the proposal would result in a noticeable difference to the landscape, given that the landscape displays characteristics which are relatively common within rural areas of England, and it is not within any formal designations or sensitive areas, along with the minimal impact on those features which contribute to the character of the landscape, it is considered that the landscape could accommodate two turbines of the scale proposed without its overall character being significantly harmed.

Impact on Visual Amenities:

The Visual Impact Assessment (VIA) considers the most sensitive locations within 3-5km of the turbine site as the proposals would theoretically have the greatest visual influence within this area and would also see the greatest level of impact due to the reduced distance. The location of the viewpoints has been informed by the ZTV maps and takes into account residential properties, road users and recreational routes/places. Beyond 5km the VIA concludes that the level of visibility would begin to dissipate due to the undulating topography, the increasing level of land cover and, in some areas, the relatively dense settlement pattern.

It is concluded that the proposed turbines can be accommodated without adding significant adverse visual effects to important receptors in the local or wider area, though there would inevitably be some slight and moderate adverse effects from some closer range viewpoints or where open and uninterrupted views are afforded towards the site, such as from Alton Hill to the south and Corkscrew Lane to the west. These are discussed in more detail below.

In terms of recreational receptors, the report provides that the proposed turbines would have a reasonably low level of impact on the network of public rights of way in the surrounding area, partly due to the scarcity of footpaths in the area and partly due to the distances from which the turbines would be visible. In the immediate landscape, nearly all footpaths or rights of way lie behind areas of significant tree cover and so would not permit views of the turbines, including those situated within or just beyond West Farm Wood to the north east of the site. The report acknowledges that there would be increased visibility of the turbines from the south but these would be viewed in the context of mature and maturing woodland and the road and former railway line to the south. When having regard to the context, the distance from the site and the modest scale of the proposals, the report provides that these factors would ensure that the turbines would not appear as highly prominent features in the landscape. The point is also made that many of such views would appear in the periphery of the walkers' vision, rather than centrally within the view due to the direction of travel. When considering the sensitivity of the receptors and the magnitude of the impact, the VIA concludes that the significance of the impact on recreational areas/routes would be no more than slightly adverse.

With regard to residential receptors, the closest neighbouring residential properties are all located approximately 600m from the proposed turbines, including Gameskeepers Cottage to the north west, Breach Farm to the south west and Little Alton Farm to the south east. The former two properties are unlikely to be affected by the proposals due to the presence of mature/maturing trees found either surrounding the property or lying in between the property and the site. With regard to Little Alton Farm, although there is no such landscaping, the agricultural buildings which are located to the north of the dwelling would screen views of the turbines from the property. As such, the VIA concludes that the significance of the impact on residential properties would be low.

In terms of potential views from other residential properties or settlements within the surrounding landscape, it is commented that a combination of distance, land cover and topography would limit the effects of the proposals. The report acknowledges that there may be some potential for views from individual properties within Farm Town to the north of the site but the ZTV maps indicate that much of this area would not have theoretical views of the turbines due to the position of the settlement beyond a small ridgeline that would likely shield the development from view. When combined with the screening effect of the hedgerows and occasional mature trees to the curtilages or maturing tree lines to field boundaries, the VIA considers that it is highly unlikely that the settlement of Farm Town would suffer harm. The report goes on to acknowledge that the turbines could be visible from the edges of Packington and Ravenstone and from roadside properties to the south of Coleorton Moor but from these areas the turbines would have reduced visibility and degree of prominence within the vista, and where visible would not appear out of scale with the surrounding landscape features. Overall, the VIA concludes that the impact on residential receptors in the area would be generally negligible or low, with some occasionally moderate effects.

The greatest level of impact that will be experienced in relation to the proposed development would be road based receptors due to the proximity of the site to major roads but also due to the undulating landscape which would permit views of the turbines from a small number of local roads. The public highways from which the turbines would be most visible are identified as the A511 to the south of the site, Corkscrew Lane to west and Alton Hill to the south. However, the VIA considers that the effects of these views would be transient and temporary and will vary depending on the direction of travel. The report concludes that whilst the impact could reach medium due to the proximity, the effects are generally localised to the more immediate highway network, and as such, the overall impact would be less than significant.

It is clearly impossible to fully mitigate the visual impacts of the wind turbines given the scale of the development and the fact that such impacts would extend beyond the land ownership of the applicant. However, the LVIA advises that the model of turbine, along with the siting of the structures (which were carefully considered to minimise visual impacts on key receptors), and the delivery of the turbines/on-site access arrangements have sought to avoid impacts on road users. It is also noted that the decommissioning of the turbines would remove all structures from the landscape and the ground would be reinstated.

It is considered that the LVIA is a reflective assessment of the sensitivity of the landscape which identifies that the receptors would be within the low-medium magnitude of change to the landscape as a result of the turbines. The views in which the impact would be moderately adverse would appear to be an accurate reflection, due to their proximity to the site, and although the turbine would be in close proximity, and as a result quite prominent, they would be screened by existing mature vegetation and there would predominately only be intermittent views along public routes. Although there will be an impact on the landscape, in particular the turbines being visually prominent from closer views, vegetation and topography will help to screen the turbines and there are also a limited number of direct open views at close proximity. The level of visual prominence will reduce further away from the turbines, with distance, topography, and existing vegetation and buildings reducing its overall prominence. The external finish of the tower and blades can also be controlled to reduce the turbines' visibility in longer views. Also, as noted above, the area is not considered to be of significant scenic quality and it is not within any nationally or locally statutory landscape designation. Whilst there will be some impact on and change to the landscape, given the above circumstances the turbines would not significantly undermine or change its character or that of the National Forest and therefore, on balance, it is considered that the impact would not be so significantly detrimental to the

landscape and its visual amenities to justify a reason for refusal. As such the proposal would not conflict with the principles of Policy E4 of the Local Plan.

Cumulative Impact:

The cumulative impact of wind turbines should also be taken into account. Currently within the District there are two medium-large turbines in operation at East Midlands Airport. Planning permission was granted in October 2011 for a 24.8 metre turbine at Hall Farm, Sweptstone Road, Heather (11/00430/FUL) approximately 6km to the south of the site; in September 2012 for two 21 metre high turbines at Mount St Bernard Abbey, Oaks Road, Whitwick (12/00358/FUL) approximately 7km to the east of the site and in July 2012 for a 40 metre turbine at Hill Farm, Willesley Woodside (12/00297/FUL), 4km to the south-west of the site, although this particular turbine has not yet been erected. Two applications for wind turbines were also recently considered by the Planning Committee. The first being an application for a 74m high turbine at Cattows Farm, Normanton Lane, Heather (13/00165/FUL) 5km to the south of the site, which was approved and the second being an application for a 90m turbine at part of the Lounge Disposal Point to the north of the A511 and east of the A42 and A512 on Ashby Road, Coleorton (13/00265/FUL) 1.6km to the north-west which was refused on the ground of visual impact and is now subject to an appeal.

The LVIA does not include the above proposals outside the District boundary or the turbines at Mount St Bernard Abbey or the refused scheme at Lounge Disposal Point in its assessment but has taken into account one commercial wind farm site as follows: -

- One turbine at Combs Farm, Nottinghamshire in excess of 10km away from the site.

The LVIA considers simultaneous cumulative visual effects, successive cumulative visual effects and sequential cumulative visual effects.

Simultaneous effects include viewing a number of schemes from a single fixed viewpoint without moving. It is considered unlikely that the proposal would be seen within the same view as the above-mentioned existing/approved turbine development within the locality due to the distances involved, theoretical visibility and intervening features (buildings, vegetation, topography etc) which would likely prevent views of both turbine developments from a single viewpoint. It should be noted that the submitted report also refers to a development of five turbines at former Bilsthorpe Colliery, Nottinghamshire being 9km to south-east of the site which is clearly incorrect and the agent has confirmed that this is the case and the reference should not be considered.

There may be some simultaneous views with the refused wind turbine at Lounge Disposal Point (recently subject to an appeal) from the A511 and other local roads due to the proximity of the single turbine to the application site. However, it is considered that in viewpoints where the proposed turbines are in close proximity, the other site will be in the distance at a different height and given the undulating landform, mature vegetation and the fact that the turbines at Lounge Disposal Point are much greater in height, it is considered that the cumulative impacts of the proposals would not have a substantially negative impact on the visual appearance of the landscape.

There may also be some scope for successive cumulative visual effects from the bridleway along Spring Lane to the south of the site, from which the proposed turbines would be visible and then the single turbine at Cattows Farm would also be partially visible when the viewer turns to face south. However, when having regard to the distances involved, it is considered that each development would be viewed as relatively modest in scale within the wider

landscape and would not appear out of scale or character within the wider environs.

Possible sequential cumulative visual impacts are most likely to occur when travelling along the highway network, when road users see one development after another along their journey. The proposal would introduce two small-scale turbines and although the site is located close to the A511, their visual impact would be transient and localised. When having regard to the distance between the site and other turbine developments across the wider landscape and the number of approved schemes, it is considered that the proposals are unlikely to contribute to an overall impression of a landscape with wind farms. Therefore, the overall impact in terms of sequential cumulative effects would be less than significant.

Historic Environment:

Consideration of heritage assets is provided in the LVIA submitted in support of the application which assesses the impact of the turbines on the setting of nearby heritage receptors.

The nearest scheduled monument would be the coal mining remains at The Coney, 500m south of Coleorton Hall, the nearest Grade I and II star listed building would be Coleorton Hall, the nearest Grade II listed building would be Alton House and Alton Grange, off Alton Hill to the south of the A511 and nearest conservation areas would be at Coleorton Hall, Packington and Ravenstone. These would therefore be designated heritage assets, as defined in the NPPF, which form an important part of the history of the area and are considered to be of some significance which have value for this and future generations.

Following consultation with the County Archaeologist, it is concluded that there would be an unlikely impact on any features of archaeological interest, and limited impacts on buried remains potentially present, particularly given the small area of land that would be disturbed by the development proposals. The County Archaeologist is satisfied with the proposals and concludes that further archaeological work could not be justified.

In terms of the scheduled monuments it is concluded that the proposal would lie beyond the setting of the monuments and as such there would be no inter-visibility between the turbine and monuments which would ensure there would be no impact on the setting or significance of these heritage assets.

With regards to the Grade I and II star listed buildings, it is considered that views of the turbines from these will be blocked by mature vegetation and the intervening topography and as such there would be no change to the setting or significance of these listed buildings. There would also be no impact on the setting or significance of the identified Grade II listed buildings due to the distances involved, the presence of mature vegetation and the intervening A511.

In terms of the Conservation Areas there would be no impacts on the Staunton Harold, Packington or Ravenstone Conservation Areas, due to the intervening built development and road infrastructure, mature vegetation, intervening countryside woodland and topography.

English Heritage were consulted on the application are satisfied for the application to be determined in accordance with local and national policies and on the basis of specialist conservation advice. The Conservation Officer has been consulted on the application and is satisfied that the proposals would have no impact on the setting of nearby heritage assets, and therefore, has no objection to the proposals. In the circumstances that neither English Heritage nor the Council's Conservation Officer objects to the conclusions of the submitted heritage assessment, it is considered that its findings can be supported and are an accurate assessment of the potential effects.

The proposed turbines would not result in substantial harm to the significance of the heritage assets and as such are to be determined in accordance with the aims of Paragraph 134 of the NPPF which concludes 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."

It is considered that the provision of the turbines would provide some public benefits given that the proposal would generate energy from a renewable source equivalent to that required to provide 258 homes per year with electricity and assist the wider public interest of tackling climate change by reducing carbon emissions. Furthermore, the proposal would represent farm diversification and help reduce the farming costs for the landowner. Overall, taking all the above matters into account, it is considered that the proposal would not conflict with the principles of Paragraphs 131, 132 and 134 of the NPPF.

Residential Amenities:

As set out on the Department of Energy and Climate Change's (DECC) website, at the current time government advice is that the ETSU report is the relevant guidance against which turbines should be assessed in terms of noise impact. A Noise Impact Assessment has not been submitted with the application but the supporting statement accompanying the application considers the issues of noise and its impact on neighbouring residential amenities. The Attenuation Noise Specifications for the model of turbine proposed are also included and referred to in the supporting information.

The Attenuation Noise Specifications for the model of turbine proposed shows that noise levels are reduced to an acceptable level of 35 db(A) at a distance of 420m from the turbine. The nearest residential properties are identified as Little Alton Farm (505m to the south east), Gamekeepers Cottage (off Corkscrew Lane 650m north west) and Breach Farm (680m south west) and therefore, the proposal would comply with ETSU-R-97 limits. Furthermore, the supporting information identifies that the background noise levels in the locality are significantly more than would be expected in rural areas, with traffic noise from the A42 and the A511. The supporting statement concludes that it is not considered that there should be any unacceptable noise nuisance from the proposed turbines affecting residential amenities.

On the basis of information submitted, the Council's Environmental Protection team has no objections and as such it is considered that the turbine would not generate a level of noise which would be sufficiently detrimental to the amenities of neighbouring properties.

In terms of vibration, the DECC's website advises that 'There is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health.' A comprehensive study of vibration measurements in the vicinity of a modern wind farm was undertaken in the UK in 1997 by ETSU for the DTI (ETSU W/13/00392/REP). Measurements were made on site and up to 1km away in a wide range of wind speeds and direction. The study found that:

- Vibration levels of 100m from the nearest turbine were a factor of 10 less than those recommended for human exposure in critical buildings (i.e. laboratories for precision measurement).
- Tones above 3.0 Hz were found to attenuate rapidly with distance, the higher frequencies attenuating at a progressively increasing rate.

On the basis of this government advice, vibration is considered to not be an issue in this case given the sufficient distance to residential receptors.

Consideration is also given to potential for shadow flicker to residential properties (created by passing of the blades across direct sunlight). The Department of Energy and Climate Change advises that there are a number of variations in determining the likelihood of this occurring and its significance, in particular that it only occurs within 130 degrees either side of north from a turbine and that potential shadow flicker is very low when more than 10 rotor diameters (in this case 300 metres) from a turbine. In this case the nearest dwellings are Little Alton Farm (505m to the south east) and Gameskeepers Cottage (640 metres to the north-west) from the site of the nearest turbine which is well outside the distance that shadow flicker can affect a property. There are a limited number of properties that would have a direct outlook of the turbine, largely due to the screening from vegetation, changes in land levels and the distance of the turbine from nearby dwellings. It is considered that the turbine would not be overwhelmingly dominant when viewed from these properties.

Overall the proposal would not conflict with the principles of Paragraphs 98 and 123 of the NPPF and Policy E3 of the Local Plan.

Protected Species and Ecology:

An Ecological Assessment including Extended Phase I Habitat Survey has been submitted in support of the application and comprises both a desk top study and a field survey. In terms of statutory designated sites, the desk top study identified three Local Nature Reserves (LNR), a Special Area of Conservation (SAC) and three Sites of Special Scientific Interest within 5km of the site. The LNR's were New Lount (2.5km north), Snibston Grange (4.5km east), Nature Alive (4.5km east), the SAC was the River Mease and the SSSI's were River Mease (5km south west), Grace Dieu and High Sharley (4.5km north east) and Lount Meadows (2.5km north). The report advises that the turbine locations do not form part of any statutory designated sites for nature conservation. All statutory sites identified were of habitat interest only and therefore, no direct or indirect impacts on the habitats of designated sites are anticipated due to the separation distances involved.

With regard to non-statutory designated sites, the desk top survey revealed five County sites, 28 District Sites and 122 Parish sites within 3km of the site. Five of the Parish sites were located within 1km of the site, comprising woodland and grassland (approx 160m north), plantation woodland (approx 290m south), woodland stand (approx 240m east), a pond (approx 640m north) and broadleaved woodland (approx 500m north). The report considers that no non-statutory designated sites will be directly affected by the proposals and indirect impacts are unlikely.

The field survey which incorporated all land within the applicant's ownership and 500m beyond, identified the survey area as being dominated by lowland farmland predominantly consisting of arable land but with large sections of plantation woodland of various age and structure. The field boundaries within the survey area varied from species poor defunct hedgerows to species rich hedges and trees. Four ponds (some of which were semi-permanent) were also identified as points of interest or of nature conservation value. The proposed turbines will be located on arable land which is considered to be of limited biodiversity value and field boundaries are not anticipated to be affected by the proposal, although it is recommended that measures should be introduced to ensure that these are protected during the construction phase.

The survey area and adjacent land were identified as being potentially suitable for a range of protected species and the wider area offers some possible foraging and roosting habitat for bats and birds. Evidence of badgers was also found within the survey area but no evidence was found of Otter, Water vole or Reptiles, although areas of suitable habitat were found for

Dormouse and Amphibians.

With regard to birds, the potential impacts include collision (bird strike) and displacement. The ornithological value of the site is identified as low but it is considered likely that the site supports farmland birds. The majority of bird species likely to be present are not generally considered to be vulnerable to wind turbine developments. Although no statutory designated sites for ornithological interest were identified in the desk top study but records of red kites, hobby, curlew and golden plover were found within 5km of the proposals. These species are only likely to visit the site on an occasional basis and therefore, it is concluded that it is highly unlikely that any impacts will occur as a result of the proposal. Any potential disturbance to vegetation within the nesting season could disturb nesting birds and therefore, this should be controlled by an appropriately worded condition.

In terms of bats, these are European Protected Species and as such receive protection under the Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended). The report advises that no bat roosts will be directly affected by the proposed works and no removal of hedgerow or other bat habitat features is planned and therefore, indirect effects on commuting or foraging routes is considered unlikely to occur. The main potential impacts from the proposed development include ultrasound emission by the turbines and death/injury through collision or the effects of rapid changes in air pressure, although research shows that some species of bat are more vulnerable than others to the effects of wind turbines.

The report concludes that the survey area is considered to fall within a medium risk location for bats due to low to medium potential for foraging/commuting for bats within the hedgerows and other surrounding habitats. Furthermore, although a pipistrelle (a low risk species) was identified within a farm complex 480m to the south of the site and seven bat species were noted within the wider area, limited roosting potential was identified within 250m of the turbines. It is also noted that the turbines would be located in excess of 60m away from any bat feature and exceeds recommended guidance for the siting of turbines. Overall, the consulting ecologist notes that whilst minor negative impacts on bats cannot be precluded, impacts on bat populations at the local level are considered unlikely.

In terms of other species, evidence of badgers was found within 500m of the proposed turbines but no setts were found within 50m of the site. The report recommends a pre-construction survey to ensure that no new setts are constructed within the interim period. As for water voles and otters, the development would not result in any direct impacts upon any ditches and drains and therefore, the report concludes that no impacts upon these species are anticipated as a result of the proposal. With regard to reptiles and amphibians, records of great crested newt were identified in the desk study and two ponds were considered to offer suitable aquatic habitat. However, as the proposal would comprise the removal of a small area of arable land of low value to amphibian species, the effects of the development are noted as being minimal. Although as a pre-caution, a series of Reasonable Avoidance Measures are recommended during the construction phase of the development.

Concern has been raised by local residents and the Parish Council about the adequacy of the ecological information submitted. Natural England has been consulted on the application and raises no objections. The County Ecologist has been consulted on the application and is satisfied with the conclusions and recommendations reached within the report. Subject to the imposition of conditions concerning the pre-cautionary recommendations for badgers and great crested newts, the County Ecologist raises no objections to the proposal. Overall, it is considered that the proposal would accord with the aims of Paragraphs 118 and 119 of the

NPPF, the Habitats Regulations and Circular 06/05.

Aviation:

East Midlands Airport is located 12km to the north of the site and consultation was carried out with the airport prior to the application submission and the airport advised by letter dated the 11th April 2012, that: "we have concluded that in isolation this development could be accommodated without materially impacting upon the continued safe operation of aircraft at East Midlands airport; the risk that would result from your proposed development is tolerable and we would therefore not be minded to object should you seek planning consent." The Airport has submitted comments which outline that they do not object to the development subject to the imposition of a planning condition requiring the airport to be notified within one month of the turbines commencing operation.

The National Air Traffic Service (NATS) originally objected to the application on the basis of the technical impacts the turbines would have on the safeguarding of aviation radars at Clee Hill which lead to an unacceptable impact on the en-route radars operated by NATS at the Prestwick Centre Air Traffic Control (ATC). The conclusions reached by NATS have been questioned by the agent due to their inclusion of turbines within their cumulative impact that do not have the benefit of planning permission because the applications were either withdrawn or never reached application stage. Following clarification of this issue, NATS have now withdrawn their objection and find the proposal acceptable from a safeguarding viewpoint.

The Ministry of Defence (MoD) have also been consulted on the application but have not provided a response to date although the site is not located within a low flying military area and is a significant distance from the closest military aviation site.

Highway Safety:

Paragraph 54 within the companion guide to PPS22 states that drivers are faced with a number of varied and competing distractions during any normal journey, including advertising hoardings, which are deliberately designed to attract attentions and that at all time drivers are required to take reasonable care to ensure their own and other's safety. The guide therefore states that wind turbines should not be treated any differently from other distractions a driver must face and should not be considered particularly hazardous.

The County Highway Authority and the Highways Agency have no objections in relation to highway safety. The proposed turbines would be delivered to the site using standard HGV's (abnormal load vehicles will not be required). The supporting statement provides that the site is accessible for such vehicles using the surrounding highway network, with delivery via the A42, A511 and Corkscrew Lane and entering the site via the existing field gateway. The new access track across the field will allow access to the temporary crane construction area and plant/equipment storage area and the supporting information details that construction traffic will be managed around the site to ensure that there is no conflict with existing traffic during the most intensive stages of construction.

The County Highways Authority has advised that Corkscrew Lane is unsuitable in terms of its construction and geometry to accommodate abnormal loads and heavy construction traffic and therefore, the County Highways Authority advises that the developer would need to mitigate against the impact of the proposed development on the public highway. To this end, it is advised that a method statement will need to be required by condition which should include details of temporary mitigation measures, including the removal of street furniture if appropriate, tracking of the route from the A511, traffic management details and a full survey of Corkscrew Lane from its junction with The Moorlands to the site access together with proposals to rectify

any damage caused during the construction phase.

The safe fall-over distance expected is the height of the turbine plus 10% (in this case 49.5m), and this is achieved in respect of the A511 and Corkscrew Lane, as well as nearby public rights of way and the railway line to the south of the site.

Subject to the imposition of a highways condition, the proposal is considered acceptable from a highway safety viewpoint and therefore, would comply with the provisions of Policy T3 of the Local Plan and the NPPF.

Impact on the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI):

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005 and the site lies approximately 5km from the River Mease. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to paragraph 118 of the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewerage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The River Quality Management Plan was published in August 2011 and was drawn up to ensure there is no adverse impact on the SAC from further development. The site lies 3km from the River Mease and the proposal would not generate any foul drainage discharge and given the nature of the turbine there would be no increases in surface water run-off from the site. Although the access track and crane pad will be permanent, a condition can be imposed requiring it to be constructed from a permeable material, in order to limit surface run-off, or provision made for the direction of surface water to a soak-away. A condition could also be imposed which would request the submission of a method statement for construction, which should adhere to the guidance contained within the Environment Agency Pollution Prevention Guidelines PPG5, in order to prevent contamination of the stream which eventually discharges into the River Mease SAC.

Given these circumstances it can therefore be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Other Matters:

With respect to matters raised by local residents that have not been addressed in the above text, noise and disruption during the construction phase of the development would be covered by separate legislation. Similarly, loss of property values is not a planning matter that can be considered in the determination of this application.

With respect to comparisons between the planning controls for other types of development within Farm Town and concerns about the proposal setting a precedent, it is a fundamental tenet of planning legislation that each application should be assessed on its own merits. It is also suggested that there are other more suitable sites within the District for the development proposed but for the reasons set out above, the proposal as submitted complies with relevant planning policies and is considered to be acceptable.

Concern has been raised about the turbines being ineffective, which would lead to the turbines being commissioned. It is considered that it would be prudent to impose a condition to cover this eventuality to ensure that the site is properly restored to its former state.

Conclusions:

In the circumstances that the proposal would accord with the aims of Policy S3 of the Local Plan, as well as the fact that the NPPF does not explicitly prevent renewable energy proposals from being located within the countryside, it is considered that the principle of the development would be acceptable. It is considered that the landscape could accommodate two turbines without its overall character being significantly harmed. Although there would be some impact on and change to the landscape, the turbines would not significantly undermine or change its character or that of the National Forest and therefore on balance this impact is not so significantly detrimental to the landscape or its visual amenities to justify a reason for refusal, as such the development would not conflict with Policy E4 of the Local Plan. There would also not be a significant effect in terms of cumulative impacts due to the heights and locations of the turbines, which already exist or are proposed within the surrounding area, as well as the intervening landforms and vegetation. It is also considered that the significance of the setting of the surrounding heritage assets would be preserved given the position of the turbines in relation to the heritage assets as well as the presence of built forms of development, infrastructure, vegetation and an undulating landform.

There would also be some public benefit to the provision of the turbines by virtue of their being a renewable energy form, and the reduced farming costs to the landowner and as such the development accords with Paragraphs 131, 132 and 134 of the NPPF. The development would not have an adverse impact on the amenities of neighbouring properties in terms of noise, vibration, shadow flicker or outlook which would ensure compliance with Paragraphs 98 and 123 of the NPPF and Policy E3 of the Local Plan. There would be no adverse impacts on pedestrian or highway safety, or aviation (subject to a Grampian conditions), which would ensure compliance with Policy T3 of the Local Plan.

It is considered that the proposal will not have an adverse impact on bats, birds or other protected species or their habitats, subject to appropriate conditions, and as such the proposal would accord with Paragraphs 118 and 119 of the NPPF, the Habitats Regulations and Circular 06/05. . It can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI, due to there being no foul drainage connection and provision being made to discharge surface water run-off to permeable or porous areas within the site and as such the development would accord with Paragraph 118 of the NPPF, the 2010 Habitats Regulations and Circular 06/05.

It is considered that the wider public interest of tackling climate change by reducing carbon emissions should be taken into account and the proposal would not raise any significant concerns in relation to other material considerations and other matters raised by third parties would not provide sufficient justification to refuse the application. It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT, subject to the following conditions:

- 1 The development shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The proposed development shall be carried out strictly in accordance with the following schedule of plans, unless otherwise required by a condition of this permission:
 - Site Location Plan (scale 1:5000), drawing number 250-00-1500 (Elevations for WTN 250 Tubular Tower 30m) and drawing number 329-50-000 (Foundation for WTN 329) which were deposited with the Local Planning Authority on 17 April 2013.

Reason - To determine the scope of this permission.

- 3 The overall height of the turbines shall not exceed 45 metres to the tip of the blades or 30 metres to the hub height, when the turbine is in the vertical position, as measured from the natural ground level immediately adjacent to the turbine base. The blades of the turbines shall not exceed 30 metres in length and there shall be no more than three blades.

Reason - To define the scale parameters of the development, and to ensure that the ecological, noise and visual impacts of the turbine do not vary during its lifetime.

- 4 No development shall commence until a scheme for the detailed external appearance of the turbines including materials and colour finish have been submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details which shall thereafter be so retained.

Reason - In the absence of precise details and in the interests of the visual amenity of the area.

- 5 The permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported from the wind turbine to the electricity grid network (the 'First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority and East Midlands Airport no later than 28 days after the event.

Reason - In recognition of the limited life expectancy of the development hereby approved, and to ensure that the use does not become permanently established on the site; so that a record can be kept of all operational turbines to aid in the assessment of cumulative impact in the interests of air safety, as the cumulative impact of wind turbine generation developments, which are in relatively close proximity, could compromise the safe control of aircraft in this area.

- 6 Not later than 12 months before the end of this permission, a scheme for the decommissioning of the turbine and restoration of the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include a method statement and timetable for the dismantling and removal of the wind turbine, access track and associated above ground works and foundations, details of the route and any highway works to transport turbine for the site, site restoration measures and mitigation measures to be undertaken during the decommissioning period to protect wildlife and habitats. Decommissioning and site restoration shall be completed in accordance with the approved details within 12 months of the expiry of this permission.

Reason - To ensure the highway, ecological, noise, and any other physical impacts can be properly assessed in the context of the area at the time of decommissioning.

- 7 If the wind turbines hereby permitted fail to operate for a continuous period of six months, a scheme for the repair or removal of the turbine shall be submitted to and agreed in writing by the Local Planning Authority within three months of the end of that six month period, or any extended period agreed in writing by the Local Planning Authority. The scheme shall include, as relevant, a programme of remedial works where repair is required; or a method statement and timetable for the dismantling and removal of the wind turbine, access track and associated above ground works and foundations details of the route and any highway works to transport the turbine from the site, site restoration measures and mitigation measures to be undertaken during the decommissioning period to protect wildlife and habitats. The agreed scheme shall be completed within 12 months of the date of its approval by the Local Planning Authority.

Reason - To ensure the highway, ecological, noise, and any other physical impacts can be properly assessed in the context of the area at the time of decommissioning.

- 8 The access track shall only be constructed of a permeable material.

Reason - In the interests of visual amenity and to prevent adverse impacts on the River Mease Special Area of Conservation/SSSI.

- 9 No development shall commence on site until such time as a detailed method statement for construction of the turbine and access track has been submitted to and agreed in writing by the Local Planning Authority. The method statement should set out methodologies to remove any risk of fuel, soils, building materials and waste water entering the stream during construction, including how and where materials, fuel and plant will be stored and contained, containment of waste water on the construction site, use of site spill kits and briefing to construction staff. Construction works relating to the development hereby approved shall be carried out in accordance with the agreed method statement.

Reason - To prevent an adverse impact on the River Mease Special Area of Conservation.

- 10 The development hereby permitted shall not commence until such time as a Highway Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of construction traffic, tracking of the route for the largest vehicles, traffic management proposals, mitigation measures to prevent damage to the Public Highway, a survey of Corkscrew Lane and details of how any damage to the Public Highway will be rectified. The development shall be carried out strictly in accordance with the approved Highway Method Statement unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of maintaining a safe and efficient highway network and in accordance with chapter 4 the National Planning Policy Framework 2012.

- 11 The development shall be carried out in accordance with the recommendations set out in paragraphs 4.5.1 - 4.5.6 in the Ecological Appraisal by avianecology (dated 13 March 2013). The development shall not commence until the findings of the pre-condition badger survey have been submitted to and agreed in writing by the Local Planning Authority. With respect to the requirements of paragraph 4.5.1, a pre-condition update of the badger survey will only be required if the construction of the turbines is delayed beyond 14 February 2014.

Reason - To ensure the protection of protected species in particular badgers and great crested newts.

- 12 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to August inclusive unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

Reason - To reduce the impact of the proposal on nesting birds, which are a protected species.

- 13 No work shall commence on site until the existing hedgerows alongside the proposed access track have been protected in accordance with a scheme that has been submitted to and agreed in writing by the Local Planning Authority. The agreed protection measures shall be retained until work on the construction of the development is completed.

Reason- To ensure the existing hedgerows are adequately protected during construction in the interests of the protected species.

- 14 Prior to the First Export Date a scheme providing for the investigation and alleviation of any electro-magnetic interference to any television signal caused by the operation of the wind turbine shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall provide for the investigation by a qualified television engineer, within a set timetable of any complaint of interference with television reception at a lawfully occupied dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which existed or had planning permission at the time permission was granted, where such complaint is notified to the developer by the Local Planning Authority within 18 months of the First Export Date. Where impairment is determined to be attributable to the wind turbine hereby approved, mitigation works shall be carried out in accordance with a scheme which has first been agreed in writing by the Local Planning Authority.

Reason - To address any issues relating to television interference.

Notes to applicant

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The applicant's attention is drawn to the attached report of Natural England dated 02 May 2013.
- 3 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £85 per request. Please contact the Local Planning Authority on 01530 454666 for further details.

Erection of two dwellings with garages (Reserved Matters to Outline Planning Permission 10/00751/OUT)

Report Item No
A5

84 Ashby Road Woodville Swadlincote Derby

Application Reference
13/00803/REM

Applicant:
Mr & Mrs M Stevenson

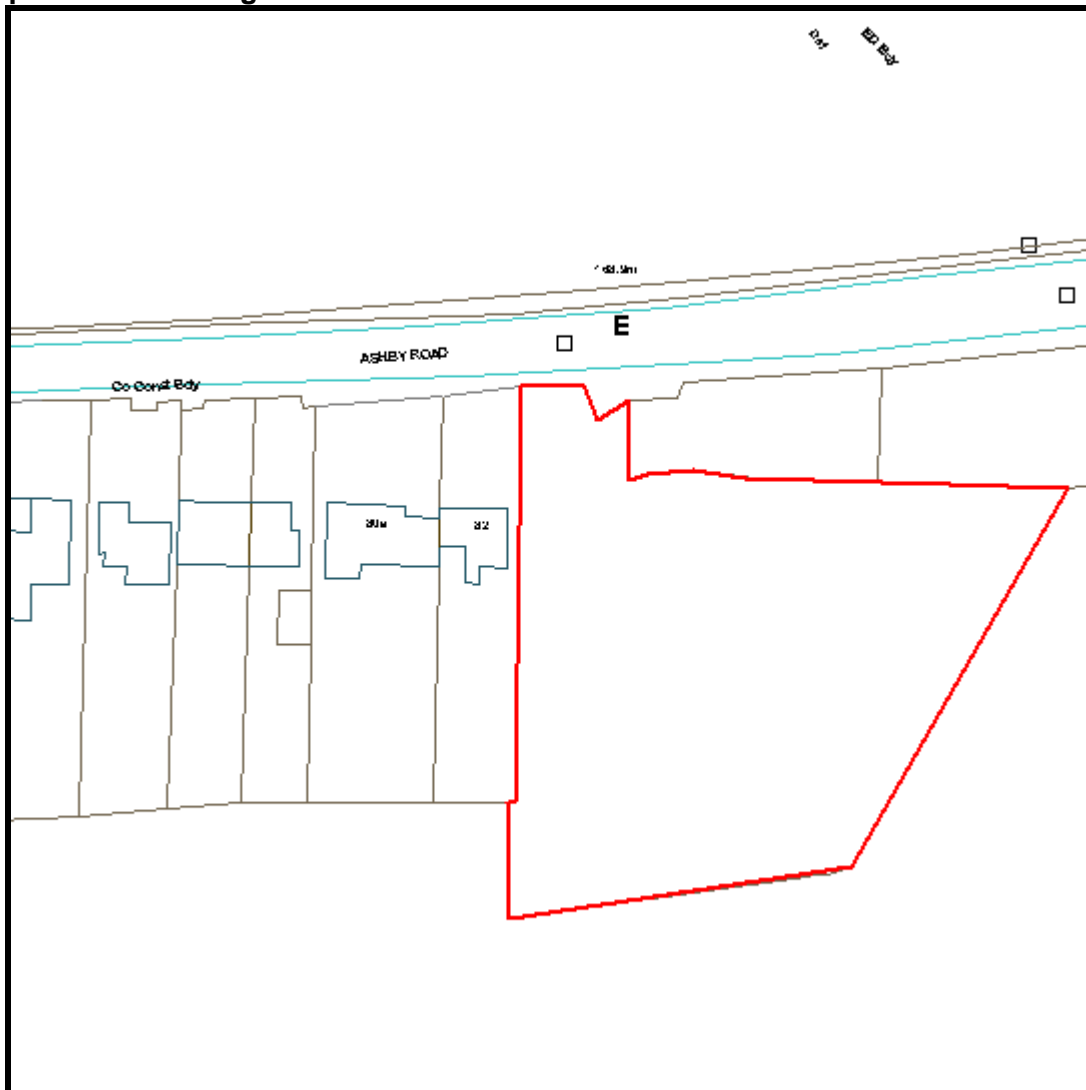
Date Registered
17 October 2013

Case Officer:
Jenny Davies

Target Decision Date
12 December 2013

Recommendation:
PERMIT

1. Proposals and Background



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

Proposal

This application seeks reserved matters approval for the erection of two dwellings with garages at No. 84 Ashby Road, Woodville. The application has been submitted pursuant to outline planning permission 10/00751/OUT which was approved in November 2010. Details relating to access, scale and layout were included within the outline application, with appearance and landscaping reserved for future determination and both forming part of this application.

The two dwellings and their garages would be located on the rear portion of the site. Both dwellings would be two storeys in height and incorporate traditional detailing. A landscaping and boundary treatment plan has also been submitted.

Consultations

Members will see from the main report below that no objections have been received in respect of the proposals and that Ashby de la Zouch Town Council supports the application. No objections have been received from the Council's Tree Officer.

Planning Policy

The application site is within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. The National Planning Policy Framework sets out national guidance on such proposals.

Conclusion

The principle of residential development and the number of dwellings has already been established as acceptable under the outline permission. The dwellings are considered to be in keeping with the scale and character of nearby dwellings and the locality and the landscaping scheme is acceptable. The proposal would not result in significant detriment to nearby residents from loss of light, loss of privacy or creation of an oppressive environment. Matters relating to highway safety cannot be taken into account. It can be ascertained that the proposal would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposed development therefore accords with the planning policies stated above. It is therefore recommended that that reserved matters application should be approved.

RECOMMENDATION - THE RESERVED MATTERS SHOULD BE APPROVED subject to conditions:

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommended reasons for approval, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

The application is brought to Planning Committee as the agent for the application is Andrew Large who is the husband of Councillor Caroline Large.

This is a reserved matters application for the erection of two dwellings with garages at No. 84 Ashby Road, Woodville. The application has been submitted pursuant to outline planning permission 10/00751/OUT which was approved in November 2010. Details relating to access, scale and layout were included within the outline application, with appearance and landscaping reserved for future determination and both forming part of this application.

The two dwellings would be located on the rear portion of the site, with Plot 1 having a detached double garage and Plot 2 having one space within a triple garage (with the remainder serving another detached dwelling proposed to the front of the site - permitted under 13/00376/FUL). Both dwellings would be two storeys in height and incorporate traditional detailing. A landscaping and boundary treatment plan has also been submitted.

The scale of the dwellings is slightly larger than shown on the outline, with Plot 1 having the same ridge height but its eaves height being 0.25 metres higher and Plot 2 being 0.7 metres higher to the ridge with the same eaves height. However case law indicates that the test of whether a reserved matters scheme falls within the scope of the outline permission is whether any changes make a material difference to the essence of what was approved at outline. Given that the difference in dimensions is minor and both dwellings would still be two storeys, the dwellings are set back behind No. 84 on a large site and the distances from nearby dwellings, in this case it is considered that the changes fall within the ambit of the outline permission. Furthermore no conditions were imposed on the outline permission specifying the eaves and ridge heights of both dwellings.

The planning history for the site is set out in the report relating to the recent report for permission ref. no. 13/00376/FUL. In total four dwellings could occupy the site (the existing dwelling at No. 84, the dwelling recently approved at the front of the site and the two dwellings that are the subject of this application).

2. Publicity

2 no neighbours have been notified.(Date of last notification 22 October 2013)

Site Notice displayed 6 November 2013

3. Consultations

Ashby De La Zouch Town Council consulted 22 October 2013
NWLDC Tree Officer consulted 23 October 2013

4. Summary of Representations Received

No letters of representation have been received.

Ashby de la Zouch Town Council supports the application.

The Council's Tree Officer has no objections.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:

- always seek to secure high quality design and a good standard of amenity;
- take account of and support local strategies to improve health, social and cultural wellbeing.

The NPPF (Para 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

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

"57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes."

"61. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"119. The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."

North West Leicestershire Local Plan:

The East Midlands Regional Plan (RSS8) has now been revoked and therefore no longer forms part of the development plan. The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan.

Policy S2 states that development will be permitted on allocated sites and other land within the Limits to Development where it complies with the policies of the Local Plan.

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy E7 seeks to provide appropriate landscaping in association with new development.

Policy F1 requires new development within the National Forest to reflect the importance of its setting.

Policy F2 sets out the criteria for maximising the potential for landscaping/planting as set out under Policy F1.

Policy F3 sets out the measures that will be used to secure landscaping/planting within the National Forest.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

Policy T8 sets out the criteria for the provision of parking associated with development. In relation to car parking standards for dwellings, an average of 1.5 spaces off-street car parking spaces per dwelling will be sought.

Policy H4/1 sets out a sequential approach to the release of land for residential development, and seeks to direct new housing towards previously developed land in accessible locations, well served by, amongst other things, public transport and services.

Policy H6 seeks to permit housing development which is of a type and design to achieve as high a net density as possible, taking into account a number of issues including housing mix, accessibility to centres and design.

Policy H7 seeks good quality design in all new housing development.

Other Guidance

Submission Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs).

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System) sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites.

River Mease Water Quality Management Plan - August 2011 draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition.

The River Mease Developer Contributions Scheme (DCS) - November 2012 is relevant to development which results in a net increase in phosphorous load being discharged to the River Mease Special Area of Conservation (SAC). It currently applies to all development which contributes additional wastewater via the mains sewerage network to a sewage treatment works which discharges into the catchment of the River Mease SAC.

6. Assessment

The main issues for consideration in the determination of this application relate to design and visual impact and the impact on residential amenities.

The principle of residential development and the number of dwellings on the site has already been established as acceptable under the outline permission for the site (10/00751/OUT).

Design and Visual Impact

The dwellings would be positioned in accordance with the layout approved under the outline permission. There is a mix of dwelling styles along Ashby Road and both dwellings have been designed to be of a similar scale to No. 84 and the recently approved dwelling located to the front of the site. Both would be of traditional design, incorporating features such as brick headers, a string course and corbelling. The garages are simple in their form and design. The increase in eaves height to Plot 1 and the ridge height to Plot 2 from the details in the outline application do not make a material difference to what was approved under the outline, as both dwellings would remain two storey and they would also be well screened from view by No. 84 and the recently approved dwelling. The dwellings are therefore considered to be in keeping with the scale and character of nearby dwellings and the locality.

The Council's Tree Officer is happy with the landscaping/boundary treatment scheme which shows a native hedgerow along the eastern boundary and shrub planting within the site.

Residential Amenities

The location of the dwellings in relation to the proposed frontage dwelling and existing dwellings in terms of resulting in loss of privacy, loss of light or creation of an oppressive environment was considered acceptable under the outline permission. The increase in eaves height to Plot 1 and ridge height to Plot 2 would not result in a significant impact on Nos. 82 or 84 Ashby Road as the overall height of Plot 1 remains the same and its overall scale would not increase significantly, and Plot 2 is 13 metres from the boundary with No. 84.

The first floor window in the northern elevation of Plot 1 would face towards No. 84 and be within one metre of No. 84's boundary, and can be conditioned to be top opening and obscure glazed. Given the proximity to No. 84's garden a condition can also be imposed preventing any further windows from being installed. No. 2's northern elevation does not contain any windows and whilst it is nine metres from the proposed frontage dwelling's rear garden, under permitted development rights any first floor windows would have to be obscured glazed and top opening only.

Other Matters

Impacts in relation to highway safety and the River Mease Special Area of Conservation were

considered under the outline permission. As this is a reserved matters application for appearance and landscaping only, highway safety cannot be considered again and there has been no material change in relation to the River Mease SAC, as the site still discharges to Milton Sewage Treatment Works which is located outside the SAC catchment area. Therefore it can be ascertained that the proposal will not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Conclusion

The principle of residential development and the number of dwellings has already been established as acceptable under the outline permission. The dwellings are considered to be in keeping with the scale and character of nearby dwellings and the locality and the landscaping scheme is acceptable. The proposal would not result in significant detriment to nearby residents from loss of light, loss of privacy or creation of an oppressive environment. Matters relating to highway safety cannot be taken into account. It can be ascertained that the proposal would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposed development therefore accords with the planning policies stated above. It is therefore recommended that reserved matters be approved.

RECOMMENDATION, PERMIT subject to the following condition(s):

- 1 The development shall be carried out strictly in accordance with the conditions set out in the outline planning permission 10/00751/OUT except as may be modified herein.

Reason- to determine the scope of this permission.

- 2 The proposed development shall be carried out strictly in accordance with the following schedule of plans, unless otherwise agreed in writing by the Local Planning Authority:
 - Drawing No. 84ARW.LOC (Site Location Plan) received by the Authority on 17 October 2013;
 - Drawing No. 84ARW.012 Rev.B (Proposed Layout for Two Dwellings) received by the Authority on 17 October 2013;
 - Drawing No. 84ARW.LAN.018 (Landscape Plan) received by the Authority on 17 October 2013;
 - Drawing No. 84ARW.GAR.019 (Garage Plot 1) received by the Authority on 17 October 2013;
 - Drawing No. 84ARW.GAR.020 (Garage Plot 2) received by the Authority on 17 October 2013;
 - Drawing No. 84ARW.P1E.014 (Plot 1 Elevations) received by the Authority on 17 October 2013;
 - Drawing No. 84ARW.P1P.015 (Plot 1 Plans) received by the Authority on 17 October 2013;
 - Drawing No. 84ARW.P2E.016 (Plot 2 Elevations) received by the Authority on 17 October 2013;
 - Drawing No. 84ARW.P2P.017 (Plot 2 Plans) received by the Authority on 17 October 2013.

Reason - for the avoidance of doubt.

- 3 No development shall commence on site until details/drawings (as appropriate) of the:-
- i. external materials, including bricks, roof tiles and the external finishes to render and the window/door units (including colour);
 - ii. brick bond;
 - iii. chimney stacks, eaves/verge detailing and string course;
 - iv. positioning and treatment of utility boxes and details of rainwater goods including external finishes

have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason- to enable the Local Planning Authority to retain control over the external appearance in the interests of visual amenities, as precise details have not been submitted.

- 4 The soft landscaping scheme shown on Drawing No. 84ARW.LAN.018 (Landscape Plan) shall be planted in full in the first planting and seeding season following the first occupation of either of the dwellings and the boundary treatment scheme shown on Drawing No. 84ARW.LAN.018 (Landscape Plan) shall be provided prior to first occupation of either of the dwellings, unless alternative implementation programmes are first agreed in writing with the Local Planning Authority. Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

Reason- to ensure satisfactory landscaping is provided within a reasonable period and in the interests of visual amenity; to provide a reasonable period for the replacement of any trees.

- 5 Notwithstanding the submitted details, the first floor window serving the ensuite in the northern elevation of Plot 1 shall be glazed with obscure glass (to at least Pilkington Level 3 or its equivalent) and have top opening lights only, which shall thereafter be retained in perpetuity.

Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.

- 6 Notwithstanding the provisions of Part 1 of Schedule 2, Article 3, of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order) no window or opening (other than any that may be shown on the approved drawings) shall be formed in the first floor of the northern elevation to Plot 1 nor any part of the northern elevation that serves the roofspace of Plot 1 unless planning permission has first been granted by the Local Planning Authority.

Reason- to avoid the possibility of overlooking in the interests of preserving the amenities of residents.

Notes to applicant

- 1 Reserved matters have been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
- 3 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:
 - Collapse of shallow coal mine workings.
 - Collapse of, or risk of entry into, mine entries (shafts and adits).
 - Gas emissions from coal mines including methane and carbon dioxide.
 - Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
 - Transmission of gases into adjacent properties from underground sources through ground fractures.
 - Coal mining subsidence.
 - Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of

PLANNING APPLICATIONS- SECTION A

foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

SECTION B- OTHER MATTERS

There are no items in this section

LIST OF APPLICATIONS FOR PLANNING COMMITTEE 3 December 2013

Section A – Planning Applications

Item	Reference	Details	Amend	Print	Sign	Sent
A1	13/00335/OUTM					
A2	12/00922/OUTM					
A3	13/00818/OUTM					
A4	13/00266/FUL					
A5	13/00803/REM					

Section B – Other Matters

Item	Reference	Details	Amend	Print	Sign	Sent
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