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Erection of up to 70 dwellings together with public open space, National Forest planting, landscaping, drainage infrastructure and access off Woodcock Way (outline - all matters reserved)

Report Item No  
A1

Land Adjoining Woodcock Way Woodcock Way Ashby De La Zouch LE65 1AX

Application Reference  
14/00769/OUTM

Applicant:  
Miller Homes

Date Registered  
28 August 2014

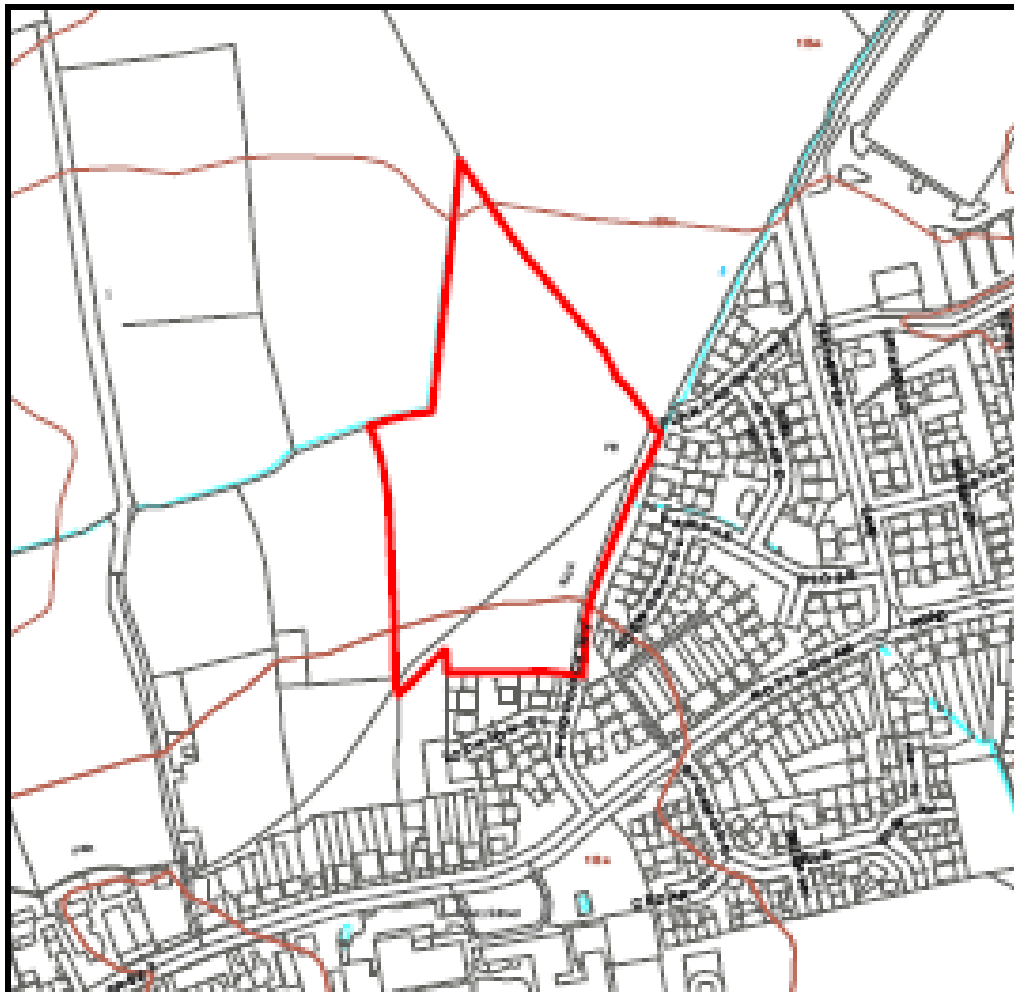
Case Officer:  
James Knightley

Target Decision Date  
27 November 2014

Recommendation:  
PERMIT Subject to a Section 106 Agreement106

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Site Location - Plan 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 70 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 Ashby de la Zouch Town 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 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. 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

### **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 3.85 hectares (currently unused grassland) for up to 70 dwellings on land to the north of Woodcock Way, Ashby de la Zouch.

Following amendment of the application, all matters are reserved for subsequent approval; whilst all matters are reserved, an illustrative masterplan has been submitted showing the proposed dwellings, together with areas of public open space / children's play, proposed and retained tree planting / landscaping and surface water attenuation facilities.

The site is adjacent to other agricultural land (to the north and west) and to existing residential development (to the south and east); the site is crossed by an existing public right of way (Footpath O89).

Whilst a reserved matter, vehicular access is indicated on the illustrative plan as being provided by way of an extension to Woodcock Way, an existing cul-de-sac served from Nottingham Road. Alterations to the existing priority junction of Woodcock Way with Nottingham Road are proposed (assuming access were provided via Woodcock Way), including provision of a new right turn lane and alterations to refuges. 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 also reserved for consideration at the reserved matters stage(s), although the illustrative masterplan indicates retention of connections to the adjacent rights of way network.

The site is part of a wider area subject to planning application 13/00335/OUTM, an outline application for the erection of 605 dwellings (including a 60 unit extra care centre), a primary school, a health centre, a nursery, a community hall, retail use and public open space with vehicular access taken from both the A511 (Ashby Bypass) and from Woodcock Way. That application was refused at the Planning Committee of 6 May 2013 on the basis of the site's poor connectivity for pedestrians to the town centre, the lack of suitability of Woodcock Way as a means of providing vehicular access, the potential impacts on the operation of Junction 13 of the A42 and the under-provision of affordable housing having regard to the lack of evidence necessary to demonstrate that a policy-compliant contribution would be unviable. That application is now the subject of an appeal, although the District Council has resolved to pursue only the final reason for refusal (i.e. the under-provision of affordable housing) at the forthcoming inquiry.

### 2. Publicity

104 no. neighbours have been notified.(Date of last notification 27 November 2014)

Press Notice published 10 September 2014

Site Notices posted 15 September 2014

### 3. Consultations

Ashby De La Zouch Town Council  
County Highway Authority  
Environment Agency  
Head of Environmental Protection  
Natural England  
NWLDC Tree Officer

County Archaeologist  
LCC ecology  
NWLDC Urban Designer  
National Forest Company  
LCC Fire and Rescue  
LCC Development Contributions  
NHS Leicester, Leicestershire And Rutland Facilities Management  
Development Plans  
Head Of Leisure And Culture  
Manager Of Housing North West Leicestershire District Council  
Police Architectural Liaison Officer  
LCC/Footpaths  
NWLDC Footpaths Officer  
Highways Agency  
Head Of Street Management North West Leicestershire District

#### 4. Summary of Representations Received

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

- Access through Woodcock Way is unsuitable and will have significant traffic implications for Nottingham Road which is already congested with 15,000 cars a day passing along the road;
- Town Council had concerns about the traffic implications of the previous application when 30 dwellings were using Woodcock Way and this development is for 70 dwellings;
- In the light of large scale planning applications already approved for Ashby, the sustainability of the location and the ability of the town's infrastructure (e.g. roads and schools) to cope with the development is questionable

**Environment Agency** has no objections subject to conditions

**Highways Agency** has no objections

**Leicestershire County Council Local Education Authority** requests developer contributions of £456,882.68 in respect of additional provision in the primary, high and upper school sectors

**Leicestershire County Council Library Services Development Manager** requests a developer contribution of £3,800

**Leicestershire County Council Highway Transportation & Waste Management Authority** advises that no civic amenity contribution is required

**Leicestershire County Council Landscape Officer** has no comments

**Leicestershire County Council Ecologist** has no objections subject to conditions

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

**Leicestershire County Council Mineral Planning Authority** has no objections

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

**Leicestershire Fire and Rescue Service** advises that it does not have the resources to comment on proposed access arrangements in respect of new development and notes that this is covered under the Building Regulations

**Leicestershire Police** objects unless a developer contribution of £27,278 in respect of policing is provided

**National Forest Company** has no objections subject to conditions and subject to Section 106 obligations

**Natural England** has no objections subject to conditions

**NHS England (Leicestershire and Lincolnshire Area)** requests a healthcare contribution of £23,331.83

**North West Leicestershire District Council Cultural Services Officer** advises that, if the right of way crossing the site were to deviate from its definitive map line, an application to divert it would be required

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

### **Third Party Representations**

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

- Further housing not needed
- Site outside Limits to Development
- Adverse impact on the walking experience of users of the Ivanhoe Way (right of way O89)
- Attempt to gain a toe-hold in Money Hill and will open up the remainder of Money Hill to development
- Insufficient highway infrastructure
- Submitted Transport Assessment not robust
- Increased congestion to roads and footways
- Unsafe access
- Increased highway hazards due to proximity to school
- Woodcock Way too narrow to accommodate additional vehicles
- Adverse impact on sustainable operation of the farm
- Loss of agricultural land
- Adverse cumulative impact of development with other schemes in Ashby de la Zouch
- Highways Agency direction preventing the development
- Insufficient capacity at Packington sewage treatment works
- Brownfield sites should be developed in preference to greenfield ones
- Contrary to 2002 Local Plan Inspector's report
- Contrary to Core Strategy
- Insufficient school and healthcare capacity
- Not sustainable development
- Some development acceptable subject to limitations on future development beyond

In addition, representations have been received from the Ashby de la Zouch Civic Society and

the Nottingham Road Action Group, objecting on the following grounds:

- District now has a 5 year housing land supply and the housing policies of the Local Plan are hence no longer out of date
- Site located outside Limits to Development
- Further residential development not needed having regard to the requirement for Ashby de la Zouch as set out in the SHMA
- Arla Dairies site can be developed instead if additional housing is required
- Contrary to Local Plan policies
- Premature
- Would impact on development of the District's preferred direction of growth at Money Hill
- Does not address reasons for refusal in respect of the refused wider Money Hill scheme
- Nottingham Road at saturation
- Submitted Transport Assessment not robust
- Excessive walking distances to town facilities - unsustainable location
- Nature of the routes to facilities make walking less desirable
- Poorly connected for cycling
- Poor accessibility to local employment by public transport
- New developments in Ashby de la Zouch aimed at long distance commuters
- Unsafe access
- Adverse impact at A42 Junction 13 and adjacent A511 / Nottingham Road roundabout
- Brownfield sites should be developed in preference to greenfield ones
- Adverse impacts on residential amenity of Woodcock Way due to increased traffic
- Adverse impact on the walking experience of users of the Ivanhoe Way (right of way O89)
- Contrary to NPPF

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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 listed 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 (Presumption in favour of sustainable development)

Paragraph 32 (Promoting sustainable transport)

Paragraph 34 (Promoting sustainable transport)

Paragraph 47 (Delivering a wide choice of high quality homes)

Paragraph 49 (Delivering a wide choice of high quality homes)

Paragraph 57 (Requiring good design)

Paragraph 59 (Requiring good design)

Paragraph 61 (Requiring good design)

Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)

Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 112 (Conserving and enhancing the natural environment)  
Paragraph 118 (Conserving and enhancing the natural environment)  
Paragraph 123 (Conserving and enhancing the natural environment)  
Paragraph 131 (Conserving and enhancing the historic environment)  
Paragraph 132 (Conserving and enhancing the historic environment)  
Paragraph 135 (Conserving and enhancing the historic environment)  
Paragraph 173 (Ensuring viability and delivery)  
Paragraph 203 (Planning conditions and obligations)  
Paragraph 204 (Planning conditions and obligations)

### **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. The following Local Plan policies are relevant to this application:

Policy S3 - Countryside  
Policy E2 - Landscaped Amenity Open Space  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E6 - Comprehensive Development  
Policy E7 - Landscaping  
Policy E8 - Crime Prevention  
Policy F1 - National Forest General Policy  
Policy T3 - Highway Standards  
Policy T8 - Parking  
Policy H4/1 - Housing Land Release  
Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy H8 - Affordable Housing  
Policy L21 - Children's Play Areas  
Policy L22 - Formal Recreation Provision

### **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.

### **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 Leicestershire 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.

### *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 with an additional buffer of 5% or 20% depending on its previous record of housing delivery.

In terms of the minimum amount of housing required to be provided within the District as a whole, a Strategic Housing Market Assessment (SHMA) undertaken on behalf of all of the Leicestershire local planning authorities has provided the District Council with an up-to-date objectively assessed annual housing requirement, equating to 350 dwellings per annum. The approach used in the SHMA to establishing this Objectively Assessed Need (OAN) was supported by the Inspector who determined the appeal in respect of a site at Lower Packington Road, Ashby de la Zouch, issued in October 2014 and, based on the findings of the Inspector regarding the appropriate method of calculating supply, the District Council's latest housing supply trajectory indicates that, using the approach of the above annualised requirement with a 20% buffer, the District is currently able to demonstrate a supply of 6.18 years.

Having regard to the above and to the approach set out in Paragraph 49 of the NPPF, Local Plan Policy S3 is considered to be up-to-date in the context of Paragraph 49. However, given that the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006), this needs to be taken into account when considering the weight to be applied to any conflict with this policy.

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. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out in more detail in this report.

Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential approach is outdated in the context of the NPPF, the sustainability credentials of the scheme would still need to be assessed against the NPPF.



The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. The settlement of Ashby de la Zouch benefits from a range of local services and is readily accessible via public transport and, in general, is considered to be an appropriate settlement for new residential development and, as a settlement, would score well against the sustainability advice in the NPPF.

Insofar as the site itself is concerned, and whilst it is located outside Limits to Development, it is well related to the existing built up area of the town. In terms of accessibility, it is noted that the site is within close proximity of the existing town and the range of services available therein. The site access from Woodcock Way is approximately 600m from the town centre (being the closest point of the Core Town Centre Shopping Area as defined in the adopted Local Plan) when taking the shortest all-weather / all user walking route (i.e. via Woodcock Way, Nottingham Road and Wood Street). A shorter walking route is also available via right of way O89 (approximately 450m from the edge of the application site to the Core Town Centre Shopping Area on North Street); whilst this is not suitable for all users, nor likely to be an attractive alternative during adverse weather or at night, the applicants are proposing to make a contribution towards the provision of a continued metalled pedestrian link along this route between the application site and the town centre. In terms of public transport, the nearest bus services are available at stops adjacent to Ashby School, approximately 230m (eastbound) and 300m (westbound) from the site entrance. Services available include approximately two or three buses towards the town centre per hour during the daytime (although with less frequent services on Sundays). Regular connections are also available to and from Coalville, Loughborough, Burton upon Trent and Swadlincote. In addition to its town centre links, the site is considered to be relatively well related to retail and employment areas on the eastern edge of Ashby de la Zouch; if accessed via the existing rights of way network, the entrance of the Ashby Tesco store is approximately 650m from the eastern site boundary.

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.

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, together with appropriate contributions towards affordable housing 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, and its accessibility to public transport, would perform reasonably well in terms of need to travel and the movement towards a low carbon economy.

*Relationship to the Wider Money Hill Development*

Whilst it is noted that the application for the wider Money Hill scheme (ref. 13/00335/OUTM) was refused, no objection per se to the principle of that development was raised by the Local Planning Authority, and the District Council's concerns to be raised at the forthcoming appeal do not relate to issues of developing the site in principle. The potential therefore exists (and was also anticipated in the former emerging Core Strategy) that the wider Money Hill site could come forward in the future and, as such, it is considered reasonable, in the interests of the proper planning of the area, to ensure that the current scheme to develop a section of that wider site would not prejudice its proper development. In terms of relevant planning policies, adopted Local Plan 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. Insofar as the principle of development is concerned (and when considering in the context of the illustrative material submitted with the application), it is considered that there would be no overriding reason why development of this parcel in isolation would necessarily prejudice the wider development, and subject to appropriate linkages being secured at the reserved matters stage.

Insofar as supporting infrastructure is concerned, developing the site in isolation could, it is considered, result in some issues if the relevant contributions were not reasonably flexible in their nature. For example, on the one hand, if the wider Money Hill development were to proceed, the relevant contributions to infrastructure would, preferably, be able to contribute towards a comprehensive mitigation for the wider development (as opposed to individual developments within the wider site making "piecemeal" contributions). On the other hand, however, there could be no guarantees at this time that the remainder of the wider site would ever come forward and, in those circumstances, the development the subject of the current application would need to be able to mitigate for its own impact, and at a scale commensurate to the level of development proposed (i.e. 70 dwellings). These issues are not, it is considered, readily resolvable, and the approach as set out within this report is, in officers' view, a reasonable compromise in the circumstances.

The various issues arising from the proposed development's relationship to the wider Money Hill development are set out in more detail within the following sections of this report, where relevant.

*Conclusions in respect of the Principle of Development and Planning Policy*

The site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. However, given the overall conclusions in respect of whether the site constitutes sustainable development in NPPF terms, and given the need to maintain a five year supply of housing, it is considered that release of the site would nevertheless remain appropriate. Having regard to all of the above, therefore, 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 originally submitted, all matters were reserved for subsequent approval except for access

(insofar as vehicular access into and out of the site is concerned); the application has now been amended so as to reserve all matters. The point of access proposed showed vehicular access via Woodcock Way (and associated alterations to the existing priority junction of Woodcock Way with Nottingham Road); this junction has been subject to a Stage 1 Road Safety Audit. The general form of the development (i.e. accessed via Woodcock Way) indicated on the submitted illustrative layout also shows other potential pedestrian links into and through the site connecting to the public right of way passing 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 in respect of the outline application).

The application is accompanied by a Transport Assessment as well as a Travel Plan; both documents were amended during the course of the application following dialogue with the County Highway Authority. The Transport Assessment indicates that, in the applicants' consultants' opinion, the development is in a location where all key amenities and facilities are located within acceptable walking distance from the site, stating that all local services are located within 2km walking distance from the site including supermarkets, a restaurant, pubs, schools, a doctor's surgery and a leisure centre, and can be accessed via existing footways and pedestrian crossings. It also considers the accessibility of the site by public transport (and as already assessed under Principle of Development above).

The County Highway Authority's comments were submitted prior to the removal of all access matters from the outline application. However, it is understood from the County Council that this amendment to the application does not affect its overall views, and its comments on the originally proposed access continue to apply insofar as the illustrative layout is concerned. Overall, the County Highway Authority confirms that it has no objections to the application in principle, but having regard to likely impacts on the surrounding highway network, recommends a number of conditions and planning obligations. The County Highway Authority comments on the respective highway-related issues as follows:

*"Site Access:*

*The existing access at Woodcock Way is a simple priority junction serving 20 dwellings. It follows that turning movements at Nottingham Road / Woodcock Way junction would increase with the addition of the proposed 70 dwellings. The proposal is to provide a right-turn lane to keep the ahead flows free from obstruction from right turning vehicles....The proposed layout was subject to an independent Stage 1 Road Safety Audit which recommended minor amendments, but did not raise any material concerns.*

*The proposed site access design was checked by the CHA [County Highway Authority] against the 6Cs Design Guide and Manual for Streets (MfS) guidance. In strict accordance with guidance, the minimum lane widths should be 3m for all lanes, requiring a total carriageway width of 9m. However, the existing carriageway width is only 8.5m and this accommodates a 2.5m right turning lane. This is considered to be an acceptable relaxation in this instance given that only cars are likely to be using the right turn lane. This also enables a suitable visibility splay to be achieved by keeping the give-way line closer to the main carriageway on Nottingham Road. However, this does mean that the proposed pedestrian refuge is only 2m in comparison to a desirable 2.5m.*

*Visibility exiting from Woodcock Way is currently partially obscured by overgrown vegetation. The visibility requirement based on MfS guidance is 2.4m by 43m, which has been verified on site as being achievable for the proposed design by maintaining the vegetation. However, given the site constraints, prior to any works beginning on site, further detailed design will need to be submitted to the Highway Authority for review to further demonstrate acceptability. An*

*independent Stage 2 Road Safety Audit will be required alongside the detailed design. On completion of the works an independent Stage 3 Road Safety Audit stage 3 should also be undertaken.*

*In conclusion, the proposed junction improvements will mitigate against the increased use of Woodcock Way from a capacity perspective. It also provides enhancements to pedestrian facilities by providing a refuge along the desire line for crossing Nottingham Road."*

Insofar as traffic generation and distribution are concerned, the County Highway Authority advises that vehicle trip rates have been based on the existing trip generation at Woodcock Way, and is consistent with other residential developments. The County Highway Authority has also provided a summary setting out the committed developments taken into account in the formulation of the Transport Assessment, and the off-site junctions assessed in terms of their operational capacity and performance.

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:

*Woodcock Way / Nottingham Road proposed ghost island junction*

*The junction has been demonstrated to be operating within capacity and the proposed layout is therefore acceptable.*

*Wood Street / Upper Church Street proposed signalised junction*

*This junction has been tested against proposed signal arrangement and has been demonstrated to be operating over its capacity both with and without the proposed development. With the proposed development the junction capacity deteriorates slightly from -20.1% to -21.0% reserve capacity (a change in value of 0.9%). Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required*

*Bath Street / Kilwardby Street / Derby Road double mini-roundabout junction*

*The modelling results in the TA [Transport Assessment] show the junction to be operating over its capacity both with and without the proposed development. Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required.*

*Nottingham Road / Resolution Road traffic signal junction*

*This junction has been tested with CHA model, but assumed that pedestrian phase is operational on each cycle, therefore providing worst case scenario. Whilst congestion is likely to worsen, the development's traffic impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required.*

*A511 / Nottingham Road roundabout junction*

*The modelling results in the TA show the junction to be operating over capacity both with and without the proposed development. Whilst congestion is likely to worsen, the development's impact on this junction is not severe within the context of the NPPF. Mitigation is therefore not required."*

*Public Transport and Transportation Developer Contributions*

Insofar as public transport is concerned, having regard to the proximity of existing bus stops, and the frequency of the services available from those stops, the County Highway Authority does not require any contribution to public transport enhancements in this case. The County Highway Authority does however consider that improvements to the existing infrastructure would promote bus use and considers that these ought to be secured through Section 106 contributions. In particular, the County Highway Authority comments that, if a bus-ready route could be provided within the development, this would provide the potential for bus penetration to wider development in the area, and that such a route would need to be on roads 6m in width which could, the County Council considers, be detailed at the reserved matters stage. Without this provision, the County Highway Authority notes, bus penetration to wider development in the area could be prejudiced.

Insofar as bus penetration is concerned, it is noted that, as part of the wider Money Hill development the subject of planning application 13/00335/OUTM, the scheme proposed a diverted bus service between Ashby town centre and the development site, including a route whereby buses from the town centre 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. As a smaller development (likely to be in the form of a cul-de-sac), and given the proximity to existing bus services on Nottingham Road, the scheme is not, in itself, considered to require diversion of a bus route in this way. However, in order to ensure that any wider Money Hill scheme could secure bus penetration, the County Highway Authority's view that the scheme would need to ensure that a suitable route through the site were deliverable is concurred with. This would need to be taken into account at the reserved matters stage.

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

- Improvements to the public rights of way in the interests of encouraging sustainable travel to and from the site, achieving modal shift, and reducing car use (and as per those requested by the County Highway Authority's Public Rights of Way Officer - see below)
- A Construction Traffic Routeing Agreement
- Travel Packs 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 £52.85 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 and to establish changes in travel behaviour from first occupation (which can be provided through Leicestershire County Council at a cost of £350 per pass if required)
- Provision of information display cases at the two nearest bus stops to inform new residents of the nearest bus services in the area (£120 per display)
- Provision of bus shelters at the two nearest bus stops to provide high quality and attractive public transport facilities to encourage modal shift (£4,908 per shelter)
- Contribution towards equipping the nearest bus stop(s) with Real Time Information (RTI) system to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice, and to encourage modal shift (at a total of £5,840)

The applicants have confirmed their agreement to the contributions listed above which, in officers' view, meet the relevant NPPF and CIL Regulation tests.

### *Pedestrian Access*

In terms of the accessibility of the site generally, this is considered in more detail under Principle

of Development above. 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. Public right of way O89 (part of the Ivanhoe Way circular route) passes through the site, and connects beyond the site boundary to other rights of way (including rights of way O90, O91 and O92). In terms of right of way O89, 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 appear to follow precisely the definitive map route. However, subject to the route being retained within landscaped areas, and including a minimum surfaced width of 2m plus 1m grass borders for the section of the footpath passing through the site, raises no objections. Appropriate new signage and gates are also requested.

In principle, there appears to be no reason why the development could not accommodate the existing line of right of way O89. Should this not be the case, however, an application to stop up / divert the right of way would be required, and would be likely to be dealt with by the District Council's Cultural Services Officer. As set out in DEFRA Circular 1/09 relating to rights of way, most outline planning applications do not contain sufficient information to enable the effect on any right of way to be assessed (and are not required to do so) and, as such, these issues are usually dealt with at the reserved matters stage. Nevertheless, and as set out above, there appears no reason in principle why a suitable solution could not be found at that time. Insofar as the amenity impacts of the proposed development (i.e. the impacts on the amenity value of the right of way as a leisure / recreational route given that it would no longer pass through a section of undeveloped countryside) are concerned, it is accepted that some adverse impacts on its value in this regard would result. However, having regard to the limited extent of the section subject to this change, and subject to the reserved matters scheme ensuring that the right of way is provided within a landscaped setting as far as practicable, it is not considered that these impacts would be unacceptably harmful, nor sufficient to render the development unsustainable in NPPF terms.

It is also noted that, for the purposes of enhancing connectivity, the applicants are proposing to make a contribution of £110,275 so as to allow for the formation of a continuous metalled pedestrian link between the site and the town centre. Again, such proposals would have an element of an urbanising effect (and, in particular, on those sections where right of way O89 passes through undeveloped agricultural land). However, subject to the use of appropriate surfacing, it is not considered that such alterations would be unacceptable in visual impact or amenity terms. In terms of the sum offered, Leicestershire County Council's Rights of Way Officer considers that the financial contribution proposed is appropriate in this instance.

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

### **Landscape and Visual Impact**

The application is accompanied by a Landscape and Visual Impact Assessment, as well as a Tree Survey and Arboricultural Impact Assessment.

The Landscape and Visual Impact Assessment considers the site's context in relation to surrounding development / landscape, and considers the impact upon a total of 10 viewpoints, including views close to the application site, and further afield (including from Corkscrew Lane, the Ashby bypass, Western Old Parks Farm and Money Hill Farm).

In terms of landscape effects, the Landscape and Visual Impact Assessment considers that the

sensitivity of the landscape is "medium". However, when considered in the context of the proposals which the Assessment finds to be of a low impact (in landscape terms, having regard to the urban fringe character of the landscape), the overall impact would, the Assessment concludes be "minor adverse" (albeit "moderate to major adverse at the site specific level). Insofar as visual effects are concerned, the impacts from three of the various viewpoints considered are categorised as "Moderate"; the others were found to have an impact less severe than that.

The Landscape and Visual Impact Assessment concludes that views towards the site are limited to short and middle distance views from the south-west, south, east and north-east, and that distant views are restricted by the intervening landform and vegetation; "high sensitivity" receptors include visitors to Ashby Castle, residential properties to the south and east of the site and users of the Ivanhoe Way (of which separate analysis is made within the Landscape and Visual Impact Assessment). The Assessment suggests that the development would be visible from a very localised area only and, where it would be seen, "moderate adverse" effects would be limited to receptors in close proximity only. It also considers that, in the longer term, effects would reduce as landscaping became established.

In terms of retained / proposed planting, the site is within the National Forest, and the scheme's performance vis-à-vis the relevant National Forest standards is set out under the relevant section below. There are a number of trees / hedgerows on the site (primarily located to the site periphery) and, whilst a reserved matter, the illustrative masterplan would suggest that the majority of the vegetation would be capable of being retained in the event that the reserved matters proposals took the form indicated. The principal areas of the site where removal would be required (were the illustrative scheme implemented) are to the north western and eastern site boundaries (removal of brambles), and adjacent to Woodcock Way (removal of trees and hedgerow required to accommodate the site access). These latter works would involve the removal of an ash tree (retention category C) and part of a hawthorn / elder hedgerow (retention category C). Were the development implemented in the manner indicated, it is not considered that the impacts in terms of the loss of this vegetation would be unacceptable.

It is noted that the application site forms part of the wider Money Hill site the subject of application 13/00335/OUTM, and which proposed strategic landscaping for the site as a whole, and including from the north (i.e. adjacent to the Ashby bypass). Development of this section of the site in isolation from the remainder of the wider site would not enable the delivery of this strategic landscaping, nor is any contribution towards it proposed. For their part, however, the applicants consider that the scheme as proposed only needs to address its own landscape and visual impacts (and it is accepted that there can be no guarantees at this time that the wider site would ever come forward). It is accepted that, notwithstanding the lack of a contribution towards addressing the wider landscape impacts of the Money Hill site as a whole, it is reasonable to assess the current application on its ability (or otherwise) to mitigate its own impact. It is also accepted that, were the remainder of the Money Hill site developed, the impacts from this particular section in the wider context would be relatively limited (given their resulting position within a built up area). Alternatively, if the wider Money Hill scheme were not to come forward, it is accepted that, subject to an appropriate scheme being proposed at the reserved matters stage(s), there is no reason why a suitable form of landscaping could not be provided at that time. On the basis of the submitted illustrative plan, it is considered that the case for the scheme as shown has not been demonstrated in that some relatively limited landscaping is shown to the northern and western boundaries which, if the remainder of Money Hill were to stay undeveloped, would form the edge of the town and, hence, would need to provide for an appropriate form of screening to address the transition between the urban and rural landscapes. Notwithstanding this concern, however, it is nevertheless accepted that, in principle, there is no

reason why an appropriate landscaping solution could not be achieved.

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

### **Loss of Agricultural Land**

Whilst not currently in active agricultural use, the proposed development would result in an irreversible loss of this land 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, the quality of this land was assessed as part of the submitted Environmental Statement relating to the wider Money Hill application (ref. 13/00335/OUTM); the two assessments informing that Environmental Statement identified the current application site as falling within Grade 3a and, as such, the site would appear to constitute BMV land.

In terms of assessing the significance of this loss, it is noted that, at 3.85 hectares, the site falls some way below the 20 hectare threshold at which it is generally accepted that a "moderate" impact from the loss of BMV would result. 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.

Whilst 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, 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 render the development unsustainable overall, nor that planning permission should be refused on this issue.

### **Drainage, Ecology and the River Mease SAC**

The submitted documents include assessments 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*

A Flood Risk Assessment has been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within fluvial Flood Zone 1; on this basis it is considered that the sequential test would be satisfied.

In terms of other sources of flood risk, the Flood Risk Assessment considers the potential flooding impacts from surface water, sewer, groundwater and reservoirs. Of these, it is noted that the site includes areas at risk of pluvial flooding and, including small sections of the site



within the 1 in 30 year event. Mitigation measures are therefore recommended to address this issue.

The Flood Risk Assessment includes a drainage strategy which proposes surface water mitigation measures designed to mimic flows from the undeveloped site including attenuation to restrict run-off to the ditch course along the eastern boundary to greenfield rates for storms up to the 1 in 100 year (+30% allowance for climate change) return period event. It also proposes that discharges from the attenuation basin to the existing watercourse would be restricted to 6.3l/s during storms up to the 1 in 100 year (+30% allowance for climate change) return period event by a flow control system, equating to approximately 70% betterment over the existing site. In addition, the strategy proposes other mitigation measures, and including providing finished floor levels at a level of at least 150mm above adjacent ground levels. Insofar as foul drainage is concerned, this is proposed to be discharged to the existing public foul sewer on Woodcock Way. No objections are raised in terms of flood risk or drainage issues by the Environment Agency or Severn Trent Water. Whilst the Agency notes that some of the site appears to drain to an alternative watercourse from that proposed, there appears no reason why retention of natural drainage paths could not be secured subject to appropriate measures being secured by way of condition.

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

#### *Ecological Issues*

The application is supported by an Ecological Assessment of the site. This provides that the closest statutorily designated sites of nature conservation of importance to the application site are the Lount Meadows Site of Special Scientific Interest (SSSI) and River Mease Special Area of Conservation (SAC) and SSSI. In terms of non-statutory designation, the Assessment identifies 14 non-statutory sites within 1km of the application site, including three District level sites, five Parish level sites, and six candidate / potential Local Wildlife Sites. Insofar as anticipated impacts on these sites are concerned, the Appraisal concludes as follows:

Lount Meadows: Given the distance from the site, significant adverse impacts are unlikely

River Mease: Subject to the mitigation proposed to be secured via the Developer Contribution Scheme as set out below, significant adverse impacts would not result

Other Sites: The closest site is the Green Lane Parish level site; whilst there would be an increase in the number of people using the footpath along the Green Lane, this increase is unlikely to have significant effects.

Insofar as protected or notable species are concerned, the Assessment considers the impacts on badgers, bats, reptiles, great crested newts, and birds. In terms of these, no evidence in respect of use of the site by badgers, great crested newts or reptiles was found. The Assessment suggests that the impacts on bat commuting and foraging habitat would not be unacceptable, and could be limited by appropriate retention of suitable trees, and appropriate use of lighting. Similarly, the impacts on birds could, the Assessment indicates, be mitigated by way of retention of suitable trees and undertaking of clearance works outside of the breeding season.

Subject to conditions, no objections are raised by Leicestershire County Council's Ecologist, and the proposals are therefore considered to be acceptable in terms of their ecological impacts, subject to the imposition of suitably-worded conditions.

*River Mease Special Area of Conservation (SAC)*

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). 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 would have a significant effect on the SAC is required.

The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

The application is supported by a River Mease SAC Impact Assessment which considers the implications of the proposed development on the River Mease and proposed mitigation. This includes the making of a DCS contribution in accordance with the formulae set out within the DCS, and with the final amount payable being 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. As such, and subject to the implementation of appropriate obligations, the proposals would comply with the relevant planning policies and the Habitats Regulations. 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.

The flows from the new dwellings will need to be taken into account against the existing headroom at Packington Treatment Works, which serves the site. As of March 2014 capacity was available for 457 dwellings when taking into account the number of dwellings that had consent and / or were under construction; whilst approval of further dwellings since March 2014 would reduce the capacity, sufficient capacity nevertheless remains for the proposed development, and particularly when having regard to the significant additional capacity now available as a result of the closure of the Arla dairy (equivalent to adding approximately 1,900 additional houses to the headroom figure in the 2014 capacity report).

On this basis, it is accepted that the proposed development, either alone or in combination with other plans or projects, would not have an adverse impact on the internationally important interest features of the River Mease SAC or any features of special scientific interest of the River Mease SSSI (nor would there be any other impacts on other aspects of the SAC / SSSI), 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.

**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 illustrative proposals and the Design and Access Statement, however, the District Council's Urban Designer has raised concerns regarding the illustrative scheme, and considers that the concept lacks strength and, for instance, suggests a street hierarchy that offers no meaningful distinction or no defining or focal point spaces. He is of the view that, on the basis of the submissions, there is limited distinctiveness between the different street typologies and, having regard in particular to the potential development of the wider Money Hill site, suggests that use of nodal spaces would help aid navigation. The District

Council's Urban Designer also questions the orientation of the principal street which, on the basis of the illustrative layout, would run north west from Woodcock Way, then north east, and then north / north west, whereas the Urban Designer considers that it would more appropriately continue direct to the north western boundary. The scheme also, he considers, appears to lack an overall direction / rationale, and seems more akin to an extension of the existing Woodcock Way development rather than creating a more "memorable" development which would be landscape or architecture led. He therefore expresses concern that the proposals are somewhat "lacklustre" and do not embrace the urban design principles and those behind Manual for Streets.

Further to these concerns, an updated Design and Access Statement has been submitted and, at the time of preparing this report, was being considered by the District Council's Urban Designer, and whose updated comments will be reported on the Update Sheet. The recommendation below is therefore made on the assumption that the revised submissions will address the Urban Designer's concerns satisfactorily; if this is not the case, however, this matter will be addressed on the Update Sheet, and any amendments to the recommendation set out accordingly.

### **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. Whilst the Environmental Statement submitted in respect of the wider Money Hill proposals noted the potential for impacts from the nearby United Biscuits warehouse (principally due to HGV manoeuvring to the rear of that unit) and made mitigation recommendations (extension of the existing acoustic screen), that proposal involved erection of dwellings significantly closer to the warehouse than would be the case in respect of this particular site, and such mitigation would not appear necessary for this development. No objections are raised by the District Council's Environmental Protection team.

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 access 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 increased use of this route by vehicles 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.

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves, whilst an illustrative masterplan has been submitted, all matters 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 south of the application site, including properties on Woodcock Way and Lockton Close. 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.

### **Heritage Issues**

The application is supported by an archaeological desk based assessment; this assessment also includes consideration of designated heritage assets in the vicinity.

Insofar as designated assets are concerned, the assessment concludes that none of these (comprising listed buildings, the Ashby de la Zouch Conservation Area and the nearby scheduled monument (i.e. Ashby Castle)) would be impacted upon, having regard to their screening from the site by intervening development; this general conclusion is accepted.

In terms of non-designated assets, the assessment has regard to the findings of the earlier appraisal work undertaken in respect of the wider Money Hill site application. Paragraph 135 of the NPPF provides that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that, in weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. In terms of archaeological finds within the vicinity of the site, these include finds from the prehistoric and Saxon / medieval eras, although of particular significance in this case is the previously-identified ridge and furrow. Insofar as this feature is concerned, the assessment suggests that it is not exceptionally well preserved, nor complete, and is part of a "once extensive and now heavily eroded set of landscape features that has some visual appeal but which, unlike most significant earthworks, contains within its own matrix little or nothing of archaeological interest". As such, the assessment concludes that it is not of more than local significance. At the time the wider Money Hill scheme was considered, English Heritage took the view that the significance of the ridge and furrow (which extends to a wider area than just this part of the application site) was a material consideration which the Local Planning Authority needed 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). It is considered that the ridge and furrow within the area the subject of the current application is not as important visually as elsewhere in the wider site. Given this, together with the scale of the current development compared to the wider scheme, and to the increased separation of this area from the Conservation Area as compared to the areas of ridge and furrow within the wider Money Hill site, it is again accepted that this does not represent an overriding issue in the overall planning balance. Furthermore, the development of this site would not preclude preservation of ridge and furrow features elsewhere within the site as previously intended as part of the open space forming the wider Money Hill development. On this basis, the proposals are considered to meet the tests in Paragraph 135 of the NPPF.

It is therefore considered that the proposed development would be acceptable in terms of heritage issues; no representations have been received from the County Archaeologist.

### **Geo-Environmental Conditions**

A Phase 1 environmental risk assessment has been submitted with the application which provides an assessment of the site's ground conditions, and indicates that, whilst a small number of potential risks to receptors have been identified, there are no overriding impediments to the site's development in terms of contamination or general ground conditions, subject to further investigation / mitigation as appropriate; no objections are raised by the District Council's Environmental Protection team in respect of contamination issues.

### **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 referred to in respect of access / transportation) are listed below.

#### *Affordable Housing*

The applicants propose to make an affordable housing contribution of 30% (i.e. 21 dwellings assuming a 70 unit development) as per the Local Planning Authority's current requirements for the Ashby de la Zouch area for a scheme of this scale.

The precise nature of the contribution in terms of house type / size tenure etc would need to be resolved pursuant to the Section 106 agreement but, on the basis that it is proposed to make a policy-compliant contribution, the proposed development is considered acceptable in this regard.

#### *Children's Play and Public Open Space*

The illustrative masterplan shows a proportion 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 70 dwellings, an area for children's play of 1,400 square metres would normally be required. Whilst this would represent 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 require that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity; there would appear to be no reason in principle why the proposed development could not comply with this requirement.

Insofar as youth / adult recreation is concerned, it is noted that, in isolation, the proposed development would fall below the relevant Local Plan and SPG threshold (identified in the SPG as 100 dwellings) for making an appropriate contribution. Nevertheless, the view is taken that the application site, when considered cumulatively with other areas of the wider Money Hill site, would generate a requirement for formal recreational open space. In view of the limited scale of the site, there would be no realistic likelihood of providing an appropriate facility on site, but the applicants have offered an off-site contribution of £91,000 (i.e. equivalent to a contribution of £1,300 per unit); this would then allow the scheme to make a proportionate contribution towards the mitigation necessary to accommodate the wider Money Hill scheme, whether within the wider site, or elsewhere in the vicinity.

#### *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 confirm that the proposals will 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 Ashby de la Zouch Church of England Primary School. The school has a net capacity of 315 and 474 pupils are projected on the roll should this development proceed; a deficit of 159 places. There are currently 109 pupil places at this school being funded from Section 106 agreements for other developments in the area which reduces the deficit at this school to 50 (of which 33 are existing and 17 would be created by this development).

The County Council also refers to three other primary schools within a two mile walking distance of the development, namely Ashby Willesley Primary School, Ashby Hill Top Primary School and Woodcote Primary School. Taking these schools and other Section 106 contributions into account, the overall deficit including all schools within a two mile walking distance of the development is 39 pupil places and the 17 deficit places created by this development can therefore not be accommodated at nearby schools and a claim for an education contribution in respect of 17 school places in the primary sector (equating to £203,263.37) is made.

Insofar as the relationship to the wider Money Hill scheme is concerned, it is noted that, at the time that application was under consideration, an on-site primary school was proposed, and the Local Education Authority was requesting the provision of this school or, if the proposed school on the Holywell Spring Farm site were progressed first, a contribution towards extension of that

facility (and vice versa if the Money Hill scheme progressed first). At the present time, the County Council advises that it is currently liaising with developers in respect of the Holywell Spring Farm site with regard to the delivery of the new school on that site, which would secure a school with 4 classrooms which would be sufficient to accommodate the 96 pupils that site would yield with scope for expansion.

In terms of the current application, the County Council advises that it falls within the catchment for Ashby de la Zouch Church of England Primary School which is not able to be extended given its constrained site and location. As such, the County Council advises that it may wish to use the contribution from the current application to extend the new Holywell Spring Farm site school, and may also require a contribution from the applicants to purchase the required land (such land costs not being included in the figure above); this would therefore need to be resolved with Leicestershire County Council through the Section 106 drafting process.

On this basis, therefore, the making of a financial contribution by the applicants in this case would not appear to prejudice the wider Money Hill scheme per se, although the County Council advises that, for the wider Money Hill site, a new school may nevertheless still be required, notwithstanding the current progress towards providing a school on the Holywell Spring Farm site.

#### High School Requirements:

The site falls within the catchment area of Ivanhoe College. The College has a net capacity of 949 and 1,070 pupils are projected on roll should this development proceed; a deficit of 121 places. Taking this school and other Section 106 contributions into account, the overall deficit is 78 (of which 71 are existing and 7 would be created by this development). There are no other high schools within a three mile walking distance of the site and, in order to provide the additional high school places anticipated by the proposed development, the County Council requests a contribution for the high school sector of £125,133.19. The County Council advises that 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.

#### Upper School Requirements:

The site falls within the catchment area of Ashby School. The school has a net capacity of 1,841 and 2,044 pupils are projected on roll should this development proceed; a deficit of 203 places. Taking into account a total of 71 pupil places being funded at the school from Section 106 agreements for other developments in this area, this reduces the total deficit to 132 (of which 125 are existing and 7 would be created by this development). There are no other upper schools within a three mile walking distance of the site, and the County Council requests a contribution for the upper school sector of £128,486.12.

The applicants are agreeable to making the contributions requested (save for the as yet unknown additional land costs in respect of the primary education contribution referred to by the Local Education Authority).

#### *Library Services*

A contribution of £3,800 is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council.

*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 precise amount payable would need to be based upon the precise nature of the development proposed at the reserved matters stage(s).

*Healthcare*

NHS England requests a developer contribution of £23,331.83 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 the Ashby Health Centre practice) 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 £27,278 in respect of policing as set out in the consultation response above. The contribution sought comprises:

Start up equipment / training	£2,939
Vehicles	£1,779
Additional radio call capacity	£178
Police National Database	£91
Additional call handling	£163
ANPR	£2,055
Mobile CCTV	£375
Additional premises	£19,558
Hub equipment	£140

The applicants have indicated their agreement to making such a contribution if required. The policing contributions listed above remain under consideration however as to whether they meet the tests pursuant to CIL Regulation 122.

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 maintaining a five year 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. It is therefore recommended that outline planning permission be granted.

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

- 1 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, 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 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 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, unless otherwise required by a condition of this permission:
  - Site location plan (EMS.2533\_002) deposited with the Local Planning Authority on 28 August 2014

*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, and including for buses, pedestrians and cyclists), 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 70 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 Flood Risk Assessment dated August 2014, ref. 20954/08-14/3616 undertaken by MEC Ltd and the following mitigation measures detailed within the FRA:
- At the detailed design stage suitable hydraulic calculations are undertaken to confirm actual flood plain outlines at the site, including but not exclusive of channel capacity, 20 year, 100 year, 100 year plus 20% (for climate change) and 1000 year (5%, 1%, 1% plus 20% increase in flow, and 0.1%) flood event levels - Sections 4.7 to 4.13, 7.12;
  - No new buildings (including sheds, cycle storage or garages), structures (including gates, walls and fences) or raised ground levels within 5 metres of the top of any bank of any river/watercourse, inside or along the boundary of the site, unless otherwise agreed in writing - Sections 7.11 and 7.13; and
  - Finished floor levels set a minimum of 600mm above the 100 year plus 20% (for climate change) (1% plus 20% increase in flow) flood event levels to be established by Point 1 above - Section 7.12

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 elsewhere by ensuring no loss of flood plain storage, to ensure permanent retention of a continuous unobstructed area for the preservation of the water course corridor, wildlife habitat, flood flow conveyance and future watercourse maintenance or improvement, and to reduce the risk of flooding to the proposed development and future occupants.*

8 The first reserved matters application shall include details of the 100 year (1%) flood plain extent of the Money Hill and Falstaff Brooks. There shall be no raising of ground levels, or storage of materials (including soil) within the 100 year (1%) flood plain extent of the Money Hill and Falstaff Brooks, unless undertaken in accordance with a compensation scheme first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To prevent flooding elsewhere by ensuring no loss of flood plain storage, to ensure permanent retention of a continuous unobstructed area for the preservation of the water course corridor, wildlife habitat, flood flow conveyance and future watercourse maintenance or improvement, and to reduce the risk of flooding to the proposed development and future occupants.*

9 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 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 demonstrate that the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the

corresponding rainfall event, and 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 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 attenuation storage on the site to accommodate the difference between the allowable discharge rate 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; 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 ensure that the site is appropriately drained, to prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site, to reduce the risk of flooding, both on and off site, to minimise the risk of pollution, to ensure that the development will not impact upon the features of special interest for which the River Mease SAC / SSSI is notified, and in the interests of nature conservation.*

- 10 No development shall commence on the site until such time as a scheme of measures to prevent pollution of nearby watercourses (and including during construction works), together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No works shall take place, nor shall any dwelling be occupied at any time, unless all of the measures as required at the appropriate time under the agreed timetable are provided in full.

*Reason - To prevent pollution of the water environment, and to ensure that the development will not impact upon the features of special interest for which the River Mease SAC / SSSI is notified.*

- 11 No development shall commence on the site until such time as a further Risk Based Land Contamination Assessment report as recommended within the M-EC Phase 1 Environmental Risk Assessment (20954/08-14/3584, dated August 2014) 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.*

- 12 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 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 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.*

- 13 The first reserved matters application shall include a statement detailing how the proposed mitigation and / or management measures as set out in Section 4.0 of the Ecological Appraisal (dated July 2013 and prepared by FPCR) have been incorporated within the proposed layout and landscaping scheme, together with a timetable for their implementation as applicable. 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.*

- 14 No external lighting shall be installed on site (and including during the construction

phase) unless in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

*Reason - In the interests of the amenities of the area, in the interests of nature conservation, and to comply with Policy E4 of the North West Leicestershire Local Plan.*

- 15 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.*

- 16 Notwithstanding the submitted details, 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 timetable for the undertaking of an updated survey(s) 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 survey(s) has 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.*

- 17 No dwellings accessible by vehicle from Woodcock Way shall be occupied until such time as a scheme for the provision of works at the Woodcock Way / Nottingham Road junction (to comply generally with the scheme shown indicatively on drawing no. 20954\_08\_020\_01 Rev A) has been provided in full in accordance with precise details first submitted to and agreed in writing by the Local Planning Authority, 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.*

- 18 No development shall commence on the site until such time as a construction vehicle 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.*

- 19 Notwithstanding the submitted details, no development shall commence on the site until such time as precise details of all proposed measures as set out in Sections 7.0, 8.0, 9.0

and 10.0 of the submitted Travel Plan (prepared by M-EC, ref. 20954/08-14/3583 Rev A), and including a timetable for their implementation, 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, the development shall thereafter be occupied in accordance with the agreed scheme 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.*

### 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 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](http://www.groundstability.com)

- 3 Your attention is drawn to the attached report of the Environment Agency.
- 4 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highway matters. The applicants are advised that the masterplan required to be prepared pursuant to condition 5 above should include for provision of a bus-ready route through the proposed development.
- 5 For the purposes of complying with Condition 19 above, the applicants are advised that the submitted details will not need to include reference to those measures proposed to be secured separately under the associated Section 106 obligation.
- 6 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.
- 7 Your attention is drawn to the attached report of North West Leicestershire District Council's Cultural Services Officer regarding Rights of Way.
- 8 Your attention is drawn to the attached report of the National Forest Company.
- 9 Your attention is drawn to the attached report of Natural England.
- 10 Your attention is drawn to the attached report of Leicestershire County Council's Principal Ecologist. The applicants are advised to have regard to the issues raised, together with the recommendations as set out within the submitted Ecological Appraisal (prepared by FPCR, dated July 2013), when preparing any reserved matters scheme.
- 11 This decision is in accordance with the resolution of the Planning Committee of 3 February 2015 and is subject to a Section 106 obligation.