

Erection of 36 dwellings, formation of access and provision of open space (outline - all matters other than part access reserved)

Report Item No  
A2

Land At Acresford Road Donisthorpe Swadlincote Derby DE12 7PT

Application Reference  
14/00802/OUTM

Applicant:  
Mr Philip Chatfield

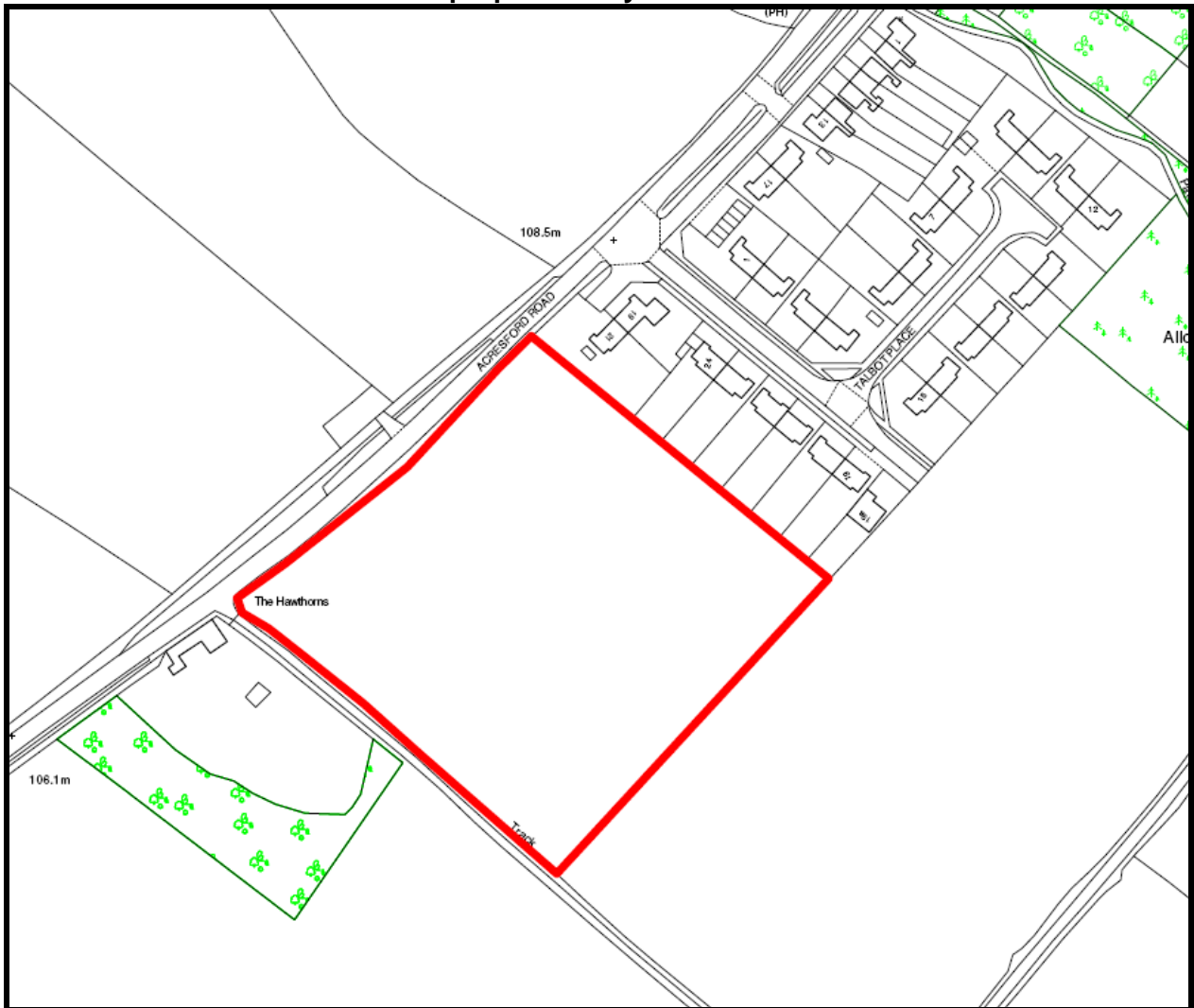
Date Registered  
5 September 2014

Case Officer:  
James Mattley

Target Decision Date  
5 December 2014

Recommendation:  
PERMIT

Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Reasons for Decision**

### **Proposal**

This application seeks outline planning permission for a residential development of up to 36 dwellings on land off Acresford Road, Donisthorpe. All matters are reserved for future approval apart from the access into the site from Acresford Road.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals from local residents and the Parish Council but no other objections are raised by any 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) and whether the scheme represents sustainable development.

### **Conclusion**

The site is located outside the Limits to Development in the adopted Local Plan and is a greenfield site. The scheme would be contrary to Local Plan Policy S3 as the site is located outside of the limits to development. However, the site's general suitability for housing (given its location in terms of distances to most services/facilities) is also material, together with the need for the District to release land for housing to ensure the maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF). Having regard to this and the sites location adjacent to the existing settlement boundary, location within a reasonably sustainable settlement and proximity to local services and facilities, the proposed development would be considered to constitute sustainable development as defined in the NPPF and, as such, would 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. The development is considered to be acceptable in terms of access issues, landscape and visual impact, design, ecological issues, flood risk and residential amenity; 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.

Taking all of this into account, whilst the scheme would not be in accordance with Policy S3 of the Local Plan, it is considered to constitute sustainable development as defined in the NPPF. It is therefore recommended that outline planning permission be granted subject to conditions and entering into a legal agreement to secure relevant contributions.

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

**Members are advised that the above is a summary of the proposals and key issues**

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

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission is sought for a residential development of up to 36 dwellings. The site comprises of 1.59 hectares of occasional grazing land and is located to the south-east of Acresford Road. Whilst all matters other than part access are reserved for subsequent approval, an illustrative masterplan has been submitted showing the proposed dwellings, together with public open space and landscaping.

A new vehicular access is proposed onto Acresford Road and would involve the provision of a priority junction. To the north east of the site are residential properties located off Acresford Road and the Talbot Place cul-de-sac. Immediately to the south-west of the application site is a residential dwelling known as Hawthorns which fronts onto Acresford Road. To the north west of the application site and to the south east are open fields.

Amended plans have been received during the course of the application in order to address concerns raised in respect of highway safety and design.

The application is accompanied by a design and access statement, landscape and visual impact assessment, ecological assessment, transport statement, coal mining risk assessment, ground conditions assessment, flood risk and drainage assessment, archaeology desk based assessment and geophysical survey and a developer contributions statement.

Relevant Planning History:

81/511 - Erection of three bungalows - refused.

84/580 - Erection of a dwellinghouse, garage and tractor store for occupation in connection with use of land for horticultural purposes - refused.

### 2. Publicity

11 no. Neighbours have been notified (Date of last notification 24 November 2014)

Site Notice displayed 17 September 2014

Press Notice published 24 September 2014

### 3. Consultations

Oakthorpe & Donisthorpe Parish Council consulted 12 September 2014

Head of Environmental Protection consulted 12 September 2014

NWLDC Urban Designer consulted 24 November 2014

NWLDC Tree Officer consulted 24 November 2014

County Highway Authority consulted 24 November 2014

Environment Agency consulted 12 September 2014

Severn Trent Water Limited consulted 12 September 2014

Natural England consulted 12 September 2014

County Archaeologist consulted 12 September 2014

LCC ecology consulted 12 September 2014

NWLDC Conservation Officer consulted 12 September 2014

National Forest Company consulted 12 September 2014

LCC Fire and Rescue consulted 12 September 2014

LCC Development Contributions consulted 12 September 2014

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 12 September 2014  
Head Of Leisure And Culture consulted 12 September 2014  
Manager Of Housing North West Leicestershire District Council consulted 12 September 2014  
Police Architectural Liaison Officer consulted 12 September 2014  
Head Of Street Management North West Leicestershire District consulted 12 September 2014

#### **4. Summary of Representations Received Statutory Consultees**

**Donisthorpe Parish Council** objects to the application on the following grounds:

- Concerns over the access and additional volume of traffic;
- The site is used for recreational purposes;
- Questions whether more affordable housing is required in Donisthorpe;
- Local services and facilities are already overloaded;
- There are existing parking issues around the school;
- Asks whether the play area will include play equipment and whether it will be maintained;
- Proposal would represent ribbon development;
- Brownfield sites should be developed first;
- The number of dwellings proposed is large for a small village;
- The Parish Council objects but has a number of projects that it would like to use Section 106 moneys for.

**Environment Agency** has no objection subject to the inclusion of relevant conditions and notes to applicant.

**Leicestershire County Council Archaeologist** has no objection subject to the imposition of relevant planning conditions.

**Leicestershire County Council Ecologist** states that the ecology report is satisfactory and raises no objections to the application as there are no habitats of note. No further surveys for protected species are required.

**Leicestershire County Council Highway Authority** originally placed a holding objection to the application as it did not consider that the proposed off-site highway works would successfully reduce speeds to 30mph and also raised concerns regarding the lack of a continuous footway. However, following the submission of amended plans the County Highway Authority raise no objections subject to conditions and legal obligations.

**Leicestershire County Council Library Services Development Manager** requests a contribution of £2,170.

**Leicestershire County Council Local Education Authority** requests a contribution of £222,869.22.

**National Forest Company** has no objection subject to the National Forest Planting being secured and managed through a legal agreement.

**Natural England** has no objections subject to relevant conditions and notes to the applicant.

**NHS England (Leicestershire and Lincolnshire Area)** requests a developer contribution of £16,237.38.

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

**North West Leicestershire District Council Environmental Health Officer (EHO)** has no objections regarding the proposal.

**Severn Trent Water** raises no objection subject to the inclusion of relevant conditions.

### **Third party representations**

One letter of representation has been received in support of the application who looks forward to seeing the houses and hopes that the prices are reasonable.

Five letters of representation have been received raising the following comments/objections:

- Previous developers have attempted to build on the land but a problem with sewers has prevented this;
- There are problems with sewerage smells and blockages in the area;
- Some dwellings would cause overlooking;
- There is no natural gas at this end of the village;
- Concern regarding increased traffic;
- Local infrastructure cannot cope with additional residents;
- The development is outside of the settlement boundary;
- The proposal would result in the village blending with Acresford;
- Too many dwellings are being proposed in this location.

## **5. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework*

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

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

The policies of the North West Leicestershire Local Plan as set out in more detail in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application. In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The NPPG does not change National Policy but provides practical guidance as to how such policies should be applied.

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

Paragraph 14 in relation to sustainable development.  
Paragraph 32 in relation to transport and highways.  
Paragraph 34 in relation to sustainable transport.  
Paragraph 47 in relation to the supply of housing.  
Paragraph 49 in relation to the supply of housing.  
Paragraph 57 in relation to achieving high quality design.  
Paragraph 59 in relation to design codes.  
Paragraph 61 in relation to achieving high quality design.  
Paragraph 100 in relation to flooding.  
Paragraph 101 in relation to the sequential test.  
Paragraph 112 in relation to best and most versatile land.  
Paragraph 118 in relation to biodiversity.  
Paragraph 123 in relation to noise  
Paragraph 203 in relation to planning conditions.  
Paragraph 204 in relation to planning obligations.

**Adopted North West Leicestershire Local Plan (2002)**

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

**Other Policies**

**North West Leicestershire District Council Affordable Housing SPD**

Key Principle AH2 provides that affordable housing will be sought on all sites of 5 or more dwellings in Donisthorpe.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Donisthorpe.

**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 (April 2012)**

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

## 6. Assessment

### Principle of Development

In terms of the principle of development, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

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

Notwithstanding the countryside location of the site, in determining the application regard must be had to other material considerations, including other Development Plan policies and whether the proposal constitutes sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

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

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

Whether or not this site would be considered "appropriate" is a matter of judgement. Insofar as the site's location is concerned it is located adjacent to the existing built up area of the settlement and would not result in isolated development in the countryside. 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 maintain a five year housing land supply in the District. It is therefore 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.

### *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 having drawn 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.

#### *Sustainability and Scale*

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 Donisthorpe provides some day to day facilities, e.g. a primary school, church, community uses, two public houses, play area/open space and a shop. However it is noted that these facilities are spread between the two key areas of Donisthorpe. There is also a bus service which runs on an hourly basis (between 7.29am and 6.39pm, Monday to Saturday) from Burton on Trent to Ashby de la Zouch. The site is located within maximum walking distance (i.e. within 800m to 1km) of some of these services, including bus stops, although it is further to the school. Taking all of these matters into account, it is considered that Donisthorpe is a reasonably sustainable location for the level of development proposed for this site.

It is appropriate to consider the scale of the proposed development compared to Donisthorpe so as to understand its potential impact upon the scale and character of the village. The scale of the development (36 dwellings) is not considered to represent an over-development of the settlement and the additional residents could help to sustain some of the existing services that are located within Donisthorpe.

#### *Loss of Agricultural Land*

Also of relevance to the principle of releasing the site is the issue of loss of agricultural land. Whilst the site is currently in use as arable farmland, the development of the site would result in an irreversible loss to a 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. Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The Agricultural Land Classification maps indicate that the site falls within Class 2 and therefore, would be classified as BMV agricultural land. It is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in loss of between 20 and 50ha, and those of 50ha and above respectively). It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable.

In terms of agricultural land quality, the development does impact upon BMV and the proposed development does not sit particularly comfortably with the requirements of the NPPF and, in particular, the aims of Paragraph 112. However, this would need to be weighed against other material considerations and, whilst there would be adverse impacts in this regard, these concerns would not be so significant as to outweigh the considerations in favour of the scheme such as the benefits of releasing the site to assist in maintaining a sufficient housing supply, it is considered that the agricultural land quality issue is not sufficient to suggest that planning permission should be refused, particularly given the relatively limited extent of the loss (i.e. 1.59ha).

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

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

The site is located outside the Limits to Development in the adopted Local Plan and is a greenfield site. The scheme would be contrary to Local Plan Policy S3. However, the site's general suitability for housing (given its location in terms of distances to most services/facilities) is also material, together with the need for the District to release land for housing to ensure the maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF).

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to economic growth associated with the proposed development in terms of jobs and the creation of new households, coupled with the role played in maintaining housing land supply, its proximity to services/facilities, the provision of affordable housing and open space and the inclusion of appropriate contributions to local services would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, the scheme would not accord with the provisions of Policy S3 and would result in the development of a greenfield site. However, the development of the site would not result in significant visual impacts given the contained and screened nature of the site (discussed in more detail in the 'Landscape and Visual Impact' section below). In the overall balance it is considered that the proposal would constitute a sustainable form of development.

**Means of Access and Transportation**

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

The application is accompanied by a highway report which concludes that the development would be in a sustainable location and that the development would not materially increase traffic flows on the surrounding highway network and a road safety problem would not be introduced.

The County Highway Authority (CHA) has reviewed the highway report and originally raised concerns in respect of the lack of a continuous footway along Acresford Road and that additional off-site highway measures would be required in order to reduce speeds down to 30mph. Amended plans have been submitted in respect of these issues and the proposed

access arrangements would now include for off-site highway improvements including the introduction of a 2 metre wide footway along the site frontage, new gateway signage, uncontrolled pedestrian crossing and the relocation of the 30mph zone and associated roadmarkings.

The CHA states that the principles of the proposed off-site highway works are generally acceptable but further amendments would be required in relation to the detailed design. The CHA now raises no objection to the proposed scheme subject to the inclusion of conditions and legal obligations. The legal obligation would need to secure details of the routing of construction traffic along with other contributions in respect of public transport.

In conclusion, the County Highway Authority raise no highway safety objections to the proposed scheme subject to the inclusion of relevant conditions and obligations. Taking these matters into account, therefore, the proposed development is considered acceptable in terms of Means of Access and Transportation issues and would comply with Local Plan Policy T3 and the advice in the NPPF.

### **Neighbours' Amenities**

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves are concerned, this would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 36 units could not be provided on the site in a manner which would not adversely impact upon neighbours' amenities.

The Environmental Protection Section has no objections and it is not considered that the proposal would result in significant adverse impacts on health or quality of life. Accordingly, the requirements Policy E3 of Local Plan are considered to have been met by the scheme and the proposal would not conflict with paragraph 123 of the NPPF.

### **Design**

The proposed scheme has been assessed by the District Council's Urban Designer, and rated in accordance with CABE's new Building for Life criteria which scores on the basis of red/amber/green rather than a points based scoring system. The Council's Urban Designer has reviewed the proposals and originally had some concerns over the illustrative layout that had been submitted as part of the application. These concerns included issues regarding parking provision, lack of tree lined principle routes and the feathering of the road frontage and countryside edge.

The comments have been raised with the applicants and they have submitted a revised layout and additional information which has addressed some of the issues which have been raised. It is accepted that the majority of these issues would need to be fully addressed as part of the reserved matters application. Suitable conditions and notes to applicant can be provided to indicate that the design concerns would need to be fully addressed as part of any future reserved matters application(s).

Therefore, whilst the scheme is not sufficiently advanced to be assessed fully against Building for Life, it is considered that it has been demonstrated that, in principle, an appropriate scheme could be secured at the reserved matters stage(s), and would comply with the relevant Development Plan policies and advice in the NPPF.

### **Density**

Local Plan Policy H6 provides that, for sites of 0.3 hectares and above, residential development should meet a minimum density of 40 dwellings per hectare within locations well served by public transport and accessible to services, and a minimum density of 30 dwellings per hectare elsewhere. The NPPF states that local planning authorities should set their own approach to housing density to reflect local circumstances. The former advice in PPS3 provided that net dwelling density includes those site areas which will be developed for housing and directly associated uses, including access roads within the site, private garden space, car parking areas, incidental open space and landscaping and children's play areas. Whilst this has now been superseded in the NPPF the methodology contained within it for working out net dwelling density would, in the absence of any other guidance in the NPPF or the Local Plan, still be relevant.

The application site area is given as 1.59 hectares and the maximum of 36 dwellings proposed by the developers would therefore equate to a maximum density of 22.6 dwellings per hectare, which would fall short of the requirements set out in Policy H6. However, when considering that parts of the site would be taken up by the creation of landscaping and public open space, the net dwelling density would be higher and more in-line with that stated in Policy H6. It is also recognised that a reduced density would be more appropriate in this edge of settlement location. Therefore, the scheme is considered to have an acceptable density in relation to Policy H6 of the Local Plan and the advice in the NPPF.

### **Landscape and Visual Impact**

The application is accompanied by a landscape and visual impact assessment (LVIA). The site is not protected by any national landscape designations. The application site immediately borders existing residential development off Talbot Place to the north-east and there is also a residential property located on the south-western boundary. Further to the rear of the site is built development associated with Hall Farm.

The submitted LVIA states that the development of this site would extend the built form of the settlement a little further along a village edge ridge line. This would fill a small gap and would be a logical continuation of the adjacent built area of Talbot Place. It would be in keeping with the local pattern of settlements occupying high ground locations and the landscape effects would not be pronounced. The report concludes that the setting of the village and its relationship with the surrounding countryside would not be significantly altered. In terms of views into the site the LVIA considers that the development would occupy a particular place in the composition of views such that it should be read as a natural extension to the village and no notably harmful visual impacts have been predicted.

The conclusions reached in the submitted LVIA are considered to be reasonable and subject to appropriate landscaping, it is considered that the visual impacts of the proposals would be acceptable and that, notwithstanding the site's location outside Limits to Development, unacceptable impacts on the amenities of the surrounding area would not be likely to arise. Overall, therefore, and subject to an appropriate form of development being proposed at the reserved matters stage(s), it is considered that the landscape and visual effects of the proposed development are acceptable.

### **Ecology and Trees**

The application is supported by an ecological appraisal. The appraisal concludes that there are

no statutory or non-statutory designated sites within 1km of the site. Given that all sites are located more than 1km away, it is not considered that there would be any impacts ecological impacts in respect of designated sites.

There are trees and hedges on the site boundaries and also a small number of trees present in the eastern corner of the site. These provide suitable habitat for breeding birds. All hedgerows are expected to be retained, except one alongside Acresford Road.

In response to the application and the submitted ecological report, Leicestershire County Council's ecologist considers that the report is satisfactory and no species or habitats other than hedges have been identified. The draft layout is considered to be acceptable as it protects hedges and no further survey requirements are deemed necessary. Therefore, the County Ecologist raises no objection to the proposed scheme.

The Council's Tree Officer originally considered that plot 36 was too close to existing trees on the adjacent property and that further clearance was required. The amended masterplan appears to take into account the presence of these trees but this would need to be considered further at the reserved matters stage(s).

Therefore, subject to the imposition of suitably-worded conditions and notes to applicant the submitted scheme is considered acceptable in ecological terms and in respect of the impact upon trees.

### **Impact on the River Mease Special Area of Conservation/SSSI**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal will have a significant effect on the SAC is required.

The River Mease Water Quality Management Plan (WQMP) has been drawn up to ensure there is no adverse impact on the SAC from further development and includes an action to establish a developer contribution framework to fund a programme of actions to restore and provide new benefits to the river. The River Mease Developer Contribution Scheme (DCS) has been produced to meet this action of the WQMP so that the costs of improving the quality of the water in the river are met by potential developers. 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 has been assessed against and is considered to meet the three tests of the 2010 Community Infrastructure Levy Regulations, which are also set out at paragraph 204 of the NPPF.

The application proposes that foul drainage would be dealt with via the mains sewer system and confirms that the applicant will pay the required contribution under the DCS. The exact contribution cannot be agreed at this time (although the maximum amount would be £12,744) as the exact number of bedrooms per dwelling has not been agreed at this stage. Natural England's Standing Advice sets out that foul water mains drainage development proposals in the River Mease catchment that fully adhere to the now adopted DCS will not sustain an

objection from Natural England, providing that the proposal does not result in any other potential impacts on the River Mease SAC either alone or in-combination with other plans or projects and providing that there are no other significant matters of nature conservation concern.

Consideration needs to be given to the capacity of Severn Trent Water's receiving treatment works at Donisthorpe. The flows from the new dwellings will need to be taken into account against the existing headroom at Donisthorpe. At March 2014 there was no capacity available at this treatment works. Severn Trent Water has advised that it will not object to proposals where there is no capacity at the relevant treatment works and that a phasing condition should be imposed, which can be drafted as a Grampian condition to prevent occupation of the proposed dwellings until additional capacity has been provided at Donisthorpe Treatment Works or elsewhere in its sewer system. As such a reason for refusal based on lack of capacity at the treatment works could not be justified.

A condition requiring that only a mains connection is used at the site would also be required as the use of other means for foul drainage discharge could adversely affect the SAC and conditions imposed to secure the details of foul drainage and surface water discharge. Therefore based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

### **Flood Risk and Drainage**

A Flood Risk Assessment (FRA) has been submitted in support of the application. The Environment Agency flood zone maps indicate that the site lies within Flood Zone 1, and on this basis the site would appear suitable for development in principle (and in flood risk sequential terms, would meet the requirements of the NPPF).

The submitted flood risk assessment indicates that surface water discharge to the ground via infiltration should be achievable and that foul water from the proposed development would discharge into the public combined sewer. Conditions would need to be attached to any outline planning permission to ensure that detailed and satisfactory surface water and foul drainage schemes are provided on the site.

Overall, in terms of issues of Flood Risk and Drainage, it is considered that the scheme is acceptable, and would provide for appropriate drainage solutions to accommodate the proposed development. In coming to this conclusion it is noted that the Environment Agency and Severn Trent Water raises no objections to the proposed development subject to the inclusion of relevant planning conditions and notes to applicant.

### **Developer Contributions**

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

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

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

The relevant developer contributions are listed below.

*Affordable Housing*

The Council's SPD on affordable housing indicates that for developments of this scale in the Donisthorpe area 30% of the units should be provided as affordable housing (i.e. 11 units, assuming the construction of the maximum 36 dwellings as proposed). In terms of tenure split, the District Council's Affordable Housing Enabler advises that a tenure split of 80% social rented and 20% low cost home ownership would be sought and the District Council's Strategic Housing Team would currently be seeking the following:

Affordable Rented - 8

2 x 1 bed homes

4 x 2 bed house

2 x 2 bed bungalows

Intermediate / Low cost home ownership - 3

3 x 3 bed house

However, it is accepted that the current requirements are likely to change over time, and it is considered appropriate for the Section 106 agreement to secure a minimum of 30% (and including the tenure split suggested above) with the actual contribution in terms of unit types to be agreed by the District Council.

*Transportation Contributions*

The County Highway Authority has requested the following developer contributions, required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, reducing car use and highway safety:

- Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).

- 6 month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car (can be supplied through LCC at (average) £350.00 per pass - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).

- New/Improvements to 2 nearest bus stops (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities. At £3263.00 per stop.

- Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display.

The County Highway Authority have also requested that details of the routing of construction traffic be included in the legal agreement. The applicants are agreeable to making these contributions.

### *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 Donisthorpe Primary School. The School has a net capacity of 188 pupils and 209 pupils are projected on roll should this development proceed; a deficit of 21 places (of which 12 are existing and 9 are created by this development). However, the overall deficit including all schools within a two mile walking distance of the development is 8 places. The 9 deficit places created by this development can therefore be partly accommodated at nearby schools but a claim for an education contribution of 8 pupil places in the primary sector is justified. A primary school contribution of £92,436.44 has been calculated and would be used at Donisthorpe Primary School. The applicants are agreeable to paying the requested contribution.

#### *High School Requirements:*

The site falls within the catchment area of Ivanhoe College. The college has a net capacity of 949 pupils and 1067 pupils are projected on roll should this development proceed; a deficit of 118 pupil places. However, a total of 43 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be discounted. This reduces the total deficit for this school to 75 (of which 71 are existing and 4 are created by this development). There are no other high schools within a three mile walking distance of the site. A high school contribution of £64,354.21 has been calculated and would be used at Ivanhoe College. The applicants are agreeable to paying the requested contribution.

#### *Upper School Requirements:*

The site falls within the joint catchment area of Ashby School. The school as a net capacity of 1841 and 2041 pupils are projected on roll should this development proceed; a deficit of 200 pupil places. However, a total of 71 pupil places are included in the forecast for this school from S106 agreements for other developments in this area and have to be discounted. This reduces the total deficit for this school to 129 (of which 125 are existing and 4 are created by this development). There are no other upper schools within a three mile walking distance of the site. An upper school contribution of £66,078.58 has been calculated and would be used at Ashby School. The applicants are agreeable to paying the requested contribution.

### *Play and Public Open Space*

The indicative masterplan shows that provision is proposed to be made for public open space on site that would be located within the southern section of the site. This would need to include a children's equipped play area. Taking into account the overall size of the recreation area, a suitable sized children's equipped play area could be provided at the reserved matters stage. Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the Play Area Design Guidance SPG.

### *National Forest Planting*

The application site extends to 1.59ha and the National Forest Company's (NFC) Planting Guidelines, as set out in the Guide for Developers and Planners, would expect 20% of the site area to be for woodland planting and landscaping. This would equate to 0.3ha in this instance. The NFC welcomes the combination of woodland planting and open space as indicated on the indicative layout plan.



Subject to the inclusion of relevant conditions and obligations which include, amongst other things, detailed landscaping plans the National Forest Company raise no objection to the proposed development.

#### *Library Services*

The proposed development is within 2.6km of Measham Library and the proposal would impact on local library services in respect of additional pressures on the availability of local library facilities. Therefore, a library contribution of £2170 is requested. The applicants are agreeable to making this contribution.

#### *Healthcare*

NHS England (Leicestershire and Lincolnshire Area) requests a developer contribution of £16,237.38 based upon a contribution commensurate to the anticipated increased population arising from this development. The applicants are agreeable to making this contribution.

#### **Other**

It is understood that there is no mains gas available in this part of Donisthorpe. As such a condition is recommended to ensure that any storage facilities for oil, gas and coal (or other fuel) are of a suitable design and appearance.

#### **Conclusions**

The site is located outside the Limits to Development in the adopted Local Plan and is a greenfield site. The scheme would be contrary to Local Plan Policy S3 as the site is located outside of the limits to development. However, the site's general suitability for housing (given its location in terms of distances to most services/facilities) is also material, together with the need for the District to release land for housing to ensure the maintenance of a five year supply of land and to accord with the Government's intention to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF). Having regard to this and the sites location adjacent to the existing settlement boundary, location within a reasonably sustainable settlement and proximity to local services and facilities, the proposed development would be considered to constitute sustainable development as defined in the NPPF and, as such, would 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. The development is considered to be acceptable in terms of access issues, landscape and visual impact, design, ecological issues, flood risk and residential amenity; 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.

It is therefore recommended that outline planning permission be granted.

**RECOMMENDATION - PERMIT, subject to the following conditions and the completion of a Section 106 legal agreement;**

- 1 Save for the details of vehicular access into the site from Acresford Road, details of the

access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins in respect of the relevant phase.

*Reason - This permission is in outline only.*

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

*Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).*

- 3 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 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 91 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 another condition of this planning permission:
  - ADC1083/001 Rev C (Proposed Access Arrangements) deposited with the Local Planning Authority on 25 November 2014;
  - Site Location Plan deposited with the Local Planning Authority on 5 September 2014.

*Reason - To determine the scope of this permission.*

- 5 A total of no more than 36 dwellings shall be erected.

*Reason - To define the scope of this permission.*

- 6 No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

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

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must 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, published by The 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, published by the Environment Agency 2010;
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved 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 and to accord with the aims and objectives of paragraph 120 of the NPPF.*

- 7 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:

- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
- Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
- Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

*Reason - To ensure that the land is fit for purpose and to accord with the aims and objectives of paragraph 120 of the NPPF.*

- 8 No development shall commence on the site until such time as a programme of archaeological work including a Written Scheme of Investigation has first been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme);
- The programme for post-investigation assessment;
- Provision to be made for analysis of the site investigation and recording;
- Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- Provision to be made for archive deposition of the analysis and records of the site investigation; and
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation

No development shall take place at any time other than in accordance with the agreed Written Scheme of Investigation. None of the dwellings shall be occupied until such time as the site investigation and post investigation assessment has been completed in accordance with the programme set out in the agreed Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason - To ensure satisfactory archaeological investigation and recording, and to comply with the NPPF.*

- 9 Unless first agreed in writing by the Local Planning Authority, no site clearance operations that involve the destruction or removal of vegetation on the site shall be undertaken during the months of March to August (inclusive).

Reason - To ensure that breeding birds are not adversely affected, in the interests of nature conservation.

- 10 No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage scheme should demonstrate 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. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.
- Limiting the surface water run-off generated by 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, as outlined in Section 3.7.6 of the approved Flood Risk Assessment (FRA) dated 8 May 2014, Ref: 14058/FRA/RevA, undertaken by BSP consulting.
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.

- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

*Reason - To prevent the increased risk of flooding, both on and off site.*

- 11 The development hereby approved shall only use the mains sewer system for its foul drainage discharge.

*Reason - Any other means of dealing with foul discharge could have an adverse impact on the River Mease Special Area of Conservation.*

- 12 None of the dwellings hereby approved shall be occupied until, within a period of four months prior to occupation, the Authority (in consultation with Severn Trent Water) has confirmation in writing that there is sufficient headroom capacity available at Donisthorpe Waste Water Treatment Works or elsewhere within Severn Trent Water's sewer system to take the foul drainage discharge from the dwellings hereby approved.

*Reason - to ensure sufficient capacity is available at the treatment works and to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.*

- 13 No site works of any description shall take place on the site until such time as the existing trees to be retained have been securely fenced off in accordance with a scheme that has first been submitted to and agreed in writing with the Local Planning Authority. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

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

- 14 No development shall commence on site until such time as details of any container used for domestic heating purposes for the storage of oil or liquid petroleum gas has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate appearance because inadequate details have been submitted.*

- 15 Notwithstanding condition 4, no development shall commence on site until details of design for off-site highway works being speed reduction measures on Acresford Road including the relocation of the existing 30 mph limit and village gateway treatment, the provision of a 2 metres wide footway at the site frontage, the provision of suitable footways to link to existing footways and suitable crossing facilities have been submitted to and approved in writing by the local planning authority. No more than 10 dwellings shall not be occupied until that scheme has been constructed in accordance with the approved details.

*Reason - In the interests of highway safety, including pedestrian safety.*

- 16 Before first occupation of any dwelling hereby permitted, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the accesses with Acresford Road. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

*Reason - To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.*

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

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

#### **Notes to applicant**

- 1 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.
- 2 Your attention is drawn to the comments provided by the Council's Urban Designer and Tree Officer. These would need to be addressed as part of any reserved matters application on the site.
- 3 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) ) Order 2010 (as amended).
- 4 A section 106 agreement would be required in order to make the development acceptable and would need to include the following:
  - Provision of on-site affordable housing (30%)
  - National Forest Planting on site
  - Financial contribution in respect of healthcare (£16,237.38)
  - Financial contribution in respect of education (£222,869.22)

- Financial contribution in respect of libraries (£2,170)
  - Provision / maintenance of a children's play area
  - Construction traffic routeing
  - Provision of travel packs to first occupiers of the new dwellings
  - Provision of bus passes to first occupiers of the new dwellings
  - Improvements to the two nearest bus stops (including raised and dropped kerbs (£3,263 per stop)
  - Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display
  - Section 106 monitoring
- 5 The Council requires all developments meet BfL12 and the applicant of any future reserved matters application is strongly encouraged to benefit from pre-application advice.
- 6 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

Please be aware that Leicestershire County Council as Lead Local Flood Authority (LLFA) are currently not a statutory consultee to the planning process for drainage matters. If Schedule 3 of the Flood and Water Management Act 2010 is implemented Leicestershire County Council may become the SuDs Approval Body (SAB) and also a statutory consultee of the planning process. You will need to contact Leicestershire County Council if you have an aspiration for us to adopt any SuDs features associated with the development. Please e-mail [roadadoptions@leics.gov.uk](mailto:roadadoptions@leics.gov.uk) if you wish to discuss further.

You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced. For further information you are advised to visit the County Council website ([www.leics.gov.uk/6CSDG](http://www.leics.gov.uk/6CSDG)), or contact the Infrastructure Planning Team by email to [roadadoptions@leics.gov.uk](mailto:roadadoptions@leics.gov.uk).

C.B.R. Tests shall be taken and submitted to the County Council's Highways Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Highways Manager.