

**Residential of up to 70 dwellings (Class C3). Green infrastructure to include retained vegetation, habitat creation (including new woodland planting), open space, amenity space and play areas, sustainable drainage systems/features, and new walking/cycling/recreational routes. Infrastructure to include highway and utilities and associated engineering works (including ground modelling) and vehicular access via the construction of a new junction off the existing Lower Packington Road (outline - all matters reserved other than access)**

**Report Item No  
A4**

**Site At Lower Packington Road Ashby De La Zouch  
Leicestershire LE65 1TS**

**Application Reference  
13/00694/OUTM**

**Applicant:  
Hallam Land Management Ltd**

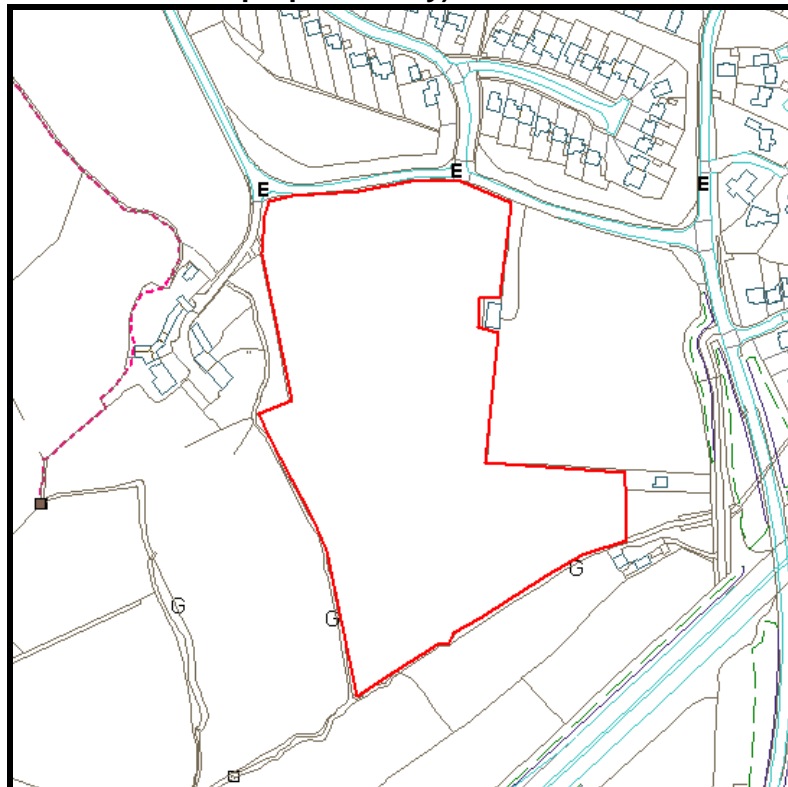
**Date Registered  
16 August 2013**

**Case Officer:  
James Knightley**

**Target Decision Date  
15 November 2013**

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

**Site Location (Plan for indicative purposes only)**



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office ©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329

## **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).

### **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, 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 amenity, design and 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 approximately 4.7 hectares for up to 70 dwellings on land to the south of Lower Packington Road, Ashby de la Zouch.

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

The site is bounded by two watercourses, and is adjacent to various other land uses including agricultural land, residential curtilage and a sports ground.

Vehicular access is proposed by way of a new priority access to Lower Packington Road with a new footway provided to the south side of the road. Some realignment of the existing carriageway / footway within the existing verge to the northern side of Lower Packington Road in the vicinity of the site access would also be undertaken in association with the formation of the access.

In terms of other matters of access (and including non-vehicular routes into the site, and vehicular, cycle and pedestrian routes *through* the site), these are reserved for consideration at the reserved matters stage(s), although the illustrative masterplan indicates connections to the existing right of way connecting the site with adjacent land.

The site was part of a larger site (61 hectares) the subject of previous application (ref. 08/01588/OUTM), subsequently dismissed on appeal by the Secretary of State.

### 2. Publicity

192 no. Neighbours have been notified (Date of last notification 19 September 2013)

Site Notice displayed 20 September 2013

Press Notice published 25 September 2013

### 3. Consultations

Ashby De La Zouch Town Council consulted

Environment Agency consulted 4 December 2013

Packington Parish Council Victoria Roe consulted 5 September 2013

County Highway Authority consulted 5 September 2013

Environment Agency consulted 5 September 2013

Severn Trent Water Limited consulted 5 September 2013

Head of Environmental Protection consulted 5 September 2013

Natural England consulted 5 September 2013

NWLDC Tree Officer consulted 5 September 2013

County Archaeologist consulted 5 September 2013

LCC ecology consulted 5 September 2013

NWLDC Conservation Officer consulted 5 September 2013

NWLDC Urban Designer consulted 5 September 2013

County Planning Authority consulted 5 September 2013

LCC Development Contributions consulted 5 September 2013  
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 5 September 2013  
Development Plans consulted 5 September 2013  
Head Of Leisure And Culture consulted 5 September 2013  
Manager Of Housing North West Leicestershire District Council consulted 5 September 2013  
Police Architectural Liaison Officer consulted 5 September 2013  
Highways Agency- affecting trunk road consulted 5 September 2013  
National Forest Company consulted 5 September 2013  
LCC/Footpaths consulted 30 October 2013

#### 4. Summary of Representations Received

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

- Lower Packington Road should be the boundary for development in Ashby de la Zouch
- Site not sustainable
- Lower Packington Road is narrow and unsuitable for additional traffic generated
- Unsafe vehicular access

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

**Highways Agency** has no objections

**Leicestershire County Council Local Education Authority** requests developer contributions of £128,486.12 in respect of additional provision in the upper school sector; no contributions are requested in respect of the primary and high school sectors.

**Leicestershire County Council Library Services Development Manager** requests a developer contribution of £3,810

**Leicestershire County Council Waste Management Authority** advises that no developer contributions are required in respect of civic amenity waste facilities

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

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

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

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

**Leicestershire Police** requests a developer contribution of £29,078 in respect of policing

**National Forest Company** comments that the proposals have the potential to meet the 20% woodland planting and landscaping requirement as set out in the National Forest Company's Guide for Developers and Planners and has no objections subject to appropriate conditions

**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 Environmental Health** has no objections subject to conditions in respect of contaminated land.

**Packington Parish Council** objects on the following grounds:

- Increased flooding of the Gilwiskaw Brook
- Roads serving the proposed development are unsuitable for the additional traffic generated
- Noise to the site from the A42 and HS2 rail
- Insufficient infrastructure (including public transport, education, healthcare and shops) resulting in increased car journeys by residents
- Greenfield site outside of the development line for Ashby de la Zouch and not projected for development in the proposed Core Strategy

**Severn Trent Water** has no objections subject to conditions

### **Third Party Representations**

111 representations have been received (and including from the Packington Nook Residents' Association), objecting on the following grounds:

- Site is part of a larger area covered by a previous application for over 1,000 houses in 2008 which attracted overwhelming objections and was dismissed on appeal
- At the previous public inquiry, the Inspector concluded that there would be significant harm to the landscape and to the character of the town, there were shortcomings in the quality of the residential environment on parts of the site owing to noise from the A42, there was an undue risk of harm to road safety, there were shortcomings in the sustainability of the site location, and that the proposals were prejudicial the outcome of the Core Strategy process
- Lower Packington Road site not suitable or sustainable
- Outside Limits to Development in the North West Leicestershire Local Plan
- Previous attempts to build on the Packington Nook site have been disallowed on the basis of loss of amenity and lack of community benefit
- Previous Inspector considered that the visual and landscape impacts of the development would be adverse and of at least moderate or medium significance during the period of development
- As this development borders Lower Packington Road for a significant part there will still be a significant impact on the open countryside southern border of Ashby and thus the visual amenity of the site
- Proposed development will damage the landscape and produce upheaval and distress to local residents - proposed planting little compensation to those affected
- Applicant has not correctly taken into account the projected noise growth from the A42 and the proposed HS2 - associated noise will generate both a constant and impulse noise source that will make the lives of residents at the site extremely uncomfortable and any mitigation from landscaping would be ineffective given the length of time required for it to mature
- Site is poorly located for access to both the town centre and the major routes out of the town, in particular the A42 and the A511
- Congestion on Lower Packington Road and Avenue Road caused by parked cars
- Adverse impact on highway safety
- Lower Packington Road too narrow to accommodate development without widening
- Proposed traffic calming to the area will impact on traffic flow
- Increased traffic / congestion in surrounding area

- Increased traffic will cancel out any traffic calming benefits
- Cumulative transportation impact from all proposed housing developments in the District needs to be considered
- Unsuitable / unsafe position for proposed vehicular access
- Increased hazards for pedestrians from additional vehicular movements
- Poor public transport links
- Development not viable long-term
- Development does not add infrastructure to Ashby de la Zouch
- No affordable housing proposed so residents likely to drive
- Will make Ashby de la Zouch more likely to become a commuter town
- Insufficient infrastructure to accommodate the development (including local employment, education and healthcare)
- Flood risk to the site
- Increased discharge rates to the Gilwiskaw Brook
- Increased flooding elsewhere (including within Packington)
- Insufficient capacity at Packington Sewage Treatment Works
- Adverse impact on water quality in the River Mease Special Area of Conservation
- Absence of a Core Strategy does not mean the site is the most suitable for development
- Proposals are part of the applicants' aspirations to develop the entire Packington Nook site
- Core Strategy caters for development in Ashby de la Zouch elsewhere in the town
- Previously-developed sites should be developed in preference to greenfield land
- Adverse impact on habitat / ecology
- Adverse impact on visual amenity
- Hedgerows should be retained wherever possible
- Erodes distinction between Ashby de la Zouch and Packington - the area between the two settlements should be protected
- Limited community engagement by the applicants
- Impact on public right of way
- Noise / dust / damage from construction work
- 98% of local people oppose development of the Packington Nook site

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

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

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

approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted."

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

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

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

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

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

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

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

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

buildings and the local area more generally."

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

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

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

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

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

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

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

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

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



a willing land owner and willing developer to enable the development to be deliverable."

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

"204 Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Other Policies**

### **Submission Core Strategy**

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

### **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.

## **6. Assessment**

### **Principle of Development**

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

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

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

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

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

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

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

#### *Housing Land Supply and Limits to Development*

The NPPF requires that the Council should be able to identify a five year supply of housing land and include an additional buffer of 5% or 20% depending on previous performance in terms of delivery of housing. The appeal decision of May 2013 in respect of land south of Moira Road, Ashby de la Zouch, found that the "Sedgefield" approach should be used (an approach to assessing land availability also suggested as appropriate within the draft National Planning Practice Guidance) and that a buffer of 20% should be allowed for. On this basis, the District Council's most recent calculations indicate that the Council is only able to demonstrate a supply of 4.43 years which represents a significant shortfall vis-à-vis the requirements of the NPPF.

The consequences of an inability to demonstrate a five year supply are profound. Paragraph 49 of the NPPF advises that "Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable

housing sites". Policy S3 of the adopted Local Plan (Limits to Development) is not considered to be a relevant policy for the supply of housing (see the recent judgment in respect of the application to quash the Secretary of State's decision to dismiss the Stephenson Green appeal), notwithstanding that a contrary view has been taken elsewhere (and including by the Secretary of State on appeal), and accordingly the policy should not be considered to be out of date. Nevertheless, as the Limits to Development as defined in the adopted Local Plan were drawn having regard to housing requirements up until the end of the Plan Period (i.e. to 2006) less weight should be attributed to any conflict with Policy S3 in the overall planning balance. Furthermore, development plan policies are now required to follow the approach of the presumption in favour of sustainable development which means balancing any significant/demonstrable adverse impacts against the need to provide new development. Inasmuch as Policy S3 does not require such a balancing exercise to be undertaken it is inconsistent with the Framework and this again goes to the weight that may be attached to the 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.

Having regard to the three dimensions of sustainable development, it is accepted that the contribution to the economic growth associated with the proposed development, coupled with the role played in contributing to housing land supply and the inclusion of appropriate contributions to local services as detailed below, would ensure that the scheme would sit well in terms of the economic and social dimensions. Insofar as the environmental role is concerned, whilst the proposed development would result in the development of land outside of the defined Limits to Development, as set out in more detail within the relevant sections 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 of Ashby de la Zouch with its associated services, would perform relatively well in terms of need to travel and the movement towards a low carbon economy (and particularly in view of the proposed accessibility contributions as discussed in more detail below).

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

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

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

However, it is also necessary to consider any other relevant material considerations, including the Government's current intentions in respect of the need to stimulate growth through a presumption in favour of sustainable development (as set out in the NPPF), and the current position in the District in terms of housing land supply. An important consideration is that the Council must demonstrate and maintain a five year supply of housing land (with a 5% or 20% buffer) as required by the NPPF, which is considered to be a material consideration of some significance.

Having regard to all of the above it is considered overall that the proposed development of the

site is acceptable in principle.

### **Detailed Issues**

In addition to the issues of the principle of development, consideration of other issues relevant to the application is set out in more detail below.

### **Means of Access and Transportation**

As set out above, all matters are reserved for subsequent approval except for access (insofar as vehicular access into and out of the site is concerned); the proposed vehicular access includes a new priority junction to Lower Packington Road and associated new footways plus realignment of the existing carriageway / footway within the existing verge to the northern side of Lower Packington Road. The illustrative layout also shows other potential pedestrian links into and through the site; these would also be a matter for the reserved matters stage(s) (although their impact on the overall potential accessibility of the site still ought to be considered in those terms).

The application is accompanied by a Transport Statement. This indicates that, in the applicants' consultants' opinion, the proposed development is in a sustainable location close to key facilities and amenities in the town centre and in a location that is reasonably accessible by sustainable modes of travel. It provides that new pedestrian links are proposed that would, it suggests, improve the connectivity of the site to the existing network and the site is also, it states, located within easy walking distance of bus stops and services. As set out under Principle of Development above, the site is considered to be well related to the existing built up area of the town. Whilst the site is located on the southern edge of the town, the site entrance is approximately 1.1km from the Core Town Centre Shopping Area as defined in the adopted Local Plan (although, clearly, occupants of, in particular, dwellings in the southern part of the would accordingly have further to travel to access the town centre). Whilst this is beyond the average 1km walking trip length regularly undertaken by the population of Britain (as identified in Department of Transport statistics), it is not considered to be beyond this distance by an unacceptable degree, particularly given the status of the pedestrian routes available, and when having regard to the findings of the Inspector in respect of the proximity of the Moira Road site to town centre services when determining that appeal. Insofar as accessibility to public transport is concerned, it is noted that the site frontage is on an existing bus route. However, the site frontage is only served by an (approximately) two hourly service (although more frequent services are available from Tamworth Road / Station Road, approximately 850 metres away), and the County Highway Authority therefore considers that a number of developer contributions would be required to ensure that an appropriate level of accessibility by modes other than the private car would be achieved.

Subject to these mitigation measures being provided, it is considered that the development would provide for an acceptable degree of accessibility, and would constitute sustainable development in this regard. The mitigation proposals required by the County Highway Authority (and sought as Section 106 contributions) are as follows:

- New / increased daytime bus frequency to every 60 minutes for 5 years serving the nearest bus stops on Lower Packington Road in order to ensure that sufficient levels of bus services are available to accommodate the increased population in the area;
- Contribution of £900 towards equipping the nearest suitable bus route with a Real Time Information (RTI) system in order to assist in improving the nearest bus service with this facility and provide a high quality and attractive public transport choice to encourage modal shift;

- Provision of two new bus stops (including raised and dropped kerbs to allow level access) at the frontage of the site in order to ensure that there would be a safe means of access to the stops for pedestrians and to support modern bus fleets with low floor capabilities (£3,263 per stop);
- Information display cases at the two nearest bus stops in order to inform new residents of the nearest bus services in the area (£120 per display);
- One Travel Pack per dwelling to inform new residents from first occupation what sustainable travel choices are available in the surrounding area (which can be provided through Leicestershire County Council at a cost of £52.85 per pack / dwelling if required); and
- Two six-month bus passes per dwelling to encourage new residents to use bus services as an alternative to the private car to establish changes in travel behaviour from first occupation (which can be provided through Leicestershire County Council at a cost of £325.00 per pass if required)

The applicants had originally raised concerns over the appropriateness and cost of the bus contribution sought given its relationship to the scale of development proposed, but have now confirmed their agreement to this and the other transportation obligations sought.

In terms of the proposed site access, the Transport Statement states that an access to appropriate design standards can be provided and that the access would operate with sufficient spare capacity during the 2021 future year weekday peak hours; no concerns are raised by the County Highway Authority in terms of the safety or capacity of the vehicular access. A Construction Traffic Routeing Agreement is also required by Leicestershire County Council so as to ensure that construction vehicles access the site in an appropriate manner; again this can be secured by way of a Section 106 obligation.

In view of the conclusions as set out above, the County Highway Authority raises no objections to the proposals subject to conditions, and subject to the contributions as set out above. Insofar as the strategic highway network is concerned, the Highways Agency does not consider that the proposed development would have a material impact on the closest strategic route (the A42) and raises no objections.

In terms of other access issues, it is noted that all matters other than the proposed vehicular access are reserved, although the illustrative site layout indicates that pedestrians / cyclists would be able to access the site elsewhere on the Lower Packington Road frontage. Furthermore, the site is crossed by Right of Way O71; Leicestershire County Council's Rights of Way Officer notes that the route of the right of way as shown on the illustrative masterplan does not follow the Definitive Map route, and advises that the applicants would need to apply for a diversion order, should the proposed layout not be consistent with the Definitive Map route (although there appears no reason why, based on the illustrative layout, any diversion of the right of way would be necessary).

Subject to the above, therefore (and including the applicants making appropriate contributions towards transportation infrastructure as set out above), 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 Appraisal which considers the site's context in relation to surrounding development / landscape, and considers the impact

upon a total of 21 viewpoints surrounding the application site. The Landscape and Visual Impact Appraisal suggests that, in landscape and visual terms, the application site is very well contained by existing landform and vegetation resulting in a well contained visual envelope. It notes that the site is relatively flat, and is surrounded by localised rising landform. It also notes the existing mature vegetation along the Gilwiskaw Brook which, it suggests, provides a strong defensible boundary between the site and the surrounding countryside which, overall, prevents landscape and visual effects upon the wider area. The applicants' assessment in this regard is accepted.

The Appraisal also suggests that, having regard to the relative containment of the site in landscape and visual terms, there are relatively few visual receptors, but that these fall into three broad categories, namely nearby dwellings, roads and public rights of way.

In terms of the impacts upon residential property, the Appraisal suggests that the impacts upon viewpoints from nearby dwellings would, in the main, be likely to be from first floor level but, in any event, would be viewed in the context of existing built development. Overall, the visual effects in this regard are considered in the Appraisal to be minor (becoming negligible where properties are more distant), albeit the impact on a private view is not normally considered to constitute a material planning consideration.

Insofar as views from local roads are concerned, the Appraisal indicates that these would be mostly limited to Lower Packington Road and Upper Packington Road with fleeting views from Ashby Road and the A42, and that users of these roads would be likely to experience a minor adverse / negligible visual effect overall.

In terms of the impacts upon public rights of way, the Appraisal suggests that these would largely be limited to those in closest proximity to the site, and that the visual effect would vary between minor where the footpath crosses or passes close to the site and negligible where they are more distant.

In terms of proposed planting (and retained green space), the site is in the National Forest, and the scheme's performance vis-à-vis the relevant National Forest standards is set out under the relevant section below. In terms of the extent of landscaping and other open space cover proposed in respect of the development, it is noted that the illustrative masterplan indicates that substantial areas would be retained as open space throughout the site and, in particular, to the southern and western boundaries of the site, where additional planting would also be provided. Also proposed are other areas of landscaping within the site, with the total quantum of public open space / landscaping (and including a proposed SUDS detention basin) constituting approximately 52% of the total site area as indicated on the illustrative masterplan. It is considered that the scheme as indicated on the illustrative masterplan represents a suitable balance between built development and landscaping, and the development of the site in the manner indicated on the illustrative masterplan would serve to provide for a suitable form of development which, whilst lying adjacent to the existing built up area of the town, is outside Limits to Development as defined in the adopted Local Plan.

Hedgerows and trees surround much of the site but are limited to the periphery such that, on the basis of the illustrative layout submitted, there would appear to be no reason why all significant vegetation could not be retained as part of any reserved matters scheme. Insofar as the site access to Lower Packington Road is concerned (which forms part of the outline application submissions), the formation of this access would not appear to have any impacts on existing vegetation. Similarly, whilst trees to the north of Lower Packington Road are subject to a woodland Tree Preservation Order (TPO), the carriageway / footway realignment proposed

would not appear to have any implications on the protected trees.

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

### **Loss of Agricultural Land**

The site's current use is agricultural and, insofar as the proposed built development is concerned, this would result in an irreversible loss to non-agricultural use.

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

An assessment of the site's agricultural land has been provided by the applicants; this indicates that the site would fall within Grade 3b and, as such would not be BMV. Whilst data available online indicates that the north eastern part of the site could in fact fall within Grade 3a, it is accepted that this would only represent a small portion of the site. 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.

Overall in terms of agricultural land quality, therefore, the evidence submitted indicates that the land would not constitute BMV but, even if some of it were, given the limited extent of land lost, it is not considered that this would be a significant loss. The development of the site would be considered acceptable in this respect, therefore. DEFRA has been consulted on this issue, but no response has been received.

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

The submitted documents includes 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 (FRA) and a Foul Drainage Strategy have been submitted in support of the application. The Environment Agency flood zone maps indicate that the majority of the site lies within Flood Zone 1, although parts of the southern and western parts of the site (i.e. adjacent to the existing watercourses, namely the Coleorton and Gilwiskaw brooks) fall within Zones 2 and 3. However, it is not proposed to erect any dwellings within these higher risk areas. Whilst the proposed dwellings would be located outside of Zones 2 and 3, it is considered that the sequential test would nevertheless still need to be applied as the application site includes such areas. In this instance it is considered that the sequential test would be satisfied given the limitation of proposed dwellings' siting to areas within Zone 1. Whilst the site includes land falling outside of Zone 1, it is considered reasonable to accept that this in itself should not prevent the sequential test being passed, particularly when having regard to the availability of alternative sites, and the need to release land for housing as set out above. In practice, it is considered that, on the basis of the illustrative masterplan showing no built development within Zones 2 and 3, the approval of dwellings on this site would not have any materially greater



flooding impact than a site entirely in Zone 1.

In terms of other sources of flood risk, the FRA identifies that potential flooding impacts from groundwater or surface water are unlikely to be a significant cause for concern. However, it also notes that there is the potential for localised flooding in the event of sewer capacity being exceeded or if the system suffers structural failure. Insofar as surface water is concerned, however, the FRA acknowledges the potential for increased risk to third party land, and hence outlines the surface water drainage strategy designed to manage these flows.

This proposed mitigation would take the form of swales and a pond. It is proposed that swales would collect the surface water and convey it to a pond (shown on the illustrative masterplan towards the south west of the application site) from where it would be discharged into the Gilwiskaw Brook at a greenfield rate of no more than 13.2 l/s/ha for the 100 year plus climate change storm event; modelling undertaken by consultants acting for the applicants indicates that the proposed surface water drainage strategy would attenuate flows and provide a discharge rate from the pond at no greater than the current greenfield rate of 13.4 l/s up to the 100-year plus climate change (20%) storm event. Along the swales, it is also proposed to provide a number of bridge crossings which, the FRA suggests, would act as check dams to reduce the velocity of surface water and provide additional attenuation. Insofar as mitigation for the proposed dwellings themselves is concerned, it is also proposed to locate finished floor levels at least 150mm above surrounding ground levels.

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

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.

### *Ecological Issues*

The application is supported by an Ecological Assessment of the site. This provides that the closest statutorily designated site of nature conservation of importance to the application site is approximately 2km from the site (being the River Mease Special Area of Conservation (SAC)). In terms of non-statutory designation, the Assessment identifies 20 non-statutory sites within 1km of the application site, including two Local Wildlife Sites, five Parish, District and County Sites and 13 candidate / potential Local Wildlife Sites. However, having regard to the scale of the proposed development, the inclusion of appropriate green infrastructure buffering and the nature of the non-statutory sites, the Ecological Assessment suggests that the proposed development would be unlikely to have any impacts on those sites.

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 or great crested newts was found. The Assessment suggests that the impacts on bat foraging habitat would be negligible, and that, subject to the

retention of mature trees, there would be no adverse impacts on potential roosts; proposals are also set out to provide for additional / enhanced bat habitat. Insofar as reptiles are concerned, the Ecological Assessment notes that there is no record of reptile species less than 1km away and that the majority of the site lacks the structural diversity required by reptile species with habitat suitable for use by reptiles being restricted to areas of grassland immediately adjacent to the brook, hedgerow boundaries and scattered scrub. However, it suggests that the proposed development would provide corridors for movement along the boundaries of the site with further enhancements being provided within the proposed balancing facility. Insofar as birds are concerned, none were recorded breeding on-site, although the existing vegetation provides foraging habitat.

In terms of mitigation and enhancements, a range of measures are recommended within the Ecological Assessment including retention of existing vegetation, minimisation of light spill, provision of bat boxes and undertaking of work in accordance with appropriate practice under supervision of an ecologist. Subject to such mitigation, together with other measures proposed to be secured by condition as set out in the recommendation below, Leicestershire County Council's Ecologist raises no objections, nor are any objections raised by Natural England.

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

Waste water from Ashby de la Zouch drains into the River Mease which, as referred to above, is a Special Area of Conservation. The Packington sewage treatment works discharges in to the river and, as at March 2012, it was estimated by Severn Trent Water that the works had headroom (i.e. available capacity within the terms of the permit agreed by the Environment Agency) to accommodate 1,218 dwellings. However, the Water Quality Management Plan (WQMP) for the SAC (see below) clarifies that, whilst there may be volumetric headroom or capacity available for new development within the specific limits of the existing wastewater treatment work consents that discharge to the River Mease, the availability of such headroom is reliant on the WQMP being in place.

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

One of the actions of the WQMP was to establish a developer contribution framework in accordance with planning obligations best practice to be known as a Developer Contribution Scheme (DCS). The DCS was agreed in November 2012 and developer contributions will fund a programme of actions to restore and provide new benefits to the River Mease. The

contribution scheme provides a mechanism through which new development which increases phosphorous load to the river will mitigate the negative effects of development, as part of the overall package of reductions being delivered through the wider WQMP and the permit modifications identified through its review. It confirms that new development that contributes to the scheme will not conflict with the overall objectives and purposes of the WQMP.

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

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

The application is supported by a River Mease Impact Assessment which considers the implications of the proposed development on the River Mease, and including in respect of the ecological and hydrological impacts. Mitigation proposed in respect of the impacts on the River Mease includes conservation of features of ecological value, new native (and including National Forest) planting, retention of a wildlife buffer to the side of the Gilwiskaw brook, creation of SUDs features and the making of a DCS contribution. The applicants' River Mease Impact Assessment estimates that the contributions made would total between £13,053 and £19,533; the precise amount payable would however be contingent upon the precise nature of the development proposed at the reserved matters stage(s) in terms of number of dwellings, bedrooms and Code for Sustainable Homes level. 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.

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 proposals and the Design and Access Statement, the District Council's Urban Designer notes that, whilst the application seeks approval for access only at the outline stage, the Design and Access Statement seeks to establish a series of design principles and including an indicative masterplan. The Urban Designer raises a number of issues in terms of the submitted Design and Access Statement and masterplan, and not least in terms of the treatment of character in terms of the arrangement of streets and spaces (including the nature of plot subdivisions) and the relationship of buildings to one another. Whilst the submissions indicate that the design ethos is based on an intention to draw influence from the

character of Ashby de la Zouch, the illustrative layout does not, the District Council's Urban Designer considers, relate to the distinctive characteristics of the town, and he comments that the proposed use of standard house types would, as per previous development in the town, have no regard for locally distinctive character and would serve to erode rather than reinforce the character of the place.

Other issues raised include the proposed use of parking courtyards with no sentinel units and the rigid approach to highways design that, the District Council's Urban Designer suggests, run counter to the design ethos and design requirements established in documents such as Building for Life 12.

However, whilst there are issues that, in design terms, are considered necessary to address, the District Council's Urban Designer accepts that there is no reason why these cannot be addressed at a later stage and, having regard to the outline nature of the application, raises no objections subject to the imposition of conditions requiring a revised masterplan to be produced prior to the submission of any reserved matters application and the approval of a Design Code. The development is therefore considered acceptable in this regard.

### **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.

Regarding future residents' amenities, it is noted that objections have been raised given the potential noise implications of the site's proximity to the A42 dual carriageway and to the potential route of the HS2 railway line. The application is accompanied by a Noise Assessment which confirms that the existing noise climate of the site is dominated by road traffic on the A42, and the measurements taken within the southern part of the site indicated day time (0700-2300) noise of 66dB LAeq, 16h, and night time (2300-0700) noise of 60dB LAeq, 8h, with maximum night time noise reaching 70dB L<sub>max</sub> (from a typical passing vehicle).

In terms of other noise sources, the Noise Assessment also considers the impacts from the adjacent playing fields and HS2. The survey acknowledges that, during the time of the survey (taken over a 25 hour midweek period), there was little use of the adjacent playing fields and, therefore, equivalent data collated elsewhere has been used. Insofar as HS2 is concerned, based on the currently proposed route, this would be approximately 180m (at its closest point) from the application site, located within a cutting to the opposite side of the A42; on the basis of the illustrative masterplan, the closest new dwelling would be approximately 225m from the track. The submitted Noise Assessment suggests that, having regard to the screening provided by the proposed rail cutting and the A42 embankment, noise levels of between 60 and 65dB(A) could be expected at the southern boundary of the site. The Assessment indicates that this would be unlikely to alter the façade construction or ventilation requirements and that any potential adverse effects on external garden noise levels would be expected to be limited due to mitigation measures to be included in the HS2 design having regard to the need to protect other nearby dwellings.

Insofar as mitigation is concerned, the Noise Assessment acknowledges the World Health Organisation guidelines which seek to limit dwellings' external night time exposure to noise greater than 55dB LAeq (which, based on the Assessment's findings, would be exceeded in much of the site) but, the Assessment suggests, the proposed dwellings can be orientated and /

or screened in such a way as to ensure that all dwellings have an area of garden meeting the 55dB threshold. On this basis there appears no reason why, in principle, the development could not be made acceptable in this regard, and no objections are raised by the District Council's Environmental Protection team.

It is noted that objections have been raised in terms of noise; in particular, the Packington Nook Residents' Association has questioned the robustness of the submitted Noise Assessment and has provided what it considers to be more realistic figures in respect of the noise associated from the A42 and HS2. The concerns of the Residents' Association, together with its alternative figures have been considered by the District Council's Environmental Protection team, but the Environmental Protection team confirms that its position in respect of the application remains unchanged.

Putting the potential for noise nuisance to future residents to one side, however, it is considered that only limited weight can be attributed to this issue as a material planning consideration at this stage in HS2's development. The Government is currently consulting on the proposed Phase 2 (i.e. West Midlands to Manchester and Leeds) connections, and the route is not fixed at this time; Phase 2 is not currently subject to the safeguarding mechanism which applies to the Phase 1 (London to West Midlands) section.

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

### **Heritage Issues**

The application is supported by an Archaeological Desk Based Assessment which concludes that the site has a low potential for all archaeological periods. Whilst the Assessment reports that the geophysical survey revealed a small number anomalies of possible archaeological origin within the site, it suggests that the anomalies are only of possible archaeological origin and do not form an identifiable coherent pattern. Whilst the Assessment suggests that possible archaeological features recorded by the geophysical survey and any as yet unrecorded remains that may be present may be impacted by earthmoving operations such as topsoil stripping, cutting foundations, and the construction of infrastructure, the Assessment suggests that, on the present evidence, it is unlikely that such remains would be of more than local significance. Leicestershire County Council's Planning Archaeologist raises no objections to the proposals subject to conditions relating to the undertaking of a Written Scheme of Investigation. Subject to the imposition of an appropriate condition(s) in this regard, the development is considered acceptable in terms of its likely archaeological impacts.

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

## Other Matters

### Relationship to Refused Scheme

As set out under Proposals and Background above, the site was part of a significantly larger site (61 hectares, compared to the current site area of 4.7 hectares) the subject of previous application (ref. 08/01588/OUTM). This application was refused and, on appeal, was dismissed by the Secretary of State. In dismissing the appeal, the Secretary of State concluded as follows in respect of what he felt were the main issues relevant to that scheme:

#### The River Mease SAC:

Concerns regarding the appellants' proposed mitigation (including the risk of costs exceeding the cap on the appeal site owners' financial liability) indicated that it was not certain that the scheme would not adversely affect the integrity of the SAC.

#### Landscape and Character of the Town:

Whilst the pattern of development and its scale would be acceptable, the built development would transform the character of the site, and that the visual and accessible amenity of the site as countryside and as an attractive rural setting for the town would be permanently lost. However, he did not consider that this matter on its own would be of sufficient weight to refuse planning permission, given that any necessary urban extensions around Ashby de la Zouch would inevitably result in a loss of countryside.

#### Noise:

The impact of noise from the A42 was considered to count against the appeal scheme, but was not a major consideration.

#### Highways:

The necessary highways mitigation measures were not fully defined and supported by the modelling work and would not be sufficient to avoid prejudicing road safety.

#### Sustainability:

The scheme was considered to have some sustainability merits but that it did not rate highly in this respect, and was not a more sustainable location than alternative sites in Ashby de la Zouch (although not that much worse, given the sustainability credentials of the town as a whole).

#### Prematurity:

The degree to which the scheme would prejudice the outcome of the Core Strategy process added some weight to the sum of the harm attributable to the scheme, but was not sufficient reason in itself to refuse permission

#### Housing Need:

The shortfall in housing was considered at that time by the Secretary of State to be "chronic and severe" and, even though much of the development would occur after the five year period, significant weight was afforded to the contribution this proposal would make to meeting housing need (albeit with various caveats).

#### Flood Risk:

The proposed flood alleviation measures would be capable of significantly reducing flood risk at Packington and represented a substantive benefit of the scheme.

Whilst this earlier decision is a material consideration of some significance in the assessment of

the current application, this must be considered in the context of any changes in circumstances since that appeal decision in March 2010 (including in respect of planning policy, and not least the publication of the NPPF), together with the significant differences in the current proposals which, it will be noted, relate to a site of less than 10% of the earlier scheme's site area.

In terms of these principal issues identified by the Secretary of State regarding the earlier scheme, it is not considered that any of the issues previously found to warrant refusal of that scheme (which, it is acknowledged, was of a significantly different scale and character of that the subject of the current application) would now be considered to indicate that the current proposals should also be refused. For the reasons as set out in the report above, the current scheme is considered acceptable in terms of its impact on the River Mease SAC, character and landscape, noise, accessibility and highway safety. Insofar as housing land supply is concerned, the implications of the approach to applications set out in the NPPF where an authority is unable to demonstrate a five year supply of housing are also set out and, as noted, are considered to represent a significant material consideration in favour of the proposals. In terms of the potential for the development to help reduce flooding downstream at Packington, given the limited size of the application site when compared with the scheme the subject of the earlier proposals, there is clearly less potential for significant reductions in run-off rates to be achieved when compared to the existing position. However, as noted above, the proposed development would limit run-off to rates no greater than the existing greenfield rate (together with an additional 20% to allow for future increased rates associated with climate change). In effect, therefore, insofar as the contribution that surface water run-off from this site currently makes towards flooding downstream is concerned, the additional allowance for climate change would represent an improvement in that additional flooding impacts arising from climate change would be accommodated (whereas they would not be in the event that the site remained undeveloped).

Overall, therefore, given the significant differences in the respective schemes, it is considered that none of the issues cited by the Secretary of State as reasons for dismissing the earlier appeal in 2010 would continue to represent reasons to refuse the current Lower Packington Road scheme.

### **Developer Contributions**

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

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

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

The relevant developer contributions (save for those already considered under Means of Access and Transportation) are listed below.

### *Affordable Housing*

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

For its part, the District Council's Strategic Housing Team advises that, of the 21 affordable

dwellings, it would, ideally, seek a property mix as follows:

4 x 2 bed bungalows (3 rented; 1 shared ownership)

5 x 1 bed properties (all rented)

7 x 2 bed houses (5 rented; 2 shared ownership)

5 x 3 bed houses (2 rented; 3 shared ownership)

The precise nature of the contribution could 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*

As set out above, the illustrative masterplan shows a significant extent of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space; the open space includes an on-site equipped children's play area, indicated as a LEAP located towards the north western part of the site. In terms of the extent of the proposed play area, on the basis of the illustrative plan, this would be in the order of 3,000 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, and the minimum requirements of the SPG would be comfortably met in this regard.

In terms of the range of equipment necessary, for developments of this number of dwellings, Local Plan Policy L22 and the District Council's SPG requires that the needs of children up to the age of 14 should be provided for, and including a minimum of 8 types of activity. There would therefore appear to be no reason why the relevant children's play / public open space requirements could not be met. The National Forest Company suggests that, to better reflect the low density, highly landscaped design of the development and its National Forest setting, the proposed Local Area of Play should be based on a natural play design. Again, there would appear to be no reason why this approach could not be taken.

#### *National Forest Planting*

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

#### *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 Willesley Primary School. The School has a net capacity of 350 and 344 pupils are projected on the roll should this development proceed, a surplus of 6 places after taking into account the 17 pupils generated by this development, and no contribution in respect of the Primary School sector is therefore requested.



High School Requirements:

The site falls within the catchment area of Ashby Ivanhoe College. The College has a net capacity of 995 and 972 pupils are projected on roll should this development proceed, a surplus of 23 places after taking into account the 7 pupils generated by this development, and no contribution in respect of the High School sector is therefore requested.

Upper School Requirements:

The site falls within the catchment area of Ashby School. The School has a net capacity of 1,841 and 1,883 pupils are projected on roll should this development proceed, a deficit of 42 pupil places (of which 35 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. In order to provide the additional upper school places anticipated by the proposed development, a contribution for the upper school sector of £128,486.12 is requested which would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Ashby School.

The applicants are agreeable to making the contribution requested.

*Library Services*

A contribution of £3,810 is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council.

*Healthcare*

NHS England requests a developer contribution of £23,331.83 in respect of healthcare as set out in the consultation response above. In support of the financial contribution request, the NHS advises that the development would result in an increased patient population of approximately 168, and that these additional residents of the proposed housing development would access healthcare in the two existing Ashby Health Centre and North Street surgeries (resulting in approximately 141 and 27 new patients respectively). Whilst the North Street practice is understood to have sufficient capacity, the Ashby Health Centre does not. The NHS advises that this practice has been identified as a priority for primary care premises investment, and that NHS England is supporting a new surgery for the practice, to which this sum could contribute if appropriate. It is considered that this request would meet the relevant CIL and NPPF tests, and the applicants have confirmed that are agreeable to making the contribution sought.

*Contributions sought by Leicestershire Police*

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

|                                |         |
|--------------------------------|---------|
| Start up equipment / training  | £2,939  |
| Vehicles                       | £1,778  |
| Additional radio call capacity | £178    |
| Police National Database       | £91     |
| Additional call handling       | £156    |
| ANPR                           | £2,466  |
| Mobile CCTV                    | £375    |
| Additional premises            | £20,955 |
| Hub equipment                  | £140    |

With regard to the acceptability of police contributions, the issue is not one of principle. The issue is, rather, whether Leicestershire Police can demonstrate that either on-site or off-site infrastructure is necessary and directly related to the impact of the development which is being granted consent, and that any contribution would in fact be used in order to pay for infrastructure which would actually be delivered. It is in this respect that officers remain to be persuaded that the requests in this case are CIL compliant.

Whilst officers acknowledge that such requests have been accepted by Inspectors and the Secretary of State as being CIL compliant in some recent appeal decisions in Leicestershire, and indeed the District (although Inspectors and the Secretary of State have also reached a contrary view on other occasions), and that consistency in decision making is desirable as a matter of policy, a decision as to whether an obligation is directly related to a particular development is one that can only be made on its individual merits.

The continuing controversy surrounding policing contributions is, however, itself undesirable as it creates uncertainty both for Leicestershire Police and developers / landowners as to whether a request for a contribution is likely to be supported in any given case. The Leicestershire Authorities have therefore agreed jointly to seek an independent legal Opinion as to the correct approach to be adopted by local planning authorities to such requests.

Pending the receipt of Counsel's Opinion, it is not possible to reach a conclusion on whether the proposed policing contribution would meet with the CIL tests at this particular time. Should Counsel advise that Leicestershire Police requests such as this are CIL compliant then the principle of requiring such contributions to be secured by way of Section 106 planning obligations would be accepted by the Council and required to be paid, subject to any issues of viability being raised. Should the inclusion of policing contributions, when considered alongside other contributions, render a scheme unviable (or more unviable if already so), then the importance of these contributions would need to be considered alongside other material considerations (including, where applicable, relevant planning policies including those within the NPPF and other infrastructure requirements) and a view reached as to whether or not it would be appropriate to secure them by way of a planning obligation.

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

## **Conclusions**

As set out in the main report above, whilst the site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan, and constitutes greenfield land, its release for housing is considered suitable in principle, particularly having regard to the need to release sites in order to meet the District Council's obligations in respect of housing land supply (and the approach taken in respect of such within the NPPF). Whilst the site is located outside of Limits to Development as defined in the adopted Local Plan, having regard to its location adjacent to the existing settlement and its associated services, the proposed development would, overall, be considered to constitute sustainable development as defined in the NPPF and, as such, 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 amenity, design and 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.

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

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

*Reason - This permission is in outline only.*

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

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

- 3 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 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 (3456-P-301 Rev B) deposited with the Local Planning Authority on 16 August 2013
  - Proposed site vehicular access (001 Rev A) deposited with the Local Planning Authority on 16 August 2013

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

- 5 Notwithstanding Conditions 1, 2 and 3 above, the first reserved matters application shall include a masterplan for the whole of the site setting out indicative details of 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, to ensure an appropriate form of design, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 6 No development shall commence on the site until such time as a Design Code for the

entirety of the site has been submitted to and agreed in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles and parameters described and illustrated in the Design and Access Statement, and demonstrate compliance with Building for Life 12 (or any subsequent replacement standard issued by the Design Council / CABE or any successor organisation). The development shall thereafter be carried out in accordance with the agreed details, or in accordance with any amendment to the Design Code subsequently agreed in writing by the Local Planning Authority.

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

7 A total of no more than 70 dwellings shall be erected.

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

8 No demolition / development shall commence on the site until such time as a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation first submitted to and agreed in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:

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

No demolition/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.*

9 No work shall commence on site until such time as precise details of proposed mitigation and / or management measures (and including a timetable for their implementation) as set out in sections 5.1 to 5.14 (inclusive) of the submitted Ecological Assessment dated August 2013 (prepared by FPCR) have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetable.

*Reason - In the interests of nature conservation.*

10 No work shall commence on site until such time as a biodiversity management plan for

all created and retained habitats (and including a timetable for its implementation) has been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be implemented and maintained in accordance with the agreed management plan (or in accordance with any alternative management plan first submitted to and agreed in writing by the Local Planning Authority).

*Reason - In the interests of nature conservation.*

- 11 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.*

- 12 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.*

- 13 Notwithstanding the submitted details, nor Condition 9 above, no development shall commence on the site until such time as a timetable for the undertaking of updated surveys in respect of badger in relation to commencement of site works on the relevant phase (and including the specification of maximum periods between undertaking of surveys and commencement of work on the relevant phase) has been submitted to and agreed in writing by the Local Planning Authority. No development shall thereafter be undertaken at any time unless the relevant surveys have been undertaken and the results (including mitigation measures and a timetable for such mitigation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority, and the development shall thereafter be undertaken strictly in accordance with the agreed mitigation measures and timetable.

*Reason - In the interests of nature conservation.*

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

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

- 15 No work shall commence in respect of the erection of any dwelling until such time as precise details of all measures proposed in respect of protection of occupiers of the relevant dwelling from noise and a timetable for their implementation have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in full in accordance with the agreed details and timetable.

*Reason - To ensure that future occupiers of the development are protected from excessive noise, in the interests of amenity, and to comply with Policy E3 of the North West Leicestershire Local Plan.*

- 16 None of the dwellings hereby permitted shall be occupied until such time as the scheme for the vehicular access to Lower Packington Road and associated off-site highway works has been constructed in full in accordance with the details shown on drawing no. 001 Rev. A. Once provided, the vehicular access to Lower Packington Road shall thereafter be so maintained at all times until such time as it may be adopted as public highway by the Local Highway Authority.

*Reason - To enable vehicles to enter and leave the highway in a slow and controlled manner, to ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway, to afford adequate visibility at the access / junction to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.*

- 17 None of the dwellings hereby permitted shall be occupied until such time as drainage has been provided within the site such that surface water does not drain into the public highway and, once provided, shall thereafter be so maintained.

*Reason - To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users, 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 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 No development (save for demolition works) shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a Risk Based Land Contamination Assessment has been submitted to and agreed in writing by the Local Planning Authority. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
  - BS8576:2013 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, published by the Environment Agency 2004.

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

- 20 If, pursuant to Condition 19 above, any unacceptable risks are identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004, and the Verification Plan (which shall identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action) shall be prepared in accordance with the requirements of Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010, and CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004. If, during the course of development, previously unidentified contamination is discovered, development shall cease on the affected part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be undertaken in accordance with the agreed details and thereafter be so maintained.

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

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

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

- 22 The development hereby permitted shall be carried out in accordance with the amended Flood Risk Assessment (FRA) (Final FRA v1.1 November 2013 (Updated SW Drainage Strategy)) deposited with the Local Planning Authority on 3 December 2013 and the following measures detailed within the FRA:
- Limiting the surface water run-off generated by the 100 year (with 30% increase in peak rainfall intensity for the impacts of climate change) rainfall event to the equivalent Greenfield run-off rate of 13.20 l/s/ha;
  - Discharging of surface water to the Gilwiskaw Brook at a rate no greater than the equivalent Greenfield runoff rate of 13.20 l/s/ha;
  - Provision of a surface water attenuation pond (to be located in the southern part of the site) and swale system to capture and store the surface water runoff from the site up to the 1 in 100 year climate change rainfall event;
  - Locating of the proposed residential area outside of the 1,000-year floodplain;
  - Maintenance of safe access and egress via Lower Packington Road; and
  - Raising of finished floor levels to at least 150mm above surrounding ground levels.
- Unless any alternative programme is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as the mitigation measures have been fully implemented.

*Reason - To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site, ensure safe access / egress to / from the site and reduce the risk of flooding to future occupants.*

- 23 No development shall commence on the site until such time as 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, together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall demonstrate the surface water runoff from the development for the critical storm for any rainfall return period (up to the 1 in 100 year climate change storm) would be limited to the equivalent unit Greenfield runoff rate or 5 l/s, to ensure that the runoff from the development will not exceed the runoff from the undeveloped site. The scheme shall include:
- Details of how the scheme shall be maintained and managed following completion; and
  - A network of swales to capture and convey the surface water runoff to an above ground surface water attenuation pond that will control the discharge from the site to the equivalent unit Greenfield runoff rate.
- The scheme shall subsequently be implemented in accordance with the approved details and timetable.

*Reason - To prevent flooding, to ensure the satisfactory storage and disposal of surface water from the site, and to ensure that the development will not impact upon the features of special interest for which the River Mease SAC / SSSI is notified.*

- 24 No development shall commence on the site until such time as a foul water drainage scheme for the site, together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable.

*Reason - To ensure the satisfactory disposal of foul water from the site, to reduce the risk of creating or exacerbating a flooding problem, to minimise the risk of pollution, and to ensure that the development will not impact upon the features of special interest for*



*which the River Mease SAC / SSSI is notified.*

- 25 No development shall commence on the site until such time as a scheme of measures to prevent pollution of nearby watercourses 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 at any time unless all of the measures as required 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.*

### Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

- 2 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk)

- 3 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.
- Coal mining subsidence.
- Water emissions from coal mine workings.

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

Potential hazards or impacts may not necessarily be confined to the development site,

and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

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

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

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

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

- 4 Your attention is drawn to the attached report of Severn Trent Water Limited.
- 5 Your attention is drawn to the attached report of the Environment Agency.
- 6 Your attention is drawn to the attached report of Natural England.
- 7 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highway matters.
- 8 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer. The applicants are advised to have regard to the issues raised when preparing any reserved matters scheme.
- 9 Your attention is drawn to the attached report of the National Forest Company.
- 10 Your attention is drawn to the attached report of the District Council's Urban Designer. The applicants are advised to have regard to the issues raised and are encouraged to enter into pre-application discussions with the Local Planning Authority prior to preparing any reserved matters scheme.
- 11 The applicants are advised that, notwithstanding the mix of housing size / type assumed for the purposes of calculating the likely River Mease DCS contribution, the Local Planning Authority would expect the reserved matters to include for an appropriate mix of residential units to reflect local need.
- 12 This decision is in accordance with the resolution of the Planning Committee of 7 January 2014 and is subject to a Section 106 Obligation.