

Erection of 77 dwellings, including vehicular access, pedestrian links, public open space, car parking, landscaping and drainage

Report Item No  
A1

Land North East Of Atherstone Road Measham Swadlincote  
Derby DE12 7EL

Application Reference  
14/00273/FULM

Applicant:

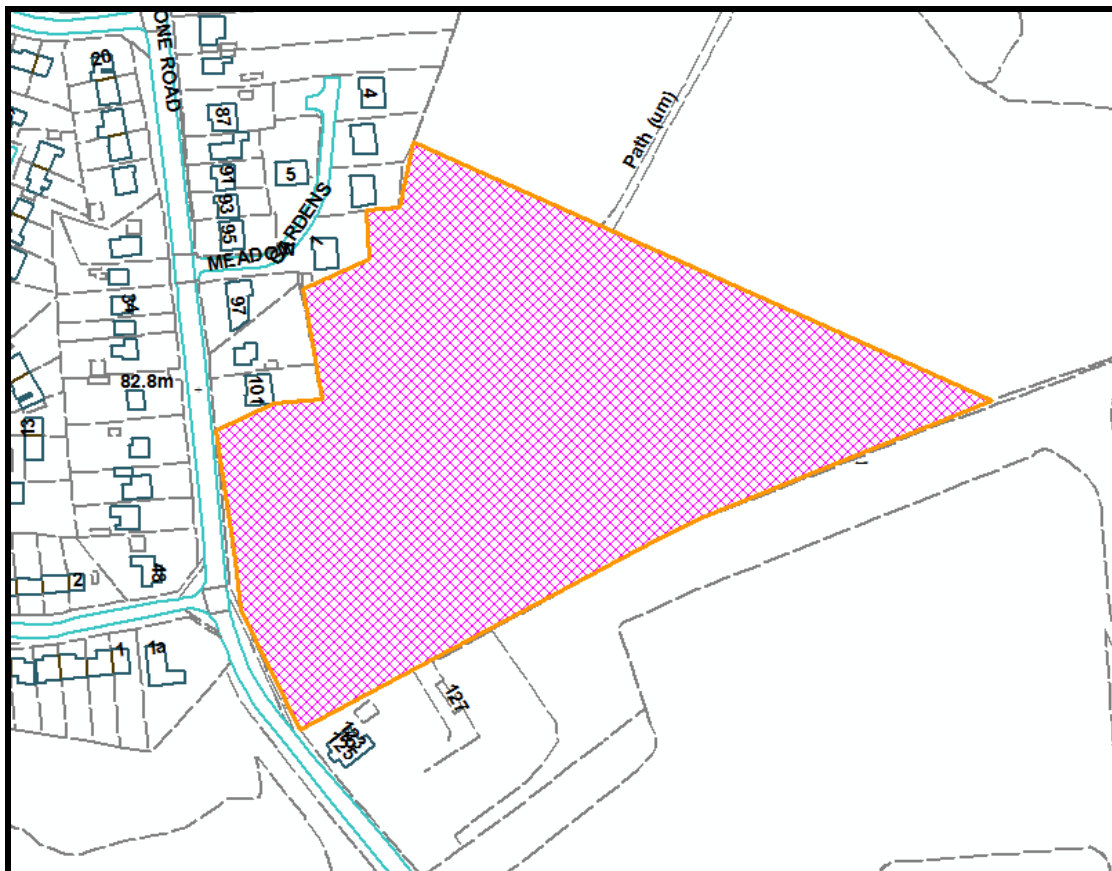
Date Registered  
25 April 2014

Case Officer:  
James Knightley

Target Decision Date  
25 July 2014

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



## **Executive Summary of Proposals and Recommendation**

### **Proposal**

This application seeks full planning permission for residential development of 77 dwellings and associated works.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals, and including from Measham Parish 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 Measham) 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 a full planning application for residential development of a site of approximately 3.2 hectares for 77 dwellings on land to the east of Atherstone Road, Measham.

In addition to the proposed dwellings, the submitted scheme would provide for a new vehicular access to Atherstone Road, and would include, to the site frontage, an area of public open space / children's play, proposed and retained tree planting / landscaping and surface water attenuation facilities.

The site is currently vacant agricultural land / scrub, and is bounded by further agricultural land, a brickworks, and residential curtilage. The site was formerly used as part of a nurseries, much of which was subsequently redeveloped for housing (now Meadow Gardens, to the north of the application site).

The proposed vehicular access would be in the form of a new priority access to Atherstone Road, having been amended from a mini-roundabout serving the site (as well as Byron Crescent to the opposite side of Atherstone Road) during the course of the application's consideration, the roundabout access option not being pursued given the need to fell a tree on the site frontage in order to accommodate that junction. The site is also crossed by a public right of way.

### 2. Publicity

43 No neighbours have been notified (Date of last notification 26 February 2015)

Site Notice displayed 12 May 2014

Press Notice published 21 May 2014

### 3. Consultations

Measham Parish Council consulted 28 April 2014

County Highway Authority consulted 1 May 2014

Environment Agency consulted 1 May 2014

Severn Trent Water Limited consulted 1 May 2014

Head of Environmental Protection consulted 1 May 2014

Natural England consulted 1 May 2014

NWLDC Tree Officer consulted 11 September 2014

County Highway Authority consulted 12 November 2014

Environment Agency consulted 11 September 2014

County Planning Authority consulted 11 September 2014

County Archaeologist consulted 1 May 2014

LCC ecology consulted 1 May 2014

NWLDC Urban Designer consulted 1 May 2014

County Planning Authority consulted 1 May 2014

LCC Development Contributions consulted 1 May 2014

NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 1 May 2014

Head Of Leisure And Culture consulted 1 May 2014

Manager Of Housing North West Leicestershire District Council consulted 1 May 2014

Police Architectural Liaison Officer consulted 1 May 2014

LCC/Footpaths consulted 1 May 2014

#### 4. Summary of Representations Received

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

**Leicester-Shire and Rutland Sport** requests a developer contribution of £74,057 in respect of sport facilities

**Leicestershire County Council Local Education Authority** requests developer contributions of £355,445.88 in respect of additional provision in the primary, high and upper school sectors

**Leicestershire County Council Library Services Development Manager** requests a developer contribution of £2,290 in respect of library facilities

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

**Leicestershire County Council Landscape Officer** has no requirements in respect of developer contributions

**Leicestershire County Council Ecologist** has no objections subject to conditions (and subject to the retention of the tree adjacent to the proposed site access)

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

**Leicestershire County Council Mineral Planning Authority** has no objections subject to the Local Planning Authority being satisfied that the approved working of sandstone reserves on adjacent land can be undertaken without adverse amenity impacts on new residents

**Leicestershire County Council Rights of Way Officer** has no objections subject to conditions requiring the retention of the existing route of public footpath P86 but advises that, if this was not practicable, the developers would need to make an application for its diversion

**Leicestershire Police** requests a developer contribution of £32,074 in respect of policing, and objects to the application in the absence of such a contribution within the applicants' Section 106 draft heads of terms

**Measham Parish Council** objects on the grounds that the site is outside Limits to Development and that the proposals would be contrary to Local Plan Policy M2

**National Forest Company** considers that a contribution towards National Forest planting is required, either on-site or in the form of a commuted sum of £12,600

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

**NHS England (Leicestershire and Lincolnshire Area)** requests a healthcare contribution of £36,673.20

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

to conditions

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

**North West Leicestershire District Council Waste Services Officer** advises that, having regard to proposed access road widths and means of surfacing, refuse and recycling receptacles will need to be presented at collection points adjacent to the adoptable highways

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

### **Third Party Representations**

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

- Proposed access should be amended so as to ensure retention of tree(s) on the site frontage
- Tree(s) should be protected by a Tree Preservation Order
- Adverse impact on ecology / protected species / River Mease
- Insufficient notification of the application
- Insufficient infrastructure capacity (including in respect of drainage, healthcare, education and roads / traffic)
- Proposed public open space too small
- Unsafe vehicular access
- Loss of green / open space
- Loss of greenfield / agricultural land
- Increased anti-social behaviour
- Impact on public footpath
- Contrary to Local Plan policy
- Loss of view
- Flood risk
- Development not required
- Site should be compulsorily purchased for tree planting
- Noise from brickworks site
- Adjacent site has permission for mineral extraction
- Concern over applicants' proposed culvert works on third party land

Two representations have been received, supporting the application on the following grounds:

- Improved access to public right of way not currently always accessible due to farming activities
- Additional housing required to accommodate increased population
- Many objections made by residents on the existing Poets Corner estate which was itself the subject of many objections when first built - infrastructure also had to be increased to accommodate that development at the time

## **5. Relevant Planning Policy**

### **National Policies**

#### *National Planning Policy Framework*

The NPPF (Paragraph 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with

the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

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

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

Paragraph 14 (Presumption in favour of sustainable development)  
Paragraph 17 (Core planning principles)  
Paragraph 32 (Promoting sustainable transport)  
Paragraph 34 (Promoting sustainable transport)  
Paragraph 47 (Delivering a wide choice of high quality homes)  
Paragraph 49 (Delivering a wide choice of high quality homes)  
Paragraph 57 (Requiring good design)  
Paragraph 59 (Requiring good design)  
Paragraph 61 (Requiring good design)  
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 112 (Conserving and enhancing the natural environment)  
Paragraph 118 (Conserving and enhancing the natural environment)  
Paragraph 123 (Conserving and enhancing the natural environment)  
Paragraph 173 (Ensuring viability and delivery)  
Paragraph 203 (Planning conditions and obligations)  
Paragraph 204 (Planning conditions and obligations)

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

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

Policy S3 - Countryside  
Policy E2 - Landscaped Amenity Open Space  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E6 - Comprehensive Development  
Policy E7 - Landscaping  
Policy E8 - Crime Prevention  
Policy F1 - National Forest General Policy  
Policy T3 - Highway Standards  
Policy T8 - Parking  
Policy H4/1 - Housing Land Release  
Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy H8 - Affordable Housing  
Policy L21 - Children's Play Areas  
Policy L22 - Formal Recreation Provision  
Policy M2 - Redevelopment Potential

## **Other Policies**

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

Key Principle AH2 provides that affordable housing will be sought on all sites of 5 or more dwellings in areas outside of Greater Coalville, Ashby de la Zouch and Castle Donington.

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

### **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.

### **Leicestershire Minerals Development Framework Core Strategy and Development Control Policies**

Policy MDC8 provides that planning permission will not be granted for any form of development within a Mineral Safeguarding Area that is incompatible with safeguarding the mineral unless (i) the applicant can demonstrate to the satisfaction of the Local Planning Authority that the mineral concerned is no longer of any value or potential value; (ii) the mineral can be extracted satisfactorily prior to the incompatible development taking place; (iii) the incompatible development is of a temporary nature and can be completed and the site restored to a condition that does not inhibit extraction within the timescale that the mineral is likely to be needed; (iv) there is an overriding need for the incompatible development; or (v) it constitutes "exempt development" (e.g. householder development, development already allocated in a statutory plan or infilling in existing built up areas).

### **6Cs Design Guide (Leicestershire County Council)**

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the design and layout of new 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 Leicestershire Local Plan, the site is outside Limits to Development. Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development; the development proposed would not meet the criteria for development in the countryside, and approval would therefore be contrary to the provisions of Policy S3. Notwithstanding the countryside location, and whilst the proposals would be contrary to the adopted Development Plan, in determining the application, regard must be had to other material considerations, including other policies, such as other Development Plan policies and National policies.

*Housing Land Supply and Limits to Development*

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery.

In terms of the minimum amount of housing required to be provided within the District as a whole, a Strategic Housing Market Assessment (SHMA) undertaken on behalf of all of the Leicestershire local planning authorities has provided the District Council with an up-to-date objectively assessed annual housing requirement, equating to 350 dwellings per annum. The approach used in the SHMA to establishing this Objectively Assessed Need (OAN) was supported by the Inspector who determined the appeal in respect of a site at Lower Packington Road, Ashby de la Zouch, issued in October 2014 and, based on the findings of the Inspector regarding the appropriate method of calculating supply, the District Council's latest housing supply trajectory indicates that, using the approach of the above annualised requirement with a 20% buffer, the District is currently able to demonstrate a supply of 6.08 years. This figure, in accordance with the views of the Inspector who determined the Lower Packington Road appeal, includes anticipated contributions within the five year period from applications where an application has been resolved to be permitted but where the planning permission has not as yet been issued (e.g. where they are awaiting completion of Section 106 agreements); the equivalent figure when discounting such applications would be 4.60 years.

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

In addition, notwithstanding the principles contained in Paragraph 17 of the NPPF which highlights the need to recognise the intrinsic character and beauty of the countryside, the NPPF's provisions do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out in more detail in this report.

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

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

Insofar as the site itself is concerned, and whilst it is located outside Limits to Development, it is well related to the existing built up area of Measham. In terms of accessibility, it is noted that the site is within close proximity of Measham which includes a reasonable range of services. The site is approximately 900m from the village centre (being the closest point of the Local Centre as defined in the adopted Local Plan) when taking the shortest walking route (i.e. via the existing right of way and Horses Lane); the shortest route currently available to all users and in



all weathers would be via Atherstone Road and High Street, with the closest point within the Local Centre being approximately 1km from the site access. The nearest bus services are available at stops approximately 800m from the site.

In this regard the proposed development is not dissimilar where, in the context of the Local Planning Authority demonstrating that it had a five year supply of housing, the Inspector dismissed the appeal on the Lower Packington Road site which was approximately 1km from the town centre. In the case of the Lower Packington Road appeal, bus stops were located closer to the site than in this case, although it is noted that, in this instance, employment sites are closer than they were to the Ashby de la Zouch site. Clearly, each application must be determined on its merits, and it is accepted that, in other aspects, the currently proposed development performs better than the Lower Packington Road scheme, and a view must be reached as to whether, overall, the development can be considered sustainable in NPPF terms. It is also noted that, unlike the Lower Packington Road site, there are other facilities closer to the site than those within the village centre (including a convenience store at Fenton Crescent, approximately 250m from the application site). In addition to this, and as set out in more detail under Means of Access and Transportation below, it is noted that the County Highway Authority considers that improvement of the existing public right of way connecting the site with Horses Lane would provide a number of accessibility benefits and, whilst the proposals are considered to remain finely balanced in this regard, the view is taken that, if these improvements are secured, the site would, overall, be sufficiently accessible.

In terms of the site's greenfield status, it is accepted that the site does not perform well. However, this issue needs to be considered in the context of the need to demonstrate and maintain a five year housing land supply in the District, and the need for sites to be released to meet this need. Given the need to provide significant areas of housing land as set out below, it is considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

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

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

#### *Local Plan Policy M2*

Whilst lying outside of Limits to Development as defined the adopted North West Leicestershire Local Plan, the site is also part of a larger area designated under Local Plan Policy M2, that

wider designation including the adjacent brickworks and agricultural land to the north east and south east respectively. This policy provides that redevelopment of the sites of the brick and pipe manufacturing works identified under the policy will be permitted where it is subject to a comprehensive assessment to determine the extent, form and type of redevelopment, is satisfactory in terms of vehicular access arrangements and its impact on the local and wider road network, is satisfactory in terms of its effect on the amenities enjoyed by the occupiers of adjacent residential properties, and incorporates substantial National Forest planting. The issues relating to this policy are considered in more detail under the section relating to the brickworks and mineral related issues below.

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

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

**Detailed Issues**

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

**Landscape and Visual Impact**

The application is accompanied by a Landscape Review document which considers the site's context in relation to surrounding development / landscape. The Landscape Review suggests that the low-lying nature of the site, combined with what it describes as the established framework of settlement, landscaping and industry, result in a contained visual setting that shares a close relationship with the settlement and limited visual relationship with the wider landscape setting. The applicants' landscape consultants consider that the proposed development would not introduce a discordant element into this landscape setting and would therefore be unlikely to result in any significant harm to the visual character and appearance of the settlement and wider landscape setting. Whilst the Landscape Review accepts that the proposals would result in changes to the visual amenity of the properties surrounding the site, and to the setting of the public right of way crossing the site (as discussed in more detail under Means of Access and Transportation below), these effects would, the review suggests, only be of significance at a site level, and should not represent a significant constraint to the development of the site.

The applicants' assessment in this regard is accepted in that, whilst the development would clearly fundamentally change the characteristics of the site itself (and, in particular, its amenity value for users of the right of way), and would extend the existing continuously built up area of the settlement further south along Atherstone Road, given the topography of the area, wider visual and landscape impacts would be unlikely.

Insofar as the implications on existing vegetation are concerned, it is noted that hedgerows and trees surround much of the site but are, generally, located to the site periphery. The application is supported by an Arboricultural Assessment considering the existing trees and hedgerows, and the implications of the proposed development on them.

On the basis of the layout proposed, a number of trees would be removed to facilitate the scheme and, in particular, four crack willow trees to the south eastern site boundary; whilst it could, technically, be possible to retain these trees with the development, some of the proposed dwellings to this area are shown as having relatively short rear gardens (as short as 7m (approx) in places), and retention of the trees in conjunction with gardens of this size would be unlikely to be compatible in terms of future amenity impacts to occupiers of the new dwellings. Whilst there appears to be no reason why an alternative layout could not be devised so as to ensure their retention (although there could be implications on the number of dwellings provided on the site as a result), it is accepted that the trees to be removed fall within retention Category C (low quality) and, as such, their removal would not be unacceptable in any event. No other individual trees or groups of trees of higher than Category C are proposed to be removed. Insofar as hedgerows are concerned, the existing hedgerows fronting Atherstone Road are classified within the Arboricultural Assessment as falling within Category B (moderate quality), and a small section (15m approx) would need to be removed so as to form the widened site access; this loss would not, however, be considered unacceptable.

Also of relevance are two English oak trees to the Atherstone Road site frontage; as set out in more detail under Means of Access and Transportation below, it had originally been proposed to remove one of these trees to enable the formation of a mini-roundabout at the site access, but this is no longer the case, and these trees would be retained in situ. In addition, since the time that the application was submitted, these trees have been made the subject of a Tree Preservation Order (T439) (currently awaiting formal confirmation).

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

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

As set out above, the application proposes the provision of vehicular access via a new priority access to Atherstone Road. The submitted layout also shows a pedestrian link to the land to the north east (i.e. the route of the existing public right of way), as well as a potential link to the land to the south east (i.e. the existing brickworks site).

The application is accompanied by a Transport Statement. This indicates that, in the applicants' consultants' opinion, the proposed development is within walking distance of Measham village centre, close to various local amenities, employment opportunities, schools and other facilities. The Transport Statement also notes that there are footways along the site frontage on Atherstone Road that are part of a wider network that provide access to destinations in all directions, and that the public footpath running through the site provides a short route to Horses Lane and from there to facilities in the village centre. For its part, the County Highway Authority notes the level of services accessible to the site and, whilst it expresses concern in that the nearest bus services would, at 800m, be more distant than the recommended maximum of 400m as set out in the 6Cs Design Guide and in national guidance, the County Highway Authority considers that the *"wide variety of shops, schools and other services within a reasonable walking distance is, on balance, sufficient in the view of the highway authority to make the site sustainable in transport terms, provided a suitable upgrade to [public right of way] P86 is provided"*. In particular, the County Highway Authority notes that use of the right of way provides for, not only a slightly reduced distance to the town centre, but also significantly shorter walking distances to both the Church of England and Roman Catholic primary schools. In order to ensure that these links are available in all conditions, the County Highway Authority requests that the right of way be upgraded to provide a 2m wide tarmac surface with lighting. Further

assessment of the impacts of this is set out below.

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:

- 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 an average cost of £350.00 per pass if required)
- Improvements to the two nearest bus stops (including raised and dropped kerbs to allow level access) 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); and
- Contribution of £5,840 towards equipping the nearest suitable bus stops 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

[It is also noted that the County Highway Authority has requested the imposition of a condition in respect of the routing of construction traffic; it is considered that this would more appropriately be secured by way of a Section 106 obligation, however.]

In terms of the proposed site access, and following pre-application public consultation, the application as first submitted proposed the formation of a mini-roundabout but, in response to public and officer concerns raised at the application stage regarding the associated felling of the mature oak tree on the site frontage, the proposed access has been amended to a priority junction, and relocated further north. Following the amendment of the proposed site access, the District Council's Tree Officer is satisfied that the tree in question (together with the other site frontage oak, also protected under Tree Preservation Order T439) can be satisfactorily retained, and would not be subject to unacceptable works to the trunk or canopy so as to provide the extent of access visibility (2.4m x 43m) assessed as necessary by the County Highway Authority.

Insofar as this form of access is concerned, the County Highway Authority considers that this would be acceptable subject to the implementation of appropriate traffic calming measures. The applicants have provided a proposed scheme of traffic calming to Atherstone Road (including new "gateway" road markings on the entrance to the village (and extended 30mph zone), together with two sets of speed cushions). Subject to the provision of these features intended to reduce vehicle speeds, therefore, the proposed means of access is considered acceptable to the County Highway Authority. The County Highway Authority also advises that it is consulting on reducing the speed limit beyond the (extended) 30mph zone (i.e. further to the south on Atherstone Road) from 60mph to 40mph; this would serve to reduce vehicle speeds further in the vicinity of the proposed development access.

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.

As referred to above, the site is crossed by right of way P86, and a number of issues are considered to arise out of this, namely the impact on the existing line of the right of way through the site, the impact on its amenity value of the development, and the impact on the amenity value of that part of the right of way beyond the application site in view of the County Highway Authority's recommended improvements intended to enhance the accessibility of the site.

Leicestershire County Council's Rights of Way Officer notes that, following amendment, the route of the right of way as shown on the submitted layout would not be required to be diverted as it would be consistent with the Definitive Map route. Insofar as the amenity impacts of the proposed development (i.e. the impacts on the amenity value of the right of way as a leisure / recreational route given that it would no longer pass through a section of undeveloped countryside) are concerned, it is accepted that some adverse impacts on its value in this regard would result. However, having regard to the limited extent of the section subject to this change, and given the proposed routing of the right of way adjacent to a landscaped strip, it is not considered that these impacts would be unacceptably harmful, nor sufficient to render the development unsustainable in NPPF terms.

The Rights of Way Officer raises no objections to the proposed development but, having regard to an anticipated increased use of the right of way, requests that an all-weather surface be provided to the section of the footpath on the land to the north east (i.e. between the application site and Horses Lane). Whilst it is not necessarily accepted that the potential increased use of the route as a result of the proposed development would justify a requirement to hard-surface the section to the north east, it is nevertheless accepted that such works would be reasonably required for the reasons for which similar measures are sought by the highway authority (i.e. to enable / encourage use of a shorter pedestrian route to facilities elsewhere in the village). Insofar as the amenity impacts of this requested mitigation is concerned, it is noted that the County Highway Authority suggests the use of a 2m wide tarmac surface with lighting. Given the rural nature of the site, it is considered that such a solution could appear somewhat urbanising and may not be the most appropriate approach in this location. However, it is considered that, in principle (and subject to any relevant County Council requirements), there is no reason why a sensitively designed all weather surface could not be provided to this section. Furthermore, lighting could also be provided which, depending on the nature of the equipment used, could strike an appropriate balance between enabling safe use during the hours of darkness and preserving the rural amenities of the area.

Insofar as the method of securing this enhanced link to serve the site is concerned, the applicants suggest that, as the adjacent field is not under their control, they make a financial contribution to Leicestershire County Council. However, it is not clear as to what would happen in the event that, for whatever reason, the County Council chose not to progress those works (nor, indeed, what the actual cost required as a commuted sum would be). In this case, the view is taken that, in the absence of enhancements to the right of way so as to enable year round access for all users, the site would not be sufficiently accessible so as to be acceptable in planning terms. Therefore, it is considered that, until such time as the improvements are made, the development should not be occupied, and the imposition of a negatively worded ("Grampian") condition as recommended below would appear to be the most appropriate means of securing this; if the applicants need to enter into separate negotiations with the landowner and / or Leicestershire County Council in order to ensure that the upgrade works are delivered prior to being able to occupy any of the proposed dwellings, that would be a matter for them to resolve. Advice in the DCLG's Planning Practice Guidance (Paragraph ref. ID 21a-011-20140306) indicates that, where a condition can be used to overcome a planning objection, this approach should be used in preference to a planning obligation.

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.

### **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 Grades 1, 2 and 3a of the Agricultural Land Classification.

An assessment of the site's agricultural land has not been provided by the applicants and they have been unable to ascertain its grade. However, based on the MAFF provisional classification, it would appear to be within Grade 3. Given that the sub-category (i.e. 3a or 3b) is not known, it is not possible to ascertain whether the site would be BMV and, as such, it is considered necessary to consider this issue further in case the site is within Grade 3a. 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. Even if the land is indeed BMV land, and in terms of assessing the significance of the loss, it is noted that, at 3.2 hectares, the site falls some way below the 20 hectare threshold at which it is generally accepted that a "moderate" impact from the loss of BMV would result. Whilst the NPPF does not suggest that release of smaller BMV sites is acceptable, it nevertheless appears reasonable to have regard to the extent of the loss in the decision making process.

As such, and whilst it is not considered that the proposed development sits particularly comfortably with the requirements of the NPPF and, in particular, the aims of Paragraph 112, this would need to be weighed against other material considerations and, whilst there could be adverse impacts in this regard, these concerns would not be so significant as to outweigh the considerations in favour of the scheme. When considered in the context of the five year housing land supply issue, and the benefits of releasing the site to assist in maintaining such supply, it is considered that the agricultural land quality issue is not sufficient to render the development unsustainable overall, nor that planning permission should be refused on this issue.

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

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

#### *Flood Risk and Drainage*

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

In terms of other sources of flood risk, the Flood Risk Assessment also has regard to the implications of the proposed development on surface water discharge and a smaller watercourse which follows the south eastern boundary of the site, and is then culverted under Atherstone Road. It is proposed to dispose of surface water via this watercourse (where not otherwise dealt with by infiltration), and other measures (including the provision of an on-site balancing pond) would be employed to enable flows to the watercourse to be controlled; this pond has been designed to accommodate flows for events up to the 1 in 100 year (plus 30% for climate change) storm event.

For its part, the Environment Agency raises no objections to the application subject to the imposition of conditions. Whilst concerns have been raised regarding increased flood risk downstream, the limitation of the discharge of surface water in the manner set out above would indicate that no increased risk of flooding to other properties would be likely. However, whilst not reasons upon which the Environment Agency wishes to raise objection, the Agency does nevertheless raise concerns regarding the appropriateness of the applicants' proposals in respect of the siting of rear garden fences / boundaries adjacent to the watercourse and the proposed works designed to mitigate for flooding from an existing redundant weir and undersized culvert (although it is noted that these concerns do not necessarily raise issues in respect of flood risk). In terms of the works designed to avoid flooding from the existing culvert, the applicants propose to construct a new side weir and flood channel, whereas the Agency would wish to encourage liaison with the adjacent landowner to enable removal of the weir and diverting the watercourse via a natural channel, thus assisting in re-naturalising the watercourse (which is a tributary to the River Mease). It is considered that, should such an approach be feasible, it should be encouraged as far as possible, and the conditions recommended below therefore reflect this aim. Insofar as the Environment Agency's suggestions in respect of the applicants' proposed siting of rear garden fences / boundaries adjacent to the watercourse are concerned, this issue relates to the potential for a wildlife movement corridor to be established, and further consideration as to the practicality of this (given the need to provide reasonable garden space and an acoustic fence to protect future occupiers' amenities (see Residential Amenity below)) may be necessary, but the conditions recommended below would allow for this to be secured if possible.

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

#### *Ecological Issues*

The application is supported by an Ecological Appraisal of the site. This provides that the closest statutorily designated site of nature conservation of importance to the application site is approximately 320m from the site (being the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI)); the Ashby Canal SSSI is also located within the Appraisal's search area, being 1.7km from the application site. In terms of non-statutory designation, the Appraisal identifies 13 non-statutory sites within 1km of the application site, and including one of the mature oaks fronting onto Atherstone Road (and as already considered above) which the Appraisal identifies as a potential local wildlife site. The Ecological Appraisal (which was submitted with the application prior to the amendment of the proposed access arrangements) indicates that there would be an ecological impact arising from the previously proposed felling of the tree; in view of the amendment of the scheme, however, this impact would no longer result. No other significant adverse impacts on sites are indicated as likely to result.

Insofar as protected or notable species are concerned, the Assessment considers the impacts on bats, breeding birds and great crested newts. In terms of bats, having regard to the now proposed retention of the oak (which is identified as having potential for use as a roost), no specific impacts are considered likely. In respect of breeding birds, no specific issues arise, subject to the need to have regard to them during works and subject to bird box provision. Insofar as great crested newts are concerned, the Appraisal suggests that, having regard to the suitability of habitat within the site, and the isolation of the closest suitable ponds from the site, use of the site appears unlikely.

In terms of the ecological impacts generally, concerns were raised by the County Ecologist in respect of the originally proposed felling of the oak tree to form the access. However, no objections are raised on the basis of the tree's retention, and subject to a number of conditions. Similarly, no objections are raised by Natural England.

Whilst the County Ecologist has recommended a number of conditions (and including provision of a buffer zone to all retained hedgerows) the layout as proposed (nor indeed the proposed acoustic fencing as discussed in more detail below) would not enable the retention of a 5m buffer zone to both sides of hedgerows as suggested by the County Ecologist, and it is not considered that such an aspiration is achievable in this instance when seeking to balance an appropriate form of development in habitat terms with a reasonable extent of development within the site. The proposals are therefore considered, overall, to be acceptable in terms of their ecological impacts, subject to the imposition of suitably-worded conditions.

#### *River Mease Special Area of Conservation (SAC)*

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

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

The application is supported by a River Mease SAC Impact Assessment which considers the implications of the proposed development on the River Mease and proposed mitigation. This includes the making of a DCS contribution in accordance with the formulae set out within the DCS, and with the final amount payable being contingent upon the precise nature of the development having regard to the number of dwellings, the number of bedrooms and the dwellings' Code for Sustainable Homes level. As such, and subject to the implementation of appropriate obligations, the proposals would comply with the relevant planning policies and the Habitats Regulations. Natural England advises that the proposed development would be unlikely to have a significant effect on the interest features for which the SAC has been classified, and that an Appropriate Assessment would not be required.

The flows from the new dwellings will need to be taken into account against the existing headroom at Measham Treatment Works, which serves the site. As of March 2014 capacity was available for 188 dwellings at these works when taking into account the number of dwellings that had consent and / or were under construction; whilst approval of further dwellings since March



2014 would reduce the capacity, even when taking these subsequent approvals into account, sufficient capacity nevertheless remains for the proposed development and, at the time of preparing this report, was equivalent to approximately 116 dwellings and, thus, sufficient to accommodate the proposed development.

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 12 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, a number of issues had been raised by the District Council's Urban Designer, leading to amendments to the proposals. Whilst the formal, final response from the Urban Designer is currently awaited, it is understood that he considers that the concerns previously raised have now been satisfactorily addressed by the various amendments to the scheme, and that the development would now provide for an appropriate design solution, subject to the imposition of appropriate conditions (and as set out within the recommendation below). Any further comments made, together with the District Council's Urban Designer's assessment of the scheme's performance under Building for Life 12, will be reported on the Update Sheet.

### **Implications of the Adjacent Brickworks and Other Mineral Matters**

As referred to under the section above relating to the principle of development, the site is adjacent to an existing brickworks, and is part of a larger designation under Local Plan Policy M2 which includes the adjacent brickworks and agricultural land to the north east and south east respectively. The presence of these brickworks and their associated operations give rise to a number of issues, as follows:

#### *Noise*

The suitability of the site for residential development having regard to the presence of the brickworks and their authorised use are considered in more detail under Residential Amenity below.

#### *Mineral Sterilisation*

The policies of the Leicestershire Minerals Development Framework Core Strategy and Development Control Policies document presume against development which would sterilise future extraction of minerals. In this case, Leicestershire County Council as Mineral Planning Authority considers that the proposed development would be unlikely to sterilise a viable mineral resource directly below the site. Regard nevertheless still needs to be had to the wider sterilisation issues (i.e. the implications on the ongoing working of minerals resources in the vicinity of the application site arising from the presence of new dwellings on the application site). Should the residential amenity implications be such that erection of dwellings on the site would fetter the effective working of minerals, this could have an adverse impact upon mineral supply.

#### *North West Leicestershire Local Plan Policy M2*

The explanatory paragraphs in respect of Policy M2 clarify that, whilst the District Council recognises the potential, in the longer term, for redevelopment on the sites listed under the policy (and including the Redbank Brickworks), it is not the case that early redevelopment is contemplated, and the policy merely sets out the District Council's planning policy should the circumstances arise. In this case, whilst the site falls within the larger M2 policy area, it is not actually within the brickworks complex. Whilst the scheme would not therefore represent a comprehensive redevelopment of the wider facility (and would not, therefore, appear to comply with the policy), it is not considered that there would be any unacceptable implications in this instance associated with the redevelopment of this section of the M2 policy area in isolation. Similarly, it is considered appropriate to ensure that the scheme would not prejudice adjacent land controlled by the operators of the brickworks coming forward in the future (if such development were appropriate). The layout is considered such that it would not prevent the development of adjacent land (and, in particular the agricultural land to the north east) if and when an application was submitted for development of that site (and if development of that site was otherwise considered acceptable in principle) and, as such, Policy E6 is considered to be satisfied. Other issues arising from the site's relationship with the brickworks site are considered under Residential Amenity below.

### **Residential Amenity**

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

As mentioned, the site is located adjacent to an existing brickworks, and a Noise Impact Assessment has been submitted, including consideration of the noise implications of this relationship, and from other noise sources (including road noise). Whilst this survey is considered to address the existing noise climate, additional supporting information has been requested in view of the extant planning permission (granted in 1997 by Leicestershire County Council in its capacity as Mineral Planning Authority (ref. 96/0282/7)) for an extension to the quarrying activities on the site, which includes for sandstone extraction from part of the field to the north east of the application site; the planning permission remains extant until 31 December 2042. The additional information, in the form of an addendum to the originally submitted noise impact assessment, indicates that, based on the likely noise levels associated with the approved operations, appropriate mitigation could be provided to the closest properties (those within the north eastern part of the application site) by way of an appropriately designed barrier (e.g. acoustic fence and / or bund) of minimum height 3 metres. Whilst it is not known whether or not the area would be worked within the life of the extant permission (nor, indeed, at some future date beyond that), it is considered necessary to secure this mitigation in order to protect new residents' amenities should the mineral ever be worked, and to ensure that the ability to work it in the future is not prejudiced by virtue of the proximity of noise sensitive premises.

As recommended in the noise impact assessment addendum, a 3m high barrier is proposed to the closest part of the site boundary to the area the subject of the extant approval; smaller barriers (ranging between 1.8m and 2.5m) are proposed elsewhere to the north eastern and south eastern residential application site boundaries, and reflecting their relative distance from the extraction site.

Insofar as the visual impact of this acoustic barrier is concerned, it is noted that, particularly in respect of the north eastern boundary, this feature would be readily visible from both within the application site, and from the field to the north east (and through which right of way P86

passes). In order to ensure the barrier does not have an unacceptable visual impact, the scheme proposes use of a "living wall" structure (i.e. a fence with living vegetation attached / maintained on one side) constructed on the development side of the existing hedgerow to this north eastern boundary. For the non-development side of the proposed barrier (which would have no vegetation attached), the applicants propose a scheme of management of the existing adjacent hedgerow such that it would be maintained / allowed to grow so as to (by the third year) screen the barrier from outside of the application site. In the absence of such mitigation, it is considered that the erection of a fence of this scale in this location would be to the detriment of the design quality of the scheme, and to the rural character of the surrounding area. Subject to the proposed measures being implemented, however, it is considered that the impacts would be mitigated to an acceptable degree.

In addition to the potential noise implications of the existing brickworks, the applicants have also submitted information assessing the air quality implications on new residents from this use. Whilst the submitted Air Quality Assessment identifies that the operations at the brickworks are likely to generate a high level of particulate matter, the prevailing wind direction would indicate that the impact on residents of the proposed housing would not be significant.

Insofar as the impacts on neighbouring occupiers arising from the proposed development are concerned, it is noted that some of the proposed dwellings would be in relatively close proximity to existing adjacent properties, and incorporating rear gardens of, typically, 10 or 11 metres in length. Nevertheless, it is considered that no undue amenity impacts in terms of overlooking, over-dominance or overshadowing to existing dwellings or gardens would be likely to result on the basis of the layout and house types proposed. Similarly, no mutual overlooking between new and existing dwellings would be considered likely, given the window to window distances involved. The application is therefore considered acceptable in residential amenity terms.

### **Heritage Issues**

The application is supported by an Archaeological Desk Based Assessment which considers the potential archaeological value of the site, and sets out the findings of a geophysical survey. The Assessment notes that the site lies in an area that was once within the agricultural hinterland of the town and suggests that the geophysical survey shows the remnants of medieval / post-medieval ploughing, albeit no obvious archaeological remains. In view of the respective periods specifically considered in the Assessment, the potential for historic finds / disturbance are categorised as moderate for prehistoric, low to moderate for Roman, low for medieval and low for post-medieval.

The Assessment suggests that the preservation of archaeological remains may be very good over most of the site, but there may be some disturbance on the northern part of the site, where the nursery buildings once existed. There is, the Assessment states, potential for the remains of these buildings to be revealed during any new development. Whilst the preliminary geophysical survey results do not suggest any obvious archaeological remains, the findings suggest evidence of ridge and furrow earthworks, but it is not considered likely that the potential for archaeological remains would represent a significant issue. No representations have been received from Leicestershire County Council's Planning Archaeologist.

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

## Other Matters

### Developer Contributions

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

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

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

The relevant developer contributions (save for those already considered under Means of Access and Transportation and relating to the River Mease DCS) are listed below.

### *Affordable Housing*

The applicants propose to make an affordable housing contribution of 23 dwellings; the Local Planning Authority's current requirements for the Measham area for a scheme of this scale are for 30% (which, for a scheme of 77 dwellings would equate to 23.1 units; a contribution of 23 units would represent 29.9%). As such, proposed contribution would (marginally) fall below the 30% figure and the District Council's Affordable Housing SPD provides that, when applying the appropriate target, the District Council will work on the principle of rounding up to the nearest whole figure. When applying this principle, the contribution should therefore be 24 units. However, given the marginal nature of the under-provision, the proposal is considered acceptable; the proposed affordable housing contribution is also considered acceptable by the District Council's Strategic Housing Team. The units identified as affordable are as follows:

2 x 1 bed units  
 15 x 2 bed units  
 6 x 3 bed units

Of these, it is understood that 16 units would be available as affordable rented, and the remaining 7 as intermediate / low cost home ownership. The mix of units proposed is considered acceptable by the District Council's Strategic Housing Team (although, in addition, it confirms that it would, as an alternative, also be acceptable to provide the rented units as social rather than affordable rent), and the proposed development is considered acceptable in this regard.

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

The submitted layout shows the extent of the site given over to landscaping, retained and proposed tree / hedgerow planting and other open space; the open space would be provided towards the southern part of the site. 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 (i.e. for 77 dwellings, 1,540 square metres); whilst the submitted layout does not explicitly show an equipped children's play area, this would need to be accommodated within the general area of public open space, and the applicants have confirmed their agreement to this. In terms of the extent of the proposed public open space, on the basis of the submitted plan, this would be in the order of 4,550 square metres (although this includes the proposed balancing pond which would cover an area of approximately 1,425 square metres). 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. On the basis of the submitted scheme, however, there would appear to be no reason why the minimum requirements of the SPG in terms of the provision of children's play could not be met in this regard. The applicants are agreeable to making these contributions.

#### *National Forest Planting*

The applicants' proposals do not show the provision of any on-site National Forest planting as part of their wider landscaping and public open space proposals and, as such, the National Forest Company notes that an off-site contribution of £12,600 would be required (i.e. in lieu of the otherwise required 20% site area on-site contribution). Subject to the provision of this, the proposals would be considered appropriate in this regard. The applicants are agreeable to making the contribution requested.

#### *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 Measham Church of England Primary School. The School has a net capacity of 240 and 343 pupils are projected on the roll should this development proceed; a deficit of 103 places. However, having regard to other Section 106 obligations funding 74 pupil places, the overall deficit would be reduced to 29 places (of which 11 are existing and 18 would be created by this development). There are two other primary schools within a two mile walking distance of the development (Oakthorpe Primary School (surplus of 12 places) and Snarestone Church of England Primary School (deficit of 12 places)). As such, the 18 deficit places created by the development can therefore not be accommodated at nearby schools, and a request for an education contribution of £217,782.18 in respect of the primary sector is made. The contribution would, the Local Education Authority advises, be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Measham Church of England Primary School.

##### High School Requirements:

The site falls within the catchment area of Ibstock Community College. The College has a net capacity of 705 and 892 pupils are projected on roll should this development proceed, a deficit of 187 pupil places. However, having regard to other Section 106 obligations funding 188 pupil places, there would be a net surplus of 1 pupil place. As such, no contribution is requested in respect of the high school sector.

##### Upper School Requirements:

The site falls within the catchment area of Ashby School. The School has a net capacity of 1,841 and 2,060 pupils are projected on roll should this development proceed, a deficit of 219 pupil places. However, having regard to other Section 106 obligations funding 91 pupil places, the overall deficit would be reduced to 128 places (of which 120 are existing and 8 would be created by this development). There are no other upper schools within a three mile walking distance of the site, and a request for an education contribution of £137,663.70 in respect of the upper school sector is made. The contribution would, the Local Education Authority advises, 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 contributions requested.

#### *Library Services*

Leicestershire County Council advises that an additional 110 plus users of Measham Library are anticipated to be generated by the proposed development, requiring an additional 264 items of lending stock (plus reference, audio visual and homework support material), and a contribution of £2,290 is therefore sought by the County Council. The applicants are agreeable to making the contribution requested.

#### *Healthcare*

NHS England requests a developer contribution of £36,673.20 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 185, and that these additional residents of the proposed housing development would access healthcare in the existing Measham surgery. The NHS advises that this practice is currently at capacity and restricted in terms of its ability to use its rooms flexibly. The contribution is therefore proposed to be used to enable existing accommodation to be upgraded insofar as the relevant rooms would then be able to be used for a range of services, thus, in effect, increasing the capacity of the surgery facilities. 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.

#### *Sport Facilities*

Leicester-Shire and Rutland Sport requests a developer contribution of £74,057 towards additional facilities at Measham Leisure Centre. In support of the request, it is suggested that the Leisure Centre is situated approximately 0.6 miles from the development site and any increase in population is likely to have a direct impact on usage of the leisure centre facilities given its proximity. Leicester-Shire and Rutland Sport advises that the leisure centre has limited sport facility provision including a two court sports hall, a health and fitness suite and an artificial grass pitch. The existing health and fitness suite is limited to 15 stations but Leicester-Shire and Rutland Sport states that there is the potential to expand the facility with investment which will better serve the leisure centre as a whole. It advises that the requested contribution, calculated based on Sport England guidance, would provide a base line sum from which the Local Authority would be able to invest in sports facilities at the leisure centre site, and draws attention to previously-identified shortfalls in facilities within the North West Leicestershire area as a whole.

In response to this request, the applicants suggest that the making of this contribution would render the development unviable (and, presumably, therefore, reduced contributions elsewhere would accordingly need to be provided in order to accommodate it). However, no evidence has been provided to demonstrate that this would be the case (although it is accepted that, given the lateness of the request, the applicants could not reasonably have been expected to provide such evidence in the timescales available).

Regardless of any implications on viability, however, in officers' view, it is not considered that the request meets the relevant NPPF and CIL tests outlined above. Whilst it is accepted that some increased use of the leisure centre would seem likely as a result of the development, no detailed analysis has been provided demonstrating either the likely extent of this increased use

(which would need to have regard to factors such as proportion of residents likely to use the various leisure centre facilities, accessibility / distance of the site from the facilities, and the availability (or otherwise) of other publicly or privately provided services), or the ability (or otherwise) for existing facilities to accommodate some or all of the additional users anticipated. Once this had been provided, it would, officers consider, be necessary to demonstrate what the contribution sought would be proposed to be spent on, how those works would mitigate any identified shortfalls arising from the proposed residential development, and what they would be expected to cost. In the absence of this information, it is not considered that a contribution could be reasonably required.

*Contributions sought by Leicestershire Police*

Leicestershire Police requests a developer contribution of £32,074 in respect of policing as set out in the consultation response above. The contribution sought comprises:

Start up equipment / training	£3,233
Vehicles	£1,956
Additional radio call capacity	£196
Police National Database	£100
Additional call handling	£172
ANPR	£2,713
Mobile CCTV	£500
Additional premises	£23,050
Hub equipment	£154

For their part, the applicants confirm that they would be agreeable to making the contribution sought.

It is considered that, in principle, contributions towards policing may be capable of being justified in terms of satisfying the relevant NPPF and CIL Regulations tests. However, the policing contribution requests appear to be based upon an assumption that all residents of the proposed dwellings would be "new" / additional residents requiring policing by Leicestershire Police from outside of the area (or, at least, from outside of the District).

In the circumstances, officers are concerned the scale and kind of contributions sought may not be fairly and reasonably related to this development. Specifically, it is observed:

*Start up equipment / training:*

It is accepted that, in principle, such a contribution could be reasonable. However, as set out above, the Local Planning Authority would need to be satisfied that the rationale behind the extent of impact likely was robust.

*Vehicles:*

The contribution sought appears to seek the cost of providing vehicles to serve the site over a 6 year period and, assuming a 3 year average "lifespan" of a Police vehicle. Whilst it is accepted that, in principle, such a contribution could be reasonable, officers are of the view that providing the contribution for a 6 year period would be excessive.

*Additional radio call capacity:*

The process of improving radio cover / capacity is, it seems, an ongoing process and would appear to occur regardless of the development going ahead.

Police National Database:

The process of improving capacity of the Police National Database is, it seems, an ongoing process and would appear to occur regardless of the development going ahead.

Additional call handling:

For the reasons already set out, it is not clear as to how the level of the additional calls anticipated has been calculated.

ANPR:

It is not accepted that the proposed development would justify the installation of ANPR CCTV systems (and that, in the development's absence, ANPR would not be required). If there is a need to provide ANPR coverage of this area because of existing crime figures, the cameras should, it is considered, be provided regardless. It is not considered clear why the addition of 77 dwellings to the village would suggest that such a system would be required when, in the absence of the development, it was not.

Mobile CCTV:

It is not accepted that the proposed development would justify the installation of mobile CCTV systems (and that, in the development's absence, mobile CCTV would not be required). If there is a need to provide mobile CCTV coverage of this area because of existing crime figures, the cameras should, it is considered, be provided regardless. It is not considered clear why the addition of 77 dwellings to the village would suggest that such a system would be required when, in the absence of the development, it was not.

Additional premises:

The contribution request from Leicestershire Police provides that, within North West Leicestershire, policing is delivered from Coalville LPU premises, and that occupation of premises is maintained at capacity. Contributions are sought for Coalville LPU, plus the Basic Command Unit (BCU) at Loughborough and the Force HQ at Enderby. Insofar as Coalville LPU is concerned, Leicestershire Police advises that occupation is maximised but constrained by its age and condition. Replacement to existing needs is, Leicestershire Police advises, likely although it is suggested that the proposed development would create a need for additional floorspace. The District Council is also advised that a replacement facility at Loughborough is "in build" and that this would need to be extended to accommodate staff to cover the proposed development; extension of the Force HQ would also, Leicestershire Police suggests, be required to serve the proposed development. Whilst Leicestershire Police maintains that additional floorspace is required at all three locations to serve the proposed residential development, for the reasons already set out, Local Planning Authority officers do not at this time accept the suggested level of additional demand on police services and, hence, the extent of additional employee cover required. It would also appear unlikely that a development of this scale would result in such a level of increased employment so as to necessitate extensions to accommodation at all three sites, notwithstanding that Leicestershire Police confirms that all facilities are maintained at capacity. It is not considered that the force has demonstrated that there is definitely no capacity to accommodate additional staff, nor that its various sites would actually be extended to meet any additional accommodation requirement directly attributable to the development in hand.

Hub equipment:

No information has been submitted which indicates that the existing hub and equipment would, as a result of the development, be over-capacity.

On this basis, therefore, officers are of the view that Leicestershire Police has failed to



demonstrate that the relevant NPPF and CIL tests would be met by the contribution sought.

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 ongoing 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 no contrary representations raising new issues being received by 13 March 2015, subject to Section 106 Obligations, and subject to the following conditions:**

- 1 The development shall be begun before the expiration of three years from the date of this permission.

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

- 2 The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission:
  - Site location plan (B.11,774) deposited with the Local Planning Authority on 25 April 2014
  - Site layout (S6623/100/02 Rev Q) deposited with the Local Planning Authority on 13 February 2015
  - Site access (ADC1039/001 Rev D) deposited with the Local Planning Authority on 10 November 2014
  - Plans in respect of the proposed house types as set out in the Planning Drawing Schedule deposited with the Local Planning Authority on 13 February 2015 attached to and forming part of this permission

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

- 3 No development shall commence on the site until such time as a landscaping scheme to accord generally with the principles shown on plan no. S6623/100/02 Rev Q (and including precise details of the treatment and long-term management of all retained hedgerows and associated buffer zones, where applicable) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be

implemented in the first planting and seeding season following either the first occupation or the bringing into use of the development hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority.

*Reason - To ensure satisfactory landscaping is provided within a reasonable period, in the interests of nature conservation and to comply with Policy E7 of the North West Leicestershire Local Plan.*

- 4 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of five years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

*Reason - To provide a reasonable period for the replacement of any trees, in the interests of nature conservation, and to comply with Policy E7 of the North West Leicestershire Local Plan.*

- 5 Notwithstanding the submitted details, nor Conditions 2 and 3 above, no development shall commence on the site until such time as precise details of proposed mitigation and / or management measures as set out in section 4.0 of the submitted Ecological Appraisal dated March 2014 (prepared by FPCR) and a biodiversity management plan for all created and retained habitats (and including timetables for implementation) have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative measures are first agreed in writing by the Local Planning Authority, no development shall be undertaken at any time other than in strict accordance with the agreed measures and timetable. The development shall thereafter be maintained in accordance with the agreed details (or in accordance with any alternative mitigation or management plan first submitted to and agreed in writing by the Local Planning Authority).

*Reason - In the interests of nature conservation.*

- 6 No development shall commence on the site until such time as a surface and foul 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 subsequently be implemented in accordance with the approved details and timetable. The scheme shall demonstrate that the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and shall include:
  - Surface water drainage system(s) to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
  - An assessment of the need and where necessary provision of a trash / security screen (designed in accordance with the Trash and Security Screen Guide 2009 (DEFRA / Environment Agency)) to the inlet of the 650mm diameter culvert passing underneath Atherstone Road;
  - Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;

- Provision of surface water attenuation storage on the site to accommodate the difference between the allowable discharge rate and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm;
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
- Details of how the on-site surface water drainage systems and any trash/security screen installed on the 650mm diameter culvert passing underneath Atherstone Road will be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

*Reason - To ensure that the site is appropriately drained, to prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site, to reduce the risk of flooding, both on and off site, to minimise the risk of pollution, to ensure that the development will not impact upon the features of special interest for which the River Mease SAC / SSSI is notified, and in the interests of nature conservation.*

- 7 Notwithstanding the submitted plans, nor Condition 2 above, no development shall commence on the site until such time as a detailed scheme for all boundary treatments within and surrounding the site has been submitted to and agreed in writing by the Local Planning Authority. None of the dwellings hereby permitted shall be occupied until the relevant dwelling's boundary treatment as denoted on the agreed scheme has been implemented in full. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no gates, fences, walls or other means of enclosure (other than any approved pursuant to this condition, or as a replacement of such in the same location, constructed in the same materials, and at a height not exceeding that which it replaces) shall be erected, unless planning permission has first been granted by the Local Planning Authority.

*Reason - To preserve the amenities of the locality, in the interests of highway safety, to ensure that there is a clear and robust demarcation between public and private spaces, to ensure an appropriate form of design, and to comply with Policies T3, E4 and H7 of the North West Leicestershire Local Plan.*

- 8 Notwithstanding the submitted details, nor Conditions 2 and 7 above, no development shall commence on the site until such time as precise details of the extent and boundary treatment of all proposed rear gardens to Plots 59, 60 and 63 to 77 (inclusive) (and including a timetable for its provision) have 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. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no gates, fences, walls or other means of enclosure (other than any approved pursuant to this condition, or as a replacement of such in the same location, constructed in the same materials, and at a height not exceeding that which it replaces) shall be erected, unless planning permission has first been granted by the Local Planning Authority.

*Reason - To ensure the maximisation of opportunities for habitat enhancement.*

- 9 Notwithstanding the submitted details, nor Conditions 2, 7 and 8 above, no work shall commence on the site until such time as precise details of the proposed acoustic fencing

to the north eastern and south eastern boundaries of the site (and including a timetable for its provision in relation to first occupation of the proposed dwellings) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and timetable and thereafter be so maintained. Unless any alteration is first agreed in writing by the Local Planning Authority, all associated works shall be undertaken and the hedgerows thereafter be maintained strictly in accordance with the submitted Hedgerow Method Statement (ref. GL0171 dated 29 January 2015, prepared by Golby and Luck).

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, to ensure that future occupiers of the development are protected from excessive noise, in the interests of visual and residential amenity, and to comply with Policies E3, E4 and H7 of the North West Leicestershire Local Plan.*

- 10 Notwithstanding the submitted details, nor Condition 2 above, no development shall commence on the site until such time as precise details of proposed alterations to the treatment and routing of the watercourse to the south eastern site boundary (and including a timetable for its provision) have been submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure the maximisation of opportunities for habitat enhancement and re-naturalisation of the watercourse.*

- 11 No site works of any description shall take place on the site at any time unless the existing trees and hedgerows shown as retained on plan no. S6623/100/02 Rev Q are securely fenced off in full accordance with a scheme for their protection which shall first have been submitted to and agreed in writing by the Local Planning Authority. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

*Reason - To ensure that existing trees and hedgerows are adequately protected during construction, in the interests of the visual amenities of the area, and to comply with Policy E7 of the North West Leicestershire Local Plan.*

- 12 Notwithstanding the submitted details, nor Condition 2 above, No work shall commence in respect of the construction of the proposed electricity substation until such time as precise details of all associated above-ground works have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

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

- 13 No work shall commence on the site until such time as precise details of all materials to be used in the construction of the external surfaces of the development (including samples where appropriate) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the agreed details.

*Reason - To enable the Local Planning Authority to retain control over the external appearance*

*of the development, in the interests of the amenities of the area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 14 Notwithstanding the submitted plans, nor Conditions 2 and 13 above, no work shall commence on the site until such time as precise details of the treatment of all hard surfaces (including all access roads, footways, drives and parking / manoeuvring areas) within the development have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure the development provides for a satisfactory form of design, in the interest of amenity, in the interests of highway safety, and to comply with Policies E4, H7 and T3 of the North West Leicestershire Local Plan.*

- 15 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on the site until such time as details of the finished floor levels of the proposed dwellings and the proposed external site / ground levels have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, in the interest of amenity, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 16 Notwithstanding the submitted plans, nor Condition 2 above, no external lighting shall be installed on the site other than in accordance with precise details first submitted to and agreed in writing by the Local Planning Authority.

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

- 17 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on the site until such time as precise details of all doors and windows (including porches, door surrounds, doors to proposed garages, window styles, headers and cills) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

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

- 18 Notwithstanding the submitted plans, nor Condition 2 above, unless any alteration is first agreed in writing by the Local Planning Authority, all rainwater goods and utility boxes to individual units shall be finished in black.

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

- 19 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on the site until such time as precise details of all bin and recycling store enclosures and collection points have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure that the development provides for a satisfactory form of design, in the interests of amenity, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 20 Notwithstanding the submitted plans, nor Conditions 2 or 9 above, 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.*

- 21 No development (save for demolition works) shall commence on any part of the site until such time as a Risk Based Land Contamination Assessment for that part of the site 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.*

- 22 If, pursuant to Condition 21 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 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.*

- 23 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.*

- 24 The dwelling to Plot 1 shall not be occupied until such time as the first floor window in the north elevation has been glazed with obscure glass to Pilkington Standard 3 (or equivalent) and, once provided, shall thereafter be so maintained.

*Reason - To avoid the possibility of overlooking in the interests of preserving the amenities of residents, and to comply with Policy E3 of the North West Leicestershire Local Plan.*

- 25 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on the site until such time as precise details of all proposed detached garages have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

*Reason - To ensure an appropriate form of design, to ensure that the proposed development provides for an appropriate level of off-street car parking, and to comply with Policies E4, H7 and T8 of the North West Leicestershire Local Plan.*

- 26 Unless any alternative timescale is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be brought into use until such time as a scheme for the hard surfacing and lighting of public right of way P86 between the site and Horses Lane (including details of responsibilities for provision of lighting and future facility maintenance) has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To provide for improved pedestrian access to nearby services, in the interests of ensuring the development is sustainable in transportation terms.*

- 27 Notwithstanding the submitted plans, nor Condition 2 above, no work shall commence on the site until such time as precise details of the proposed off-site highway works as shown generally on drawing no. ADC1039/001 Rev D have been submitted to and agreed in writing by the Local Planning Authority. Unless any alternative timescale is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be brought into use until such time as the agreed scheme has been implemented in full.

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

- 28 Notwithstanding the submitted plans, nor Conditions 2 and 15 above, the gradients of the proposed access drives shall not exceed 1:12 for the first 5 metres behind the highway boundary.

*Reason - To enable vehicles to enter and leave the highway in a slow and controlled manner, in the interests of general highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.*

- 29 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.*

- 30 No development shall commence on the site until such time as a construction traffic / site traffic 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.*

- 31 Notwithstanding the submitted plans, nor Conditions 2, 14 and 25 above, none of the dwellings hereby permitted shall be occupied until such time as any relevant access drive, turning space or parking space (including garage space) serving that dwelling has been provided in full and is available for use. Once provided, the relevant facilities shall remain available for such use in association with the occupation of the relevant dwelling(s).

*Reason - To ensure the provision of appropriate access, turning or parking facilities to serve the development, in the interests of highway safety and to comply with Policies T3 and T8 of the North West Leicestershire Local Plan.*

- 32 None of the dwellings hereby permitted shall be occupied until such time as the visibility



splays to the Atherstone Road site access as shown on drawing no. ADC1039/001 Rev. D have been provided as shown (and at a vertical distance of between 0.6 metres and 2.0 metres above ground level) and, once provided, shall thereafter so be maintained.

*Reason - In the interests of highway safety, to ensure the works do not adversely impact upon protected trees, and to comply with Policies T3, E2 and E7 of the North West Leicestershire Local Plan.*

- 33 Notwithstanding the submitted plans, nor Condition 2 above, no dwelling shall be occupied until such time as 1.0 metre by 1.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of any relevant access drive serving that dwelling with nothing within those splays higher than 0.6 metres above the level of the adjacent footway / verge / highway in accordance with the current standards of the Local Highway Authority and, once provided, shall thereafter so be maintained.

*Reason - In the interests of pedestrian safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.*

- 34 No street name plates shall be erected / displayed on the site other than in accordance with details (including positioning) first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, to ensure an appropriate form of design, in the interests of the amenities of the area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 35 Notwithstanding the submitted plans, nor Conditions 2, 7 and 15 above, no retaining walls / structures shall be erected unless in accordance with precise details (including in respect of external materials of construction) first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, to ensure an appropriate form of design, in the interests of the amenities of the area, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 36 Notwithstanding the submitted plans, nor Conditions 2 and 31 above, none of the dwellings to Plots 42, 43, 45 and 48-50 (inclusive) shall be occupied until such time as the relevant car parking spaces serving those dwellings as identified on drawing no. S6623/100/02 Rev Q have been demarked and numbered in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed scheme shall thereafter be so maintained.

*Reason - To ensure that the proposed parking areas fulfil their function in an efficient manner, to ensure an appropriate form of design, and to comply with Policies E4, H7 and T8 of the North West Leicestershire Local Plan.*

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

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

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

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

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

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

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

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in

order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

- 3 Your attention is drawn to the attached report of Severn Trent Water Limited.
- 4 Your attention is drawn to the attached report of the Environment Agency.
- 5 Your attention is drawn to the attached report of Natural England.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highway matters.
- 7 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer.
- 8 Your attention is drawn to the attached report of the National Forest Company.
- 9 The applicants are advised that, for the purposes of complying with Condition 3 above, the Local Planning Authority would be likely to require the provision of semi-mature trees (minimum girth 25 to 30cm) to the principal road through the site, and for all new property frontage hedges to be of minimum planting height 0.5m.
- 10 The applicants are advised that, for the purposes of complying with Condition 7 above, the Local Planning Authority would be likely to require all public realm (including courtyard) facing boundaries to be constructed in brick.
- 11 The applicants are advised that, for the purposes of complying with Condition 17 above, the Local Planning Authority would be likely to require any porches / door surrounds to be constructed in timber.
- 12 The applicants are advised that, for the purposes of complying with Condition 34 above, the Local Planning Authority would be likely to require the use, where feasible, of wall-mounted road name plates attached to proposed dwellings.
- 13 The applicants are advised that, for the purposes of complying with Condition 36 above, the Local Planning Authority would be likely to require parking spaces to be marked with an aluminium or other metal plate, and for parking spaces to be demarcated by block paviors.
- 14 The applicants are advised that, in order to ensure that unacceptable air quality impacts do not result at the construction stage, all works should be undertaken in accordance with the mitigation measures set out within Section 6 of the submitted Air Quality Statement.
- 15 This decision is in accordance with the resolution of the Planning Committee 10 March 2015 and is subject to a Section 106 Obligation.