

Erection of one detached dwelling and creation of new access.

Report Item No
A4

Site Adjoining Recreation Ground Measham Road Moira Derby

Application Reference
14/01111/FUL

Applicant:
Mr J Cotton

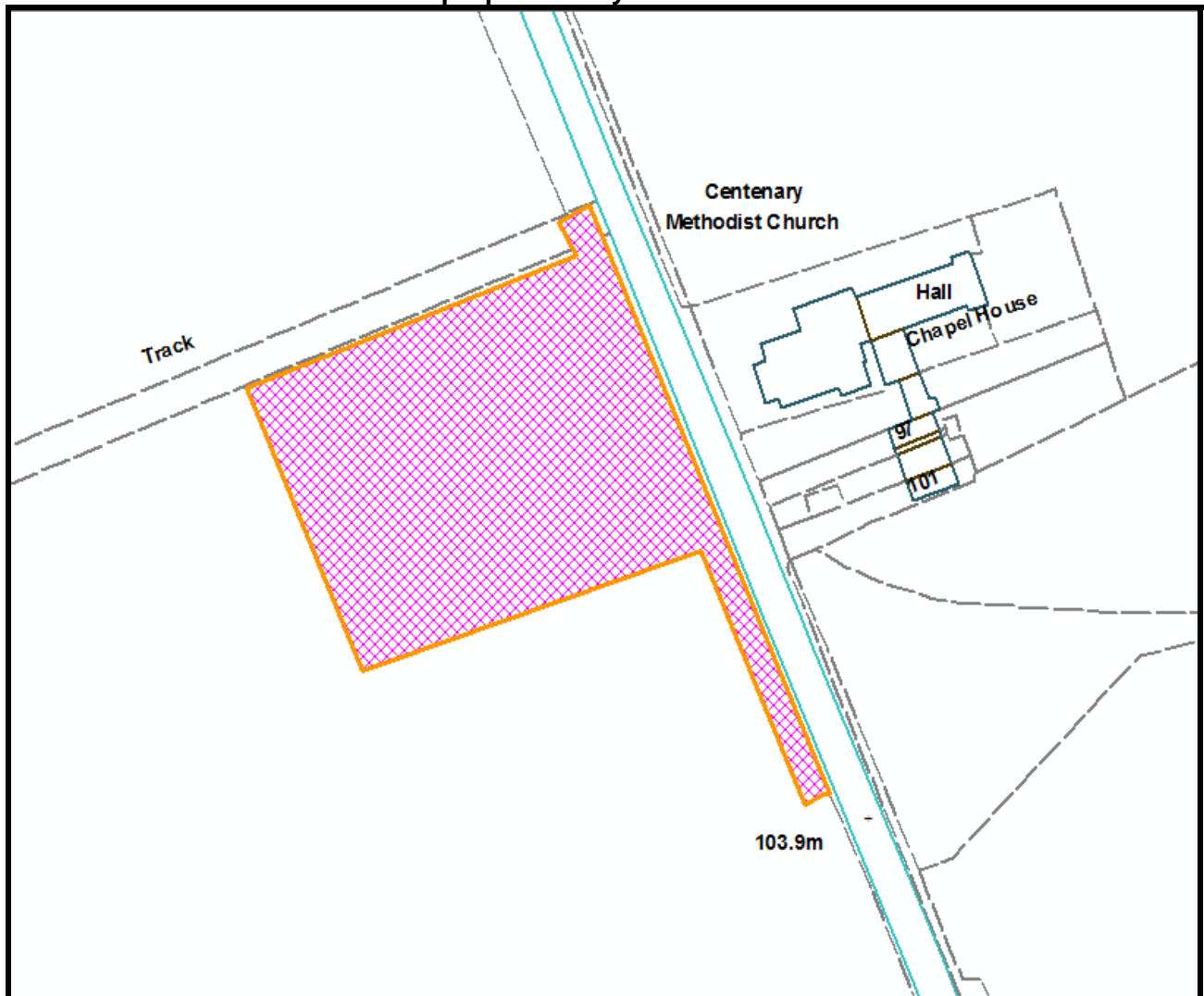
Date Registered
10 December 2014

Case Officer:
Ebony Mattley

Target Decision Date
4 February 2015

Recommendation:
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application is reported to the Planning Committee at the request of Councillor John Bridges on the grounds of highway safety.

Proposal

Planning permission is sought for the erection of a detached dwelling of four bed configuration at land adjoining the recreation ground at Measham Road, Moira.

Consultations

Members will see from the main report below, that with the exception of Ashby Woulds Town Council there have been no objections from statutory consultees.

Planning Policy

The application site lies outside the Limits to Development of Moira and Donisthorpe, as defined by the proposals map of the adopted Local Plan.

Conclusion

The NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. Based on the above discussions, the proposed scheme is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, ecology or protected species or highway safety and would not be likely to have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies.

RECOMMENDATION:-

PERMIT, SUBJECT TO A LEGAL AGREEMENT, 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

Planning permission is sought for the erection of a detached dwelling of four bed configuration at land at Measham Road, Moira. An application ref: 14/00752/FUL for a single detached dwelling was refused in November 2014.

This application differs from that previously refused by the following changes:-

- o Re-location of the dwelling to the sites frontage
- o Separate domestic vehicular access
- o Removal of the triple garage
- o Reduction in overall footprint and span of the dwelling
- o Reduction in rear garden
- o Reduction in the roof mass and design changes

The site is located outside Limits to Development, and within an area designated as an area of separation, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

The application is accompanied by a Design and Access Statement, Biodiversity Report and a Coal Mining Risk Assessment.

Planning History:-

14/00752/FUL - Erection of detached dwelling, alterations to existing access and highway works
- Refused - 07.11.2014.

2. Publicity

7 no. neighbours have been notified (Date of last notification 17 December 2014)

Site Notice displayed 19 December 2014

3. Consultations

Ashby Woulds Town Council
County Highway Authority
Environment Agency
Severn Trent Water Limited
Head of Environmental Protection
County Archaeologist
LCC ecology
WARD MEMBER (delegated)2

4. Summary of Representations Received

The following summary of representations is provided.

Ashby Woulds Town Council objects on grounds of highway safety. AWTC consider Measham Road to be a busy road and particularly dangerous along this section where there are a number of existing hazards and visibility is poor.

Leicestershire County Council - Highways has no objection, subject to conditions.

Leicestershire County Council - Ecology has no objection, subject to a condition for the replacement hedgerow.

Severn Trent has no objection to the proposal.

Environment Agency does not wish to make any formal comment.

NWLDC Environmental Protection has no environmental observations.

Third Party Representations

No third party representations have been received.

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 49 (Delivering a wide choice of high quality homes)
Paragraph 57 (Requiring good design)
Paragraph 64 (Requiring good design)

Adopted North West Leicestershire Local Plan (2002)

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

S3 - Countryside
H4/1 - Housing Land Release
E3 - Residential Amenities
E4 - Design
T3 - Highway Standards
T8 - Parking
E21 - Areas of Separation

Other Guidance

National Planning Practice Guidance - March 2014.

The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System.

River Mease Water Quality Management Plan - August 2011.

River Mease Development Contributions Scheme - November 2012.

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

The main issues for consideration in the determination of this application relate to the principle of development, layout and design, impact upon residential amenity, highway considerations, ecology and impact upon the River Mease Special Area of Conservation/SSSI.

Principle of Development

The previous application ref: 14/00752/FUL was refused for the following reason:-

"The introduction of this residential development of this un-developed Greenfield site, in this countryside location, not well related to nearby development, outside of the defined limits of Moira and Donisthorpe, remote from the services they contain, would result in an unsustainable, isolated form of development, without any overriding need, justification of special circumstance and therefore an un-justified harm to the intrinsic character and beauty of the countryside. The scheme is therefore considered contrary to the requirement of Saved Policies S3, H4/1 of the North West Leicestershire Local Plan and Paragraphs 17 and 55 of the National Planning Policy Framework."

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)).

The application site lies outside the Limits to Development of Moira and Donsithorpe, as defined by the proposals map of the adopted Local Plan. Schemes outside Limits to Development fall to be considered against Saved Policy S3 of the Local Plan. The application proposes new residential development and as the scheme fails to meet the criteria for development in this policy. Accordingly as the development proposed would not meet the criteria for development in the countryside and the scheme would therefore be contrary to the provisions of S3.

Whether or not this site would be considered "appropriate" is a matter of judgement. There are already the existence of residential properties opposite the site entrance, to the east of Measham Road, with three residential properties in the vicinity of the corner between Measham Road and School Street. Accordingly there is already the existence of two clusters of existing residential development nearby. The site is therefore bordered by residential development to the east and closely related to residential development to the south and on this basis is not therefore considered to be isolated development in the countryside.

Whilst the applicant is not seeking consent for an agricultural workers dwelling, the applicant and his family are in agricultural operations, with the family farm within the vicinity. The applicant has provided information to demonstrate the farm land in their ownership and the use of the dwelling would be purely to be live in close proximity to assist in the employment of his mother's farm. Furthermore within the previous application ref: 14/00752/FUL four letters and a petition containing 68 signatures were received, all in support of the application. The reasons for support were not limited to, but included the applicant, assisting and benefiting the community.

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

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 site is located to the south of Moira and to the north of Donisthorpe. The settlements of Moira and Donisthorpe benefit from a range of local services and since the determination of the last application, a local convenience store has opened in Donisthorpe.

Below are the approximate distances from the front of the site to local facilities and services via the existing footway network along the eastern side of Measham Road.

Methodist Church (opposite the side on Measham Road)
Leisure/Community - 110 metres (adjacent to the site - Recreation Ground, Measham Road)
Bus Stop - 110 metres (opposite entrance to the Recreation Ground)
Public House - 550 metres (Rawdon Arms, Moira)
Shop/Post Office - 775 metres (Ashby Road, Moira, opposite Station Drive)
Local Convenience Store/Shop - 980 metres (corner of Ashby Road and Measham Road, Donisthorpe)
Public House - 1,010 (Masons Arms, Donsithorpe)
School - 1,270 metres (Ashby Road, Donisthorpe)

In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the preferred maximum walking distance to a town centre with 400 metres acceptable and 200 metres being desirable. Whilst the Primary School would exceed the 'maximum' walking distance, the Methodist Church, Recreation Ground and Bus stop fall within the 'desirable' walking distance, with the Public House and Shop/Post Office being within the 'maximum' walking distance. In addition, whilst some are outside the preferred maximum walking distance, they could be accessed by an existing footpath.

The proposal for the erection of a new residential dwelling in this location is therefore, considered to score well against the sustainability advice in the NPPF.

Policy E21 states development will not be permitted which result in the reduction in the physical separation between the built up areas of Donisthorpe and Moira. This application is for a single dwelling on a relatively small parcel of land between the two settlements and does not lead to

the reduction in the physical separation between the two built up areas.

In summary, notwithstanding the conflict with the provisions of Policy S3 of the Local Plan, when having regard to the sustainability credentials of the two nearest settlements and the site itself, along with the fact that the site is well related to existing built development, the development of countryside land is considered acceptable in this instance and the previous reason for refusal is considered to have been overcome in this case.

Layout and Design

Local Plan Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

There is the existence of residential properties opposite the site entrance, to the east of Measham Road, which are set back from the road frontage, but front Measham Road. To the south of the site are three residential properties in the vicinity of the corner between Measham Road and School Street. Within the exception of No. 6 School Road, No's 4 and 19 are sited close to the road frontage. It is therefore considered that the two clusters of existing residential development nearby, are closely related to the roads in which they are accessed from, and that this is the established pattern of existing residential development in the immediate vicinity of the site.

The application was previously refused for the following reason:-

"By virtue of its isolated, backland location will result in a pattern of development that fails to respect the established frontage character of the surrounding area and will therefore be harmful to the character of the locality and the dwelling by virtue of its scale and mass, and design would not be sympathetic to the character and appearance of this countryside setting. The scheme is not therefore considered to be of such an exceptional quality or innovative nature of design that would meet the requirements of Paragraph 55 of the NPPF and is considered to be contrary to Saved Local Plan Policy E4 and Paragraph 64 of the National Planning Policy Framework."

This application no longer proposes a dwelling in a set back, backland location. The application proposes a dwelling which is sited to the front of the site, facing the highway and forms frontage development.

The length of the front of the site is consistent with that of the existing development to the east of Measham Road and the boundary of the rear garden area does not project any further to the west and encroach into the countryside, over and above that of the curtilages of existing residential development on School Lane.

In respect of scale, mass and design, the proposed dwelling has been reduced in scale and mass, and proposes fenestration detailing to add interest.

Overall this proposed development accords with the general siting of existing dwellings within the vicinity, ensuring that the development appears in keeping with the scale and character of existing dwellings and the reduced scale and design approach is considered acceptable.

Impact upon Residential Amenity

There is considered sufficient distance, complete with an over the road relationship between the proposed dwelling and the nearest residential properties No's 95,97,99,101 and Chapel House, Measham Road, and to the rear of No'4 and 6 School Lane, to ensure no significant overlooking, overshadowing or overbearing impacts.

Overall, it is considered that the development would not have any significant detrimental impact upon neighbouring residential amenities and the proposal is considered to be acceptable in relation to Policy E3 (Residential Amenity) of the Local Plan.

Highway Considerations

A new vehicular access is proposed from Measham Road, with the existing access retained for as an agricultural access and the scheme provides sufficient parking and turning within the site.

In response to the objection raised by Ashby Woulds Town Council the County Highway Authority (CHA) raises no objections, subject to the imposition of planning conditions.

In summary, subject to the imposition of conditions it is considered that the scheme is acceptable in relation to Saved Policies T3 and T8 of the Local Plan.

Ecology

The application has been accompanied by a Biodiversity Report, which has been considered by the County Ecologist who has no objections to the application, subject to the replacement of the roadside hedge being undertaken outside of the bird-nesting season and with a new native-species hedge. During the course of the application, amended plans have been submitted to revise the species mix, in accordance with the Ecologist's recommendations.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). 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.

A contribution under the River Mease DCS is required but an exact figure for the contribution cannot be determined at this stage, as the code levels of the dwelling has not been finalised. The contribution would be based on the provision of a four bedroomed dwelling and dependent upon the code level would cost between £236 and £354. A Unilateral Undertaking would be worded as such to allow flexibility based on the construction code levels.

The flows from the proposed dwellings need to be taken into account against the existing headroom at Donisthorpe Treatment Works. Where there is no existing capacity at the time of

determination a condition is proposed which seeks to prevent occupation of the proposed dwellings until additional capacity has been provided at Donisthorpe Treatment Works.

Accordingly whilst there is no current capacity at Donisthorpe, in time Severn Trent will facilitate the transfer of some capacity to treatment works (Packington and Snarestone) to create such capacity for the 1 dwelling. As such a reason for refusal based on limited capacity at the treatment works could not be justified.

Therefore based on the above it can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI.

Conclusion

The NPPF specifically states that decision takers should consider housing applications in the context of the presumption in favour of sustainable development. Based on the above discussions, the proposed scheme is considered to comply with the core principles of the NPPF, and thus in principle, the development is considered acceptable.

The scheme does not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, visual amenity and the character of the area, ecology or protected species or highway safety and would not be likely to have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. There are no other material impacts identified, that would indicate that the proposal is not in compliance with the NPPF or local development plan policies.

A legal agreement is currently under negotiation and subject to the acceptability of this, it is recommended that planning permission be granted, subject to the imposition of planning conditions.

RECOMMENDATION:- Permit, subject to a legal agreement and 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: Location Plan Drawing No. 14.118_OS 1:2500; Location Plan Drawing No. 14.118_OS 1:1250; Floor Plans Drawing No. 14.118.09 and Elevations Drawing No. 14.118.10 received by the Local Planning Authority on 10 December 2014 and amended details: Site Plan and Details Drawing No. 14.118.11 A received by the Local Planning Authority on 13 January 2015.

Reason - For the avoidance of doubt and to determine the scope of the permission.

- 3 The dwelling hereby approved shall be constructed in Baggeridge Oast Russet bricks and Staffordshire Blue Plain Clay roof tiles. The works shall be undertaken in

accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain control over the external appearance in the absence of details.

- 4 The finished ground and floor levels shall be carried out in accordance with 'Site Plan and Details' Drawing No. 14.118.11 A received by the Local Planning Authority on 13 January 2015, unless otherwise agreed in writing by the Local Planning Authority.

Reason- To ensure the development takes the form envisaged by the Local Planning Authority.

- 5 Prior to the first occupation of the dwelling hereby approved, the boundary treatments as set out in 'Site Plan and Details' Drawing No. 14.118.11 A received by the Local Planning Authority on 13 January 2015 shall be implemented, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To preserve the amenities of the locality.

- 6 The species mix for the replacement hedgerow and shrub planting shall be undertaken in accordance with the landscaping specification with the 'Site Plan and Details' Drawing No. 14.118.11 A received by the Local Planning Authority on 13 January 2015. The replacement hedgerow and shrub planting shall be implemented in the first planting and seeding season following either the first implementation of the use hereby permitted unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. Any planting which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation.

Reason- To ensure satisfactory landscaping is provided within a reasonable period and to provide a reasonable period for the replacement of any trees.

- 7 The window serving a bathroom and en-suites at first floor shall be glazed with obscure glass to Pilkington Standard 3 (or equivalent) which shall thereafter be retained unless planning permission has first been granted by the Local Planning Authority.

Reason- To ensure that the development is not detrimental to the privacy and amenities of the neighbouring property.

- 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A to E inclusive shall not be carried out on the residential units unless planning permission for such development has first been granted by the Local Planning Authority.

Reason - In the interests of visual amenity and impact upon the character and appearance of the countryside.

- 9 The dwelling hereby approved shall only use the mains sewer system for their foul drainage discharge.

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

- 10 Before first occupation of the dwelling hereby approved, the surface water shall be disposed from the site to soakaways or another sustainable drainage system, unless it is first agreed in writing with the Local Planning Authority that these suggested means of drainage are not suitable for the site and surface water discharge would be to the mains sewer.

Reason- To prevent an adverse impact on the River Mease Special Area of Conservation.

- 11 The dwelling hereby approved shall not be occupied until, within a period of four months prior to occupation, the Local Planning Authority (in consultation with Severn Trent Water) has confirmation in writing that there is sufficient headroom capacity available at Donisthorpe Waste Water Treatment Works or elsewhere within Severn Trent Water's sewer system to take the foul drainage discharge from the dwelling hereby approved.

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

- 12 Before first occupation of the dwelling hereby permitted, visibility splays of 2.4 metres by 91 metres shall be provided at the junction of the new access and the existing agricultural access with Measham Road. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

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

- 13 Before the start of the development, facilities shall be provided and maintained during the carrying out of the development to enable vehicle wheels to be washed prior to the vehicle entering the public highway. Such facilities shall be used as necessary to prevent extraneous material being carried out onto the highway.

Reason - To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users.

- 14 Before first occupation of the dwelling hereby permitted, turning facilities shall be provided, hard surfaced and made available for use within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall thereafter be permanently so maintained.

Reason: To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 15 Before first occupation of any dwelling, car parking shall be provided, hard surfaced and made available for use to serve that dwelling on the basis of 3 spaces for a dwelling with four or more bedrooms. The parking spaces so provided shall thereafter be permanently so maintained.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.

- 16 Before first occupation of the dwelling, its access drive the agricultural access, and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 10 metres behind the highway boundary and shall be so maintained at all times.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

- 17 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.

Reason - To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction.

- 18 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 10 metres behind the highway boundary and shall be hung so as not to open outwards.

Reason: To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway.

- 19 The existing agricultural access shall be a minimum of 4.25 metres wide for at least the first 10 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6CsDG at its junction with the adopted road carriageway. The new residential access shall be a minimum of 3.0 metres wide and have a drop crossing of a minimum size as shown in figure DG20 of the 6CsDG at its junction with the adopted road carriageway. Both access drives shall be provided before any dwelling hereby permitted is first occupied and shall thereafter be permanently so maintained.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through early engagement with the applicant at the pre-application stage 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 hedgerow should be removed outside of the bird-nesting season (March - August). It is an offence under Section 1 of the Wildlife and Countryside Act of 1981 to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built.