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**Residential development (up to 81 dwellings), associated open space, community and drainage infrastructure (Outline - access only) Re-submission of 14/00460/OUTM**

**Report Item No  
A5**

**Land On The East Side Of Butt Lane Blackfordby Derby**

**Application Reference  
15/00083/OUTM**

**Applicant:  
Mr Guy Mansfield**

**Date Registered  
5 February 2015**

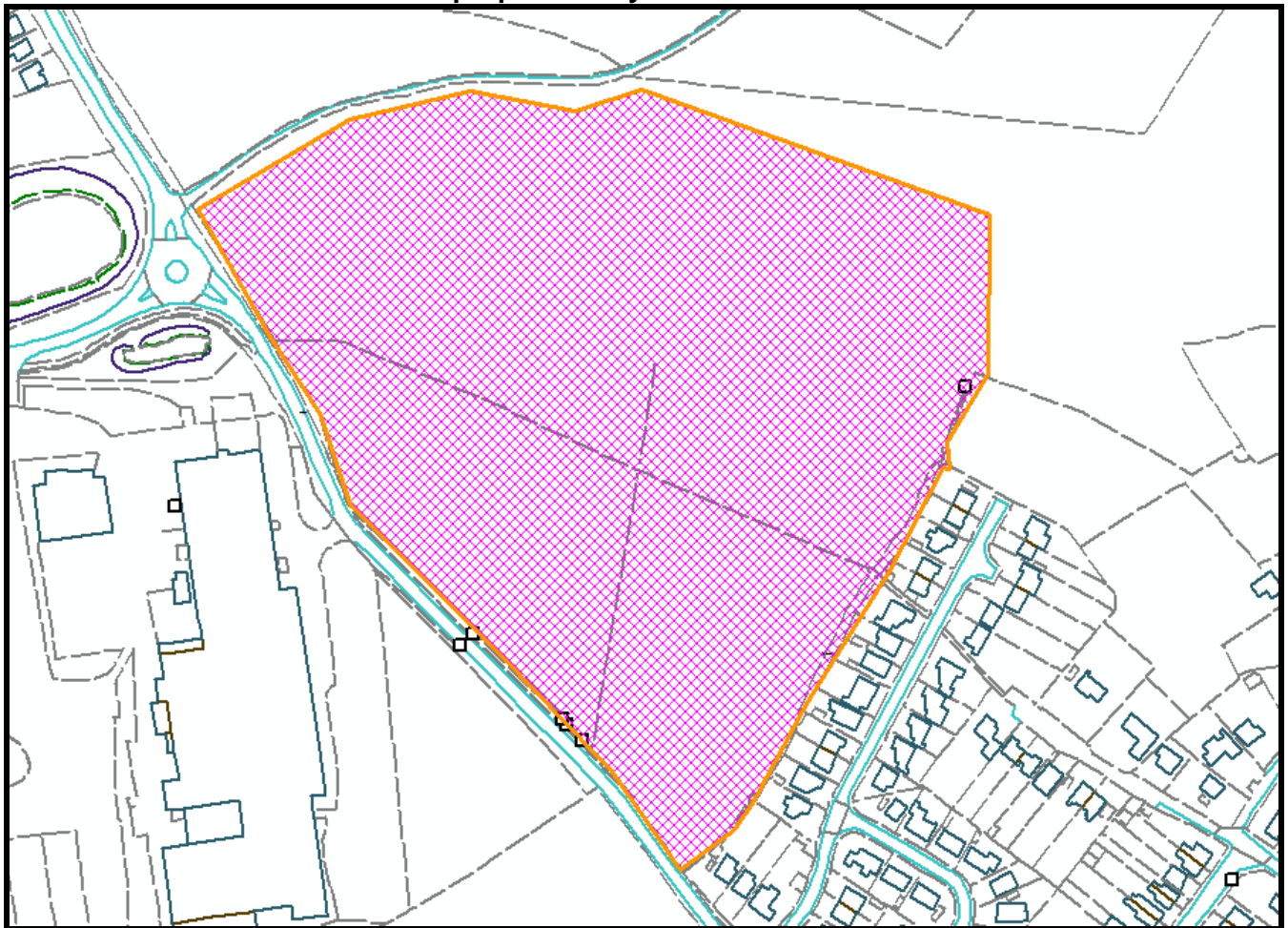
**Case Officer:  
Ebony Mattley**

**Target Decision Date  
7 May 2015**

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

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**Site Location - Plan for indicative purposes only**



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## **Excutive Summary of Proposals and Reasons for Approval**

### **Reason for Call In**

The application is reported to the Planning Committee, as it is an application of public interest and raises matters which should be referred to the Planning Committee for consideration.

### **Proposal**

This application seeks outline planning permission for up to eighty-one dwellings, on land at east of Butt Lane, Blackfordby.

The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Butt Lane and the centre point of the access would be approximately 30m from the eastern boundary of the site which abuts neighbouring residential development.

Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application. However, the extent of the built development on the indicative layout does reflect the submitted parameters plan which is for consideration and shows the area within which built development is proposed.

### **Consultations**

Members will see from the main report below that there are 79 objections to the scheme, and an objection from Ashby Town Council. There are no other objections raised from statutory consultees.

### **Planning Policy**

The application site is located outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also relevant, is the District's housing land requirements, and the need as set out in the National Planning Policy Framework, (NPPF) to demonstrate a five year supply.

### **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.

Paragraph 14 of the NPPF requires an assessment to be undertaken to establish whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.

When having regard to the information presented by the applicant in seeking to overcome the previous reason for refusal, the sustainability credentials of the settlement and the site, comparable Planning Committee decisions and appeal decisions along with the fact that the site is well related to existing built development and the Limits to Development, on balance it is considered that a strong case has been made concerning the sustainability of the site.

The proposed development would be acceptable in terms of density, design, impact upon the heritage assets, trees, residential amenities, highway safety, coal mining and land contamination, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services. There are no other relevant material planning considerations that indicate planning permission should not be granted.

It is therefore recommended that planning permission be granted, subject to conditions and the signing of the S106 Agreement.

**RECOMMENDATION - PERMIT, APPROVE SUBJECT TO SECTION 106 OBLIGATIONS AND 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

Outline planning permission is sought for the erection of up to 81 residential units. The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Butt Lane and the centre point of the access would be approximately 30 metres from the eastern boundary of the site which abuts neighbouring residential development. The formation of the new access which measures 10 metres in width (excluding radii and visibility splays) would require the removal of some of the existing hedgerow along Butt Lane.

Members are advised that an application for the same development proposal was previously considered at the December 2014 Planning Committee, where the application was refused, based upon its un-sustainable location, remote from services and therefore contrary to Saved Policy S3 of the Local Plan and the overarching intentions of the NPPF. Accordingly in seeking to overcome the previous reason for refusal, the applicant has provided a 'response to the previous reason for refusal' at section 7 of their submitted Planning Statement and a 'Local Facility Proximity Plan', in support of their application.

Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application. However, the extent of the built development on the indicative layout does reflect the submitted parameters plan which is up for consideration and shows the area within which built development is proposed.

The site is 7.4 hectares and is currently in agricultural use and is situated on the western side of the settlement to the northern side of Butt Lane. The application site is bordered by a public highway to the south-west, open fields to the north/ north-west and by residential development to the south east. Vehicular access to the site is currently via the existing vehicular access to Blackfordby House Farm off Butt Lane.

Land levels across the site rise in a northerly direction with the lowest land levels being adjacent to the public highway (Butt Lane) in the south eastern corner of the site and the highest being towards the north of the site. Between these two points of the site, the increase in land levels is approximately 11.5 metres.

The site lies within the catchment area of the River Mease Special Area of Conservation and the Blackfordby Conservation Area lies approximately 90 metres to the east of the site and the nearest listed buildings are the Grade II listed Butt Cottage lying approximately 65m to the south east of the site and the Grade 2 listed Well Cottage lying approximately 225 metres to the east. There are no protected trees on the site.

The site is located outside Limits to Development, as identified in the North West Leicestershire Local Plan 2002.

#### **Planning History:-**

14/00460/OUTM - Residential development (up to 81 Dwellings), associated open space (incorporating community infrastructure), drainage infrastructure (outline - access included) - Refused - 03.12.2014.

## 2. Publicity

100 no neighbours have been notified. (Date of last notification 5 March 2015)

Press Notice published 11 March 2015

Sire Notice published 13 March 2015

## 3. Consultations

Ashby De La Zouch Town Council consulted 5 March 2015  
Head of Environmental Protection  
LCC ecology  
LCC Development Contributions  
County Highway Authority  
Environment Agency  
Severn Trent Water Limited  
Natural England  
NWLDC Tree Officer  
County Archaeologist  
LCC Flood Management  
NWLDC Conservation Officer  
National Forest Company  
NHS Leicester, Leicestershire And Rutland Facilities Management  
Development Plans  
Head Of Leisure And Culture  
Manager Of Housing North West Leicestershire District Council  
Police Architectural Liaison Officer  
LCC/Footpaths  
NWLDC Footpaths Officer  
Coal Authority  
County Planning Authority  
Derbyshire County Council  
South Derbyshire District Council

## 4. Summary of Representations Received

*Statutory consultees:*

**Ashby de la Zouch Town Council** raise objection on the following grounds:-

- The application is for up to 81 dwellings which will increase the size of the village by 20% and there are no facilities within the village to support such an increase;
- The application site is outside of the designated village limits and absorbs Blackfordby into Woodville;
- There are serious traffic problems within the village which will be exacerbated by additional car journeys generated by this proposed development. A traffic survey in 2005 identified more than 10,000 vehicles used Butt Lane in the period of the survey;
- The footpaths within the village are very poor;
- The local primary school has no capacity and no room to expand;
- There is a lack of infrastructure generally within the village to support such an

- expansion: no shop, post office, medical facilities etc;
- There are concerns about flooding of Butt lane from the site and the potential impact upon local properties;
- The ecological report lodged with the application is flawed.

**County Highways Authority** has no objections subject to conditions and subject to securing developer contributions through a legal agreement.

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

**Severn Trent Water Ltd** has no objection subject to a drainage condition.

**Natural England** has no objections subject to the development according with the requirements of the River Mease Developer Contribution Scheme.

**Police** has requested a developer contribution of £30,348.

**Coal Authority** has no objections subject to a condition.

**National Forest Company** advises that 20 percent of the site area should be woodland planting and landscaping.

**County Archaeologist** has no objections subject to conditions.

**County Ecology** has no objections subject to conditions.

**County Footpaths** raises observations in respect of the layout in respect of footpaths P11 and P13.

**NWLDC Head of Leisure and Culture** has requested a developer contribution of £77,524 towards Hood Park Leisure Centre.

**NWLDC Head of Housing** advises that the rural housing needs survey for Blackfordby identified a need for affordable homes. In line with the Council's Supplementary Planning Document, 30% affordable housing should be secured.

**NWLDC Footpaths Officer** confirms that there are a number of footpaths that cross this development which would need diverting.

**NWLDC Urban Designer** is not satisfied that the indicative scheme submitted on the original or amended plan represents a good standard of design as supported by the NPPF and Building for Life 12.

**NWLDC Conservation Officer** has no objections.

**NWLDC Tree Officer** has no objections subject to conditions.

**NWLDC Head of Environmental Protection** has no environmental observations, subject to a contaminated land condition.

No comments have been received from:-

Derbyshire County Council  
South Derbyshire District Council  
NHS England.

79 letters of objection have been received raising the concerns around the following areas-

- a) Principle of development, contrary to policies and un-sustainable
- b) Adjacent to a Conservation Area
- c) Highway Safety
- d) Previous underground and opencast mining activities and potential subsidence and contamination
- e) Existing inadequate infrastructure/services/amenities to accommodate the development
- f) Drainage and Floodrisk
- g) Wildlife
- h) Noise and pollution
- i) Boundary and land ownership disputes
- j) Assumptions and misleading information within the reports
- k) De-valuation of property prices and increased home insurance costs
- l) A full Environmental Impact Assessment is required
- m) Another application at the top of Butt Lane/Hepworth Road has been submitted
- n) Approval of the development will lead to a precedent for further development.

All responses from statutory consultees and third parties are available for Members to view on the planning file.

## 5. Relevant Planning Policy

### National Planning Policy Framework (NPPF) - March 2012

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

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

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

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- Paragraph 47 (Delivering a wide choice of high quality homes)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 54 (Delivering a wide choice of high quality homes)
- Paragraph 57 (Requiring good design)
- Paragraph 59 (Requiring good design)
- Paragraph 61 (Requiring good design)
- Paragraph 64 (Requiring good design)

Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 109 (Conserving and enhancing the natural environment)  
Paragraph 112 (Conserving and enhancing the natural environment)  
Paragraph 118 (Conserving and enhancing the natural environment)  
Paragraph 119 (Conserving and enhancing the natural environment)  
Paragraph 129 (Conserving and enhancing the historic environment)  
Paragraph 131 (Conserving and enhancing the historic environment)  
Paragraph 134 (Conserving and enhancing the natural environment)  
Paragraph 143 (Facilitating the sustainable use of minerals)  
Paragraph 203 (Planning conditions and obligations)  
Paragraph 204 (Planning conditions and obligations)

**North West Leicestershire Local Plan:**

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

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan.

Policy S3 - Countryside  
Policy E2 - Landscaped Amenity Open Space  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E7 - Landscaping  
Policy E8 - Crime Prevention  
Policy E30 - Floodplains  
Policy F1 - National Forest General Policy  
Policy F2 - Tree Planting  
Policy F3 - Landscaping and Planting  
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

**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.

**North West Leicestershire District Council Affordable Housing Supplementary Planning Document (SPD)**

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



dwellings in Blackfordby.

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

### **North West Leicestershire District Council Play Area Design Guidance Supplementary Planning 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.

### **Blackfordby Conservation Area Appraisal and Study Supplementary Planning Guidance (SPG)**

The SPG identifies individual factors considered to have a positive impact on the character of the Conservation Area. These factors include principal listed buildings and unlisted buildings of interest in the vicinity of the site.

### **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 considerations with regards to this application are the principle of development and assessing the previous reason for refusal, loss of agricultural land, access and highway safety, public footpaths, density and design, impact upon residential amenity, impact upon heritage assets, protected species/ecology, archaeology, trees, land contamination and coal mining, drainage and flood risk, the impact upon the River Mease Special Area of Conservation/SSSI, developer contributions and other matters.

### **Principle of development and assessing the previous reason for refusal**

Members are advised that planning permission was refused at the December 2014 Planning Committee for the following reason:-

*"Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of protecting and enhancing our natural environment and using natural resources prudently. Policy S3 of the Adopted North West Leicestershire Local Plan sets out the circumstances in which development outside of Limits to Development would be acceptable. The introduction of residential development on this undeveloped site, outside Limits to Development, remote from services would constitute unsustainable development, contrary to the policies and intentions of the NPPF and Saved Policy S3 of the North West Leicestershire Local Plan."*

### **Residential development on an "un-developed site, outside Limits to Development**

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 Blackfordby, as defined by the proposals map of the adopted Local Plan and therefore falls to be considered against Saved Policy S3 of the Local Plan. In applying weight to any conflict with Policy S3 in the overall planning balance, to bear in mind the fact 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). It is therefore considered inevitable that greenfield land will need to be released in order to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan.

Saved Policy H4/1 is also of relevance and identifies the criteria for in releasing "appropriate" land for housing.

The northern and western boundaries of the site border Blackfordby House Farm and its access drive which are occupied by post and rail fencing. The eastern and southern boundaries of the site (which abut the highway and neighbouring residential properties) are predominantly occupied by hedgerows interspersed with trees, although some neighbouring gardens have other forms of enclosure. The site forms part of a larger field and therefore, the north eastern boundary of the site is currently open.

It is considered that the application site would relate reasonably well to the boundaries of existing residential properties fronting Fenton Avenue. Furthermore to the west of Butt Lane is an industrial complex comprising large, conspicuous and unattractive buildings and to the north of the site is Blackfordby House with a group of large scale buildings. Residential development also exists along Butt Lane to the west of the site.

Overall the application site abuts the settlement boundary of Blackfordby, and residential properties fronting Fenton Avenue, and it is considered that development on this site would be viewed against this backdrop of existing, adjacent built development and therefore, would not appear an isolated development in the countryside.

Therefore having regard to all of the above considerations (including the proximity of the site to existing development and the settlement boundary, the topography of the surrounding landscape, existing soft landscaping and the scope for mitigation in the detailed layout, design and landscaping of the scheme), whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the character of this locality and the countryside.

As the Authority is able to demonstrate a five year supply of housing, including an additional 20% buffer, Saved Policies S3 and H4/1 are considered to be relevant in determining this application, in the context of Paragraph 49 of the NPPF (subject to the weight to be attached to Policy S3 as a material consideration being adjusted having regard to the plan period issue as set out above).

Insofar as the site's location is concerned, whilst the site it is located outside of Limits to Development, the site is well related to the settlement boundary, is bounded by existing development, as set out above and is not therefore considered to be an isolated development in the countryside.

## Sustainability credentials of the site

In seeking to overcome the previous reason for refusal, the applicant has provided a 'response to the previous reason for refusal' at section 7 of their submitted Planning Statement and a 'Local Facility Proximity Plan', in support of their application.

*The response to the previous reason for refusal is broken up into three main parts:-*

- 1) *Does the saved local plan policy S3 comply with the NPPF?*
- 2) *If policy S3 can be set aside, is the site indeed "remote from services? to the extent to render it un-sustainable and does it sufficiently conflict with the NPPF to sustain refusal?*
- 3) *The planning balance*

*The applicant states that as the Council's Local Plan was adopted in 2002 it was prepared against the context of national planning policy, at that time - PPG3 which sought to restrict the development of greenfield land for housing and prioritise brownfield land and was not therefore prepared under the policies contained with PPS3 (which superseded PPG3) which sought to deliver a "step change" in housing delivery. Furthermore the plan was therefore not considered in light of the NPPF which seek the "presumption in favour of sustainable development" and therefore S3 which does not reflect the shift towards prioritising the delivery of housing is not consistent with the NPPF.*

*The applicant refers to Anita Colman v Secretary of State case, and Inspector Stevens as an appeal at Pulley Lane, Droitwich Spa where it was concluded that in so far as the countryside policy seeks to protect the countryside, this policy is considered to be consistent, but in so far as it seeks to halt necessary development, it is not and that policies are on their own express terms very far from the cost/benefit approach to the NPPF.*

*The applicant states that Policy S3 lacks the "cost/benefit" approach required to ensure consistency with the NPPF and is therefore "out of date" and was considered against an evidence base for housing that was only confirmed for the plan period to 2006. The applicant believes that it is self-evident that the development plan does not accord with the strands of the NPPF making it out of date, and therefore Policy S3 which is the product of it, is also out of date and must be set aside when considering the proposal.*

*In respect of the growth to Blackfordby, the applicant confirms that 20.8% growth is lower than the 25% growth in Packington, which was approved in June 2014.*

*In terms of walking distances to local services to facilities, the applicant has compared the distance (in metres) with four other approved schemes - Loughborough Road, Thringstone, Greenhill Road, Coalville, Spring Lane, Packington and Normanton Road, Packington.*

- o Open space - at 440 metres this is closer than Thringstone and both Packington applications*
- o Primary school - at 540 metres is closer than Coalville and both Packington applications*
- o Public House - at 500 metres is closer than Coalville application (where there was no footway available)*
- o Bus Stops - at 480 metres is closer than Thringstone and comparable with both Packington applications at 450 metres*
- o Bus frequency - an hourly service the same as both Packington applications*
- o Village hall - at 610 metres is closer than all other applications*
- o Local Shop - at 1020 metres is further than all, but comparable to Thringstone*

*application at 960 metres*

- o Local Centre - at 1370 metres is closer than Coalville and both Packington applications*
- o Health Centre/GP/Hospital - at 1850 metres is closer than all applications and comparable to Coalville application at 1800 metres*
- o Secondary School - at 2440 is closer than both Packington applications and Thringstone at 3470 metres.*

*In terms of the planning balance, the applicant endorses the previous committee report's findings in respect of the economic, social and environmental dimensions and acknowledged that despite local objections, these objections must be weighed against an absence of recorded substantive technical objection.*

In assessing the contents of the applicant's sustainability assessment outlined above, the following comments have been reached by Officers:

As the Authority is able to demonstrate a five year supply of housing, Saved Policies S3 and H4/1 are considered to be relevant and in date, in the context of Paragraph 49 of the NPPF.

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.

Consideration should also be given to the appeal decision at land South of Moira Road, Ashby. In terms of the distance to amenities, the inspector referred to DoT statistics which show that the average trip length regularly undertaken by the population of Great Britain is, on average, walking about 1km, cycling about 4.5km and by bus about 8km.

Below are the approximate distances to service within Blackfordby from the site:-

- o Village Hall - 725 metres;*
- o x2 Public House - 610 metres to the nearest;*
- o Playing field - 230 metres;*
- o Primary School - 730m;*
- o Bus Service - (nearest stop opposite 23 Main Street) - 520metres;*

(More direct routes to these services would be available through public footpaths through the settlement which link up with the eastern boundary of the site).

Bus Service 9/9A provides an hourly service between Coalville and Burton on Trent calling at Swannington, Ashby de la Zouch, Blackfordby, Moira, Swadlincote and Brizlincote. This service runs Monday to Friday between the hours of 0659 and 1939 hrs and on Saturdays between the hours of 0719 and 1939 hrs. A slightly reduced hourly bus service 9E runs on Sundays (this does not stop at Moira) between the hours of 0935 and 1935.

Whilst the services available within Blackfordby are limited, the site is reasonably well related to Norris Hill (Moira) and Woodville and although the latter settlement is outside the District boundary (within South Derbyshire), cumulatively they would provide a good range of services and facilities, which could be used by occupiers of the proposed dwellings. These include:

The following services are available within Norris Hill:

- o Primary School - 1200 metres;
- o Parade of shops on Blackfordby Lane comprising a convenience store, x2 takeaways, carpet shop and beauty salon - 1500 metres.

There is a continuous footway between the site and the services available at Norris Hill, although being unlit along sections of Drift Side may affect pedestrian access to these services in the evenings when it is dark and the route would be less desirable to pedestrians.

The following services are available in Woodville off the A511:

- o Shop (convenience store) x2 - 1140m and 1500m;
- o Post Office - 1500m;
- o Pharmacy - 1500m;
- o Primary School - 1500m;
- o Secondary School - 2300m;
- o Health Centre - 1800m;
- o Library - 1700m.

There is a continuous lit footway between the site and the services available at Woodville.

The County Highway Authority (CHA) have also commented upon transport sustainability within this application, stating that the site is reasonably sustainable in transport terms with a bus stop in the village providing an hourly service within about 500 metres of the site and a primary school within 900 metres of the centre of the site.

The now withdrawn submission version North West Leicestershire Local Plan: Core Strategy did identify Blackfordby as a "sustainable village". Having regard to the location of the site, it is considered that residents of the site would have reasonable access to services and facilities by walking and easy access to all the facilities Blackfordby and the neighbouring settlements have to offer by cycling or using public transport.

In response to the applicant's other appeal decisions outside the District, it is not considered that they carry any significant weight in the determination of this application.

The provisions of the NPPF 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.

- o Economic - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.
- o Social - in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The new population could support and help sustain the local

services and facilities that meet local needs and contribute to the creation of sustainable communities. The development would provide both open market and affordable housing, appealing to a wider spectrum with the local market, thus increasing local market choice and appealing to groups whom may have otherwise been excluded from the locality. The proposal would include the provision of informal public open space and financial contributions will be secured towards the provision of local services and facilities. Accordingly the site is considered to be consistent with the 'social role'.

- o Environmental - to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The site is located outside the limits to development, but is well related to the existing settlement. Furthermore, as set out in the report below, it is considered that the proposal would not be contrary to the aims of protecting or enhancing the natural and historic environment. Accordingly the site is considered to be consistent with the 'environmental role'.

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.

Paragraph 14 of the NPPF requires an assessment to be undertaken to establish whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.

When having regard to the information presented by the applicant in seeking to overcome the previous reason for refusal, the sustainability credentials of the settlement of Blackfordby and Woodville and the site, combined with the fact that the site is well related to existing built development and the Limits to Development, it is considered that a strong case has been made concerning the sustainability of the site.

### **Loss of Agricultural Land**

The Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The supporting information accompanying the application confirms that the land would be assigned to Classes 3a and 3b and therefore, would partly be classified as BMV agricultural land. A total of 1.4ha (20% of the site area) would be Grade 3a (BMV) and 6ha (80% of the site area) would be Grade 3b. Whilst, the NPPF does not suggest that the release of smaller BMV site is acceptable, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost and therefore given the relatively limited extent of the potential loss of the site, at 1.54 hectares, it is considered that the potential agricultural land quality issue is not sufficient to sustain a reason for refusal in this case.

### **Access and Highway Safety**

There is no change to the vehicular access and therefore consideration of this matter remains as per the previous application ref: 14/00460/OUTM. In this respect, the Committee did not include highway safety in the reason for refusal.

All matters are reserved for subsequent approval except for access. The point of access

proposed show vehicular access via a new junction onto Butt Lane. The County Highways Authority has been consulted on the application and although concern has been raised by local residents about traffic generation and highway safety matters, the County Highways Authority has raised no objections (subject to conditions) to the proposed development in respect of highway safety implications.

In these circumstances, subject to conditions and S106 contributions, which the applicant has agreed to, it is considered that the development would accord with Policy T3 of the Local Plan.

### **Public Footpaths**

There is no change to the indicative layout and therefore consideration of these matters therefore remains as per the previous application ref: 14/00460/OUTM. In this respect, the Committee did not include the impact upon the existing footpath in the reason for refusal.

The County Footpaths Officer (CFO) states that it would be appropriate for the layout to be designed so that the route of the right of way across the landscaped area is consistent with the legal line of P13 and that P11 would either be directly affected by a number of proposed dwellings or subsumed in one of the estate roads. Accordingly the CFO recommends that the planning consent should be conditional upon Footpath P11 being located within a landscaped area parallel to, but detached from the estate road. During the course of the application, the applicant has submitted a 'Briefing Note' to state that the mapping exercise is as accurate as reasonable possible, that from visits it is evident that P13 had little to no footfall and to amend the layout would compromise the positive green landscape elements of the scheme.

As layout is not for consideration at this time, it is not considered necessary at this stage to re-position any dwellings or roads within the scheme on the illustrative layout, and it is considered that the site is of sufficient size to accommodate the proposed development and existing footpaths in line with the above-mentioned advice from the CFO, at the reserved matters stage. Accordingly subject to a note to applicant to inform the applicant of the comments of the CFO, the proposal at this stage, is considered acceptable in terms of its impact on existing public footpaths.

### **Density and Design**

For the avoidance of doubt there is no change to the density or design and consideration of these matters therefore remains as per the previous application ref: 14/00460/OUTM. In this respect, the Committee did not include density, or design in the reason for refusal.

The Council's Urban Designer raises concerns that the layout would fail to meet the Building for Life criteria, however when having regard to the outline nature of the scheme and the fact that it is not seeking consent for layout and appearance, it is not necessary to seek the submission of amended plans as these matters could be dealt with by appropriately worded condition which requires a Design Code to be agreed based on Building for Life 12 and a note to applicant providing the comments of the Urban Designer for any forthcoming reserved matters application(s).

Subject to these requirements, it is considered that an acceptable design solution for the development of the site could be achieved and therefore, the proposal is considered acceptable for the purposes of Policy E4 and H7 of the Local Plan and the design provisions of the NPPF.

### **Impact upon Residential Amenity**

For the avoidance of doubt, layout, scale and appearance have not been presented and consideration of these matters therefore remains as per the previous application ref: 14/00460/OUTM. In this respect, the Committee did not include impact upon residential amenity in the reason for refusal.

In terms of the impacts on neighbouring occupiers arising from the proposed buildings themselves are concerned, this would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 81 units could not be provided on the site in a manner which would not adversely impact upon neighbouring residential amenities, in terms of loss of privacy, loss of light or overbearing impact.

It is, therefore, deemed that the development would not have any significant detrimental impact upon neighbouring residential amenities and is considered to be acceptable in relation to Policy E3 of the Local Plan.

### **Impact upon Historic Assets**

For the avoidance of doubt, layout, scale and appearance have not been presented and consideration of these matters therefore remains as per the previous application ref: 14/00460/OUTM. The Committee did not include impact upon historic assets within the reason for refusal.

The scheme has been considered by the Council's Conservation Officer who raises no objection.

The Blackfordby Conservation Area lies approximately 90m to the east/north-east of the site at its closest point. The site does provide a rural setting for the village but is well separated from the Conservation Area by intervening residential development/agricultural land. The site would be visible within views of the Blackfordby Conservation Area, and some glimpses of the site would also be available within views from the edge of the Conservation Area through gaps in landscaping. When having regard to the distances involved, the relationship between the site and the Conservation Area and the intervening land uses/development, it is not considered that the development of the site for housing would adversely affect the setting of the Blackfordby Conservation Area.

Butt Cottage (Grade II) lies 60m to the south west of the site and is separated from the site by modern development. Although the site may be visible within views of Butt Cottage, when having regard to the distance involved and the intervening development, it is not considered that the proposed would result in any significant adverse impact on the setting of Butt Cottage. Norrishill Farmhouse and Boothorpe Farmhouse and barn and Boothorpe Farm Cottage, all Grade II Listed Buildings are located some distance from the site and it is not considered that the site forms part of the setting of these heritage assets and therefore, would be unlikely to be adversely affected by the proposed development.

In summary, the Council's Conservation Officer has given special regard to the desirability of preserving the setting of the heritage asset and has concluded that whilst the proposal may be harmful to the significance of the heritage assets, this would be unlikely to involve substantial harm or total loss of significance and the benefits of the development in the planning balance outweigh the limited harm the development will have on the heritage asset and for the reasons



set out above and would be in conformity with the intentions of the NPPF

### **Protected Species/Ecology**

There has been no change in respect of these matters and therefore consideration remains as per the previous application ref: 14/00460/OUTM. In this respect, the Committee did not include impact upon protected species as a reason for refusal.

The application submission was accompanied by an Ecology Report which has been considered by the County Ecologist who has confirmed that the land is currently arable, of limited ecological value, and the only habitats of significance are the hedgerows, which are all largely retained in the indicative layout. She advises that the indicative layout presented is excellent in ecological terms, with substantial buffer along boundary features, and a large area of open space. There are opportunities for biodiversity enhancement in the SUDs features, and overall the County ecologist considers that biodiversity is likely to be enhanced as a result of this development.

The County Ecologist has one concern regarding Great Crested Newts and considers that some mitigation/precautionary working will be required through the life of this development, to keep GCNs off site during phases of construction. Subject to an appropriately worded condition, the County Ecologist has no objections to the proposed development.

### **Archaeology**

There has been no change in respect of these matters and therefore consideration remains as per the previous application ref: 14/00460/OUTM. In this respect, the Committee did not include archaeology in the reason for refusal.

The application has been accompanied with a desk-based archaeological assessment which has been considered by the County Archaeologist.

The County Archaeologist advises that the archaeological interest of the development area is hard to determine and has therefore recommended that the applicant be required to undertake a post-determination programme of archaeological investigation to establish the presence and character of any surviving remains. It is noted that this work should inform any Reserved Matters submission.

Accordingly, subject to the imposition of conditions to secure an appropriate programme of archaeological investigation and recording, it is considered that the proposal would comply with the provisions of the NPPF.

### **Impact upon Trees**

There is no change to the indicative layout and therefore consideration of these matters therefore remains as per the previous application ref: 14/00460/OUTM. In this respect, the Committee did not include impact upon the trees in the reason for refusal.

An arboricultural report accompanies this application submission, which considers the implications of the development of the site on trees and hedgerows on the site, including along the site frontage around the proposed access position.

The Council's Tree Officer has been consulted on the application and considers the submitted

arboricultural report to be thorough. Subject to all structures being outside the Root Protection Areas of the trees to be retained (unless demonstrated to be necessary and acceptable by the consulting arborist), and subject to conditions, the Council's Tree Officer raises no objection to the proposed development.

### **Land Contamination, Coal Mining and Minerals**

Whilst Members did raise concerns about this issue, this was not included as a reason for refusal and consideration of these matters therefore remains as per the previous application ref: 14/00460/OUTM.

In response to the objections raised in relation to the past uses of the site and their potential impacts on future residential development, the application has provided an additional 'Briefing Note' to seek to address these concerns, within this application. The Briefing Note confirms that an updated Stage 1 Contamination Assessment has been submitted and the findings of the assessment are unchanged from the previous report. The Note states that the Environment Agency (EA) previously concluded that as the site may be at risk from ground instability, that these issues would have to be considered where foundations are designed for the development, and that the potential for unknown fill material in the clay pits, should be assessed and could be secured by way of a condition. The Note confirms that the EA considered it unlikely that contamination would preclude development of the site and as a consequence had no reason to object to the application.

This application has been re-considered by the EA and the Council's Environmental Health Officer who raise no objections, subject to conditions.

The site lies within the Coal Authority Referral Area and accordingly a Coal Mining Risk Assessment accompanied the application submission which identifies that the site is located within an area where unrecorded underground coal mining activity may have taken place at shallow depth. In addition, the site lies within a Mineral Consultation Area, because it contains potential near surface coal resources

The Coal Authority has been consulted on the application and concurs with the recommendations of the Coal Mining Risk Assessment which requires further investigation and any necessary mitigation measures, to be undertaken prior to development commencing.

Subject to the imposition of conditions, the proposed development is considered acceptable in terms of land contamination, coal mining and mineral risk.

### **Drainage and Flood Risk**

Whilst concerns were raised by residents in relation to the capacity of the local drainage network and the proposal contributing to existing flooding problems in the area, this was not included as a reason for refusal and consideration of these matters therefore remains as per the previous application ref: 14/00460/OUTM. In this respect, the Committee did not include flood risk in the reason for refusal.

The FRA has been considered by statutory consultees, all of which raise no objections, subject to the imposition of planning conditions.

The applicant's accompanying 'Briefing Note' also summaries the correspondence, during the previous application from the EA, confirming that the EA had been made aware of flooding

within the village, but were still unable to object to this proposal on flood risk grounds, because they did not have evidence of flooding on the site and there were technical solutions available which will prevent an increase in flood risk off-site.

### **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.

When having regard to the existing agricultural use of the site, the proposal for 81 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The flows from the new dwellings will need to be taken into account against the existing headroom at Packington Treatment Works, which serves Blackfordby. At the time of writing sufficient capacity exists for the 81 dwellings proposed.

Natural England has considered the scheme and raises no objections in relation to impact on the SAC/SSSI subject to conditions. 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.

### **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.

### *Affordable Housing*

The Council's Strategic Housing Team have been consulted on the application and have advised that there is a need for affordable housing and that the full 30% should be secured through the proposed development, in accordance with the Council's Affordable Housing Supplementary Planning Document (SPD).

The Council's preferred position is to seek delivery on site through a Registered Provider. However, as this site is in one of our smaller rural settlements, the Council's Strategic Housing Team considers that a proportion of this requirement could be provided as an off-site financial contribution to support the provision of affordable housing anywhere in the district where a need has been identified. The Council's Strategic Housing Team would therefore seek to secure 15%

on-site and 15% as an off-site contribution, with the actual contribution in terms of unit types to be agreed by the District Council.

#### *Play Area/Open Space*

Under the Council's Play Area Supplementary Planning Guidance (SPG), on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 81 dwellings are proposed, this would require a play area of not less than 1620 square metres. The indicative masterplan shows that provision is proposed to be made for public open space within the site, which would need to include a children's equipped play area. Taking into account the overall size of the recreation area, a suitable sized children's equipped play area could be provided at the reserved matters stage. Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the SPG. In terms of the range of equipment necessary, for developments of this number of dwellings, the Council's SPG requires that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity.

#### *River Mease DCS*

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage (although the maximum amount would be £28,674) as the number of bedrooms in each dwelling would not be finalised until the reserved matters stage.

#### **Other Developer Contributions**

As a result of the Developer Contributions consultation, the following contributions have been requested:-

Leicestershire County Council (Libraries) request £2,450 towards additional resources at Ashby de-la Zouch Library.

Leicestershire County Council (Education) request a contribution of £235,204.75 for the primary school sector, for St. Margaret's C of E Primary School; a contribution of £144,796.98 for the high school sector, for Ivanhoe College and a contribution of £148,676.80 for the upper school sector, for Ashby School.

Leicestershire County Council (Highways) request:-

- o Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- o Six-month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car
- o Improvements to the nearest bus stop, including raised and dropped kerbs to allow level access, to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
- o Contribution towards equipping the nearest bus stop(s) and suitable bus route with Real Time Information (RTI) system, at total of £5,840;
- o Travel Plan and monitoring fee (£6,000/£11337) to enable LCC to provide support to the Travel Plan Coordinator, audit performance reports and enforce the Travel Plan if necessary.
- o Construction traffic route which is considered to be necessary in this case given the

site's proximity to residential areas and the village centre. The routing agreement will enable the Authority to prevent construction traffic from using unsuitable routes in the interests of highway safety.

The National Forest Company require 20% of the site area to be for woodland planting and landscaping, which equates to a requirement of 1.48 hectares. The application submission indicates that the development site could accommodate 3.2 hectares of open space including National Forest planting, which is in excess of the requirement. Areas of strategic planting are also shown on neighbouring land outside the application site within the Design and Access Statement. Whilst the National Forest Company are supportive of these elements of the proposal, given that the scheme already exceeds requirements for landscaping, it is not considered that a requirement for additional off-site planting could be justified, in this case.

NWLDC Head of Leisure and Culture has requested a developer contribution of £77,524 is requested for investment in sports facilities at Hood Park Leisure Centre. In terms of the Leisure contribution, there has not been a breakdown of specific costs which would be relevant to this specific development proposal and no evidence base has been submitted with the request to set out how the proposed development would generate the need for an the proposed health and wellbeing facility i.e. how it is specifically relevant to the proposed development.

Leicestershire Police requests a developer contribution of £30,348 comprising of the following:-

Start up equipment / training	£3,292
Vehicles	£2,059
Additional radio call capacity	£206
Police National Database	£105
Additional call handling	£189
ANPR	£2,055
Mobile CCTV	£375
Additional premises	£21,905
Hub equipment	£162

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. In terms of the increased level of police activity associated with the proposed development, Leicestershire Police advises that the scheme would result in 172 additional calls, 18 emergency events, 11 non-emergency events and 7 additional recorded crimes per year. Whilst officers have no alternative data in respect of these levels of activity, officers are concerned that the level of additional calls on Police time assumed to be associated with this development of up to 81 dwellings could be somewhat excessive and, as such, the scale and kind of contributions sought may not be fairly and reasonably related to this development. Insofar as the various individual elements of the requested policing contribution are concerned, however (and putting the issue raised above to one side), it is considered as follows:

*Start up equipment / training and Vehicles*

It is accepted that, in principle, such contributions could be reasonable.

*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.

*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 these 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 these dwellings to the village would suggest that such a system would be required when, in the absence of the development, it was not.

*Hub equipment:*

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

*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, being planned 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 has recently been completed 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, and the request also suggests that the remainder of the premises contribution be directed towards other, unspecified, force-wide premises serving North West Leicestershire.

Whilst Leicestershire Police maintains that additional floorspace is required at all of these locations to serve the proposed residential development, it would 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.

On this basis, therefore, officers are of the view that, subject to the Police being able to demonstrate in a robust manner that the assumed levels of increased policing activity are appropriate given the scale of the proposed development, contributions in respect of the start up equipment / training, vehicles and call handling have the potential to satisfy the relevant NPPF and CIL tests.

No request has been received from NHS England and Leicestershire County Council (Civic Amenity) have confirmed that they are not requesting a contribution.

On consideration of these requests received in respect of this application it is considered that the following meet the tests and should members be minded to approved this application a Section 106 Agreement would secure the following:-

- o Affordable Housing (15% on-site and 15% as an off-site contribution)
- o Play and Open Space (on-site)
- o Education (£528,678.53)
- o Libraries (£2,450)
- o River Mease
- o National Forest (on site planting and/or contribution)
- o Transport (Travel Packs, Bus Passes, Bus Stop Improvements, Real Time Information, Monitoring)
- o Policing (Start up equipment / training and Vehicles)

Notwithstanding the above, from April 2015, no more than five obligations can be pooled by the charging authority to provide for the same item of infrastructure. Accordingly it will be necessary for the relevant consultees, in relation to the above mentioned requests to demonstrate that no issues arise in respect of pooling (insofar as the limitations on pooled contributions as set out within the CIL Regulations are concerned).

## **Other Matters**

### **Letters of Representation**

In respect of other objections received which have not already been addressed within the report above:-

De-valuation of property prices and the right to a view are not material planning considerations.

Layout and landscaping are not for consideration at this time.

Concern has been raised by local residents about the development site encroaching onto land that is not in the ownership of the applicant. The applicant has provided land title details which show the full extent of the application site to be within the ownership of the applicant.

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 2011. Whilst the proposal is classed as development under paragraph 10(b) of Schedule 2 to the Regulations it has been concluded that this proposal does not constitute EIA development under the 2011 Regulations as its impacts, are not considered to be significant and can be considered as part of the planning application.

## Conclusion

In conclusion, when having regard to the information presented by the applicant in seeking to overcome the previous reason for refusal, the sustainability credentials of the settlement of Blackfordby and Woodville and the site, combined with the fact that the site is well related to existing built development and the Limits to Development, it is considered that a strong case has been made concerning the sustainability of the site.

The proposed development would be acceptable in terms of density, design, impact upon the heritage assets, trees, residential amenities, highway safety, coal mining and land contamination, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise. Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services. There are no other relevant material planning considerations that indicate planning permission should not be granted.

## **RECOMMENDATION - PERMIT, subject to section 106 obligations and the imposition of conditions:**

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall begin before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

- 2 Approval of the details of the access (save for the details of vehicular access into the site from Butt Lane), layout, scale and appearance of the development and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

*Reason- this permission is in outline only.*

- 3 The reserved matter application(s) shall include precise details of finished ground levels across the site and the finished floor levels of all buildings in relation to an existing datum point.

*Reason - to ensure a satisfactory relationship with the adjacent dwellings/the streetscene, as insufficient details have been provided.*

- 4 Notwithstanding Conditions 1, 2 and 3 above, the first reserved matters application shall include a masterplan for the whole of the site setting out indicative details of site layout, areas of open space / children's play, surfacing and width of footpaths through the site, landscaping, density parameters and scale, as well as details of any proposed phasing of development. All subsequent reserved matters applications shall be in accordance with the approved masterplan unless any alteration to the masterplan is first agreed in writing by the Local Planning Authority. All development of the site shall thereafter be undertaken in accordance with the agreed phasing and timetable details (or any alternatives subsequently agreed in writing by the Local Planning Authority).



*Reason - To ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner.*

- 5 The first reserved matters application shall be accompanied by a further Building for Life 12 assessment.

*Reason - to provide evidence that demonstrates detailed compliance with Building for Life 12.*

- 6 The first reserved matters application in respect of the matter of landscaping shall provide for an ecological / landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), together with a timetable for its implementation. The development shall be carried out in accordance with the landscape management plan, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.

*Reason - To ensure the protection of wildlife and supporting habitat, to secure opportunities for the enhancement of the nature conservation value of the site in line with National planning policy and to provide for an appropriate form of development.*

- 7 The proposed development shall be carried out strictly in accordance with the following drawings, unless otherwise required by a condition of this permission: Drawing number C9772.13.001 Rev A (Site Location Plan); Drawing number F13152/02 Rev B (Proposed Site Access Layout) ; Drawing number 891 Rev O (Topographical Survey) and Drawing number C9772.14.760 Rev H (Parameters Plan- showing Extent of Development Area) received by the Authority on 05 February 2015.

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

- 8 A total of no more than 81 dwellings shall be erected and built development shall be limited to the area identified as 'Current Extent of Development' as set out on the parameters plan (drawing number C9772.14.900).

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

- 9 No demolition/development shall take place/commence until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:
- a. The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)
  - b. The programme for post-investigation assessment
  - c. Provision to be made for analysis of the site investigation and recording
  - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - e. Provision to be made for archive deposition of the analysis and records of the site investigation
  - f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

*Reason - To ensure satisfactory archaeological investigation and recording.*

- 10 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (9) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason - To ensure satisfactory archaeological investigation and recording.*

- 11 No development shall commence on site until a full and detailed site investigation and assessment has been carried out, at the developer's expense, and as set out in the Coal Mining Risk Assessment by Smith Grant LLP (dated March 2014), and submitted to the Local Planning Authority. In the event that the site investigations confirm the need for remedial works to treat the mine workings, and/or any other mitigation measures to ensure the safety and stability of the proposed development, no development shall commence on site until details of such works have been submitted to and agreed in writing by the Local Planning Authority and implemented at the site.

*Reason - To ensure the stability of the development, having regard to the comments of the Coal Authority and good engineering practice.*

- 12 No work shall commence on site until trees on and adjacent to the site have been securely fenced off with protective barriers to form a construction exclusion zone in accordance with BS 5837:2012 Tree in relation to design, demolition and construction. A Tree Protection Plan shall have been submitted to and approved in writing by the Local Planning Authority. Within the protected areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and no service trenches shall be dug unless first agreed in writing by the Authority.

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

- 13 No development shall commence on site until a detailed scheme of pruning works to be carried out in accordance with BS3998:2010 Tree Work - Recommendations have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme.

*Reason- in the interests of health and safety and amenity value of the trees.*

- 14 No works or development shall take place until an auditable system of arboricultural site monitoring by the appointed project arboriculturist has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers

- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

*Reason- To ensure that the tree protection plan is adequately implemented in the interests of the visual amenities of the area.*

- 15 No development shall commence until details of design for off-site highway works being the upgrading of Public Right of Way P11 to a 2m wide tarmacadamed surface (unless evidence is provided that a less width applies) where it passes along the un-metalled part of Elstead Lane have been submitted to and agreed in writing by the Local Planning Authority. The development hereby permitted shall not be occupied until such time as the agreed scheme has been provided in accordance with the approved details.

*Reason - To provide an attractive and direct pedestrian route to school and bus services.*

- 16 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.

*Reason - To reduce the possibility of surface water from the site being deposited in the highway causing dangers to highway users.*

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

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

- 18 No part of the development as approved shall be brought into use until details of an updated Residential Travel Plan has been submitted to and agreed in writing by the Local Planning Authority. The Plan, once agreed, shall be implemented in accordance with the approved details, and thereafter, the implementation of the proposals and the achievement of targets of the Plan shall be subject to regular monitoring and review reports to the LPA and, if invoked, to the implementation of the specified additional measures.

*Reason - To ensure that adequate steps are taken to achieve and maintain reduced travel, traffic and parking impacts and to provide and promote use of more sustainable transport choices to and from the site in order to relieve traffic and parking congestion, promote safety, improve air quality or increase accessibility in accord with Section 4: 'Promoting Sustainable Transport' of the NPPF 2012.*

- 19 Before first use of the development hereby permitted, visibility splays of 2.4m metres by 46/48m metres shall be provided at the junction of the access with Butt Lane in general

accordance with Bancroft Consulting plan F13152/02 revB. 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.*

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

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

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- e. CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

The Verification Plan shall be prepared in accordance with the requirements of:

- f. Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- g. CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

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

- 21 Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- a. Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
  - b. Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
  - c. 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;
  - d. Contain Test Certificates of imported material to show that it is suitable for its proposed use;
  - e. Demonstrate the effectiveness of the approved Remedial Scheme; and
  - f. Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

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

- 22 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

*Reason- to reduce the impact of the proposal on nesting birds, which are a protected species.*

- 23 No development shall commence on the site until an additional survey of Great Crested newts of the adjacent drainage basin (as referred to in EDP's report) together with precise details of any associated mitigation measures and a timetable for their implementation, has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with any agreed mitigation measures and timetable.

*Reason - In the interests of nature conservation, and to comply with the NPPF.*

- 24 No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage scheme should demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- a) 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.

- b) A minimum 4m wide watercourse corridor/easement protection to existing ditch course/surface water flow routes to the south eastern (rear of properties on Fenton Avenue) and south western (adjacent to Butt Lane) boundaries within the site - including trash screens to existing surface water culvert inlets (where necessary) designed in accordance with the trash/security screen guide 2009.
- c) 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.
- d) Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.
- e) 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.
- f) Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

*Reason - The permanent retention of a continuous unobstructed area is an essential requirement for the preservation of the water course corridor, wildlife habitat and amenity. To prevent the increased risk of flooding, both on and off site, to improve and protect water quality and ensure future maintenance of the surface water drainage system.*

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

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

- 26 No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1. A site investigation scheme, based on the findings of the contamination assessment (report ref. R1956-R01-v2, dated February 2014) and mining risk assessment (letter ref. R1956-L02/afs, dated 13th March 2014), both prepared by Smith Grant LLP, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 2. The results of the site investigation and the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

*Reason - To protect and improve the quality of 'Controlled Waters' receptors on and in the vicinity of the site.*

27. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

*Reason - To protect and improve the quality of 'Controlled Waters' receptors on and in the vicinity of the site.*

### Notes to applicant

- 1 The Council's Urban Designer recommends a note to applicant to highlight that there would be an expectation from the Local Planning Authority that the scheme draws inspiration from the positive and distinctive characteristics of the village through layout, form and appearance (including materials). Specifically, the applicant is advised as follows:

- The Council will seek to take any RM scheme to independent design review for consideration, with OPUN currently supplying these services with the region.
- The Council will expect the scheme to perform positively against BfL12, with 12 greens considered as appropriate target for a scheme on this site.
- The indicative layout is not considered appropriate. A revised layout to be developed in accordance with the BfL based Design Code.
- A minimum of two spaces will be required per dwelling, regardless of tenure, increasing to three spaces for homes of four bedrooms or more. Garages will not be counted as a parking space.

- 2 The applicant's attention is drawn to the following notes of the County Archaeologist:

The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

- 3 The applicant's attention is drawn to the attached comments of the County Footpaths Officer dated 9 March 2015.
- 4 The applicant's attention is drawn to the attached comments of the Coal Authority dated 10 March 2015.
- 5 The applicant's attention is drawn to the attached comments of the Environment Agency dated 1 April 2015.

6 The applicant's attention is drawn to the following advisory notes of the County Highways Authority:

-Your attention is drawn to the requirement contained in the Highway Authority's design document to provide Traffic Calming measures within the new development.

-All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001).

-A public footpath / bridleway crosses the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.

-You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site highway works before development commences and detailed plans shall be submitted and approved in writing by the Highway Authority. The Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.

-If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.

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

7 With respect to condition 4, the applicant is advised that in order to provide attractive and direct pedestrian and cycle routes from the development to school and bus services, and services in Swadlincote, the site masterplan, should:

- include an upgrade of PROW P11 to provide a 2m tarmaced surface between the new internal roads and the existing footpath between numbers 17 and 19 Fenton Avenue;

-include an upgrade of PROW P11 to provide a 3m tarmaced surface between the internal estate roads and Butt Lane.

8 In relation to Condition 6, the Local Planning Authority would expect the ecological / landscape management plan to specify the retention of hedgerows and include buffer zones of at least 5m from natural vegetation along the boundaries of the site except for the proposed vehicular access point.

9 The applicant should be aware that, if any of the public footpaths crossing the site are to be diverted because the development crosses a footpath making the footpath unviable



**PLANNING APPLICATIONS- SECTION A**

for use of the footpath would not be there once the development is completed then a footpath diversion application will need to be to the District Council at the Reserved Matters Stage. Further information can be obtained from Julia Harley by calling 01530 454604 or emailing [julia.harley@nwleicestershire.gov.uk](mailto:julia.harley@nwleicestershire.gov.uk)