

UPDATE SHEET

PLANNING COMMITTEE – 7th July 2015

To be read in conjunction with the
Head of Planning and Regeneration (and Agenda)

This list sets out: -

- (a) Additional information received after the preparation of the main reports;
- (b) Amendments to Conditions;
- (c) Changes to Recommendations

MAIN REPORT

A1 15/00196/FULM **Erection of 41 dwellings and associated infrastructure including the provision of play space and combined cycle and footpath (re-submission of 14/00520/FULM)**
Land At Wells Road And Willesley Road, Ashby De- La Zouch

Letter of Representation:

5 additional neighbour letters have been received stating that:-

- a) The current route for cycles and farm vehicles has proven safe over many years;
- b) The officers failure to consider or give due weight to the issue incursion into valuable countryside;
- c) Failure to give due weight to decisions by the planning inspectorate on other local sites, particularly Packington Nook;
- d) Inadequate advice in assisting Councillors to develop sound material planning reasons for refusal;
- e) Failure to inform councillors in a timely manner that a planning appeal was pending for this site and failure to state that an appeal was lodged or consider appeal implications in the reports;
- f) Failure to adequately train new councillors in planning procedures;
- g) Allowing weight to given to concerns of possible outcome of future appeals contrary to NWLDC constitution;
- h) Allowing a second "free go" contrary to policy;
- i) Actions contrary to publicly stated plan leading to unfairness and removal of official statements from council website without explanation; misinformed and due process has not been adhered to; inadequate notification to objectors on decision to re-run the application;

- j) Failure to give adequate weight to local plan, emergent local plan or neighbourhood plan;
- k) Failure to include a fair analysis of the sustainability of the site;
- l) Undue influence was brought to bear by a (named) Committee Member regarding 'Costs of an Appeal' and confirm there is no risk of a costs award on appeal, and that such risk is not a material consideration;
- m) Leave the application un-determined as the application is so "tainted" that it is impossible to have either a fair hearing or a sound decision; strong sense that the application has been rushed through, a number of residents are away or on holiday; defer indefinitely or to the August Committee meeting, on the grounds of procedural fairness to the objectors;
- n) If the application is considered there is a risk of Judicial Review due to maladministration and the intention is to record the meeting.

One of the letters refers to the site sustainability appraisal submitted by the applicant is misleading as the distances given are as the crow flies, and the letter provides the key distances, as follows:-

- Ashby School – 3.2 km
- Primary School – 830 metres
- Town Centre – 1.7 km
- New Health Centre – 2.7 km
- Major employment site – 2.8 km
- Bus Stop – 465 metres

Officer comment:

The number of objections stated in Page 22 of the main agenda, should reflect the number stated in Page 26. For the avoidance of doubt there were 185 original letters of objection (from 97 addresses) which were reported on for the agenda in June, with an additional 3 letters (from 3 addresses) received and reported on via the update sheet in June, which has totalled 188 letters of objection (from 100 addresses).

In response to the additional 4 letters of objection:-

- a) *The current route for cycles and farm vehicles has proven safe over many years;*

The proposed routes have been considered to be acceptable from a highway safety perspective by the County Highway Authority.

- b) *The officers failure to consider or give due weight to the issue incursion into valuable countryside;*

For the avoidance of doubt, in response to the evidence contained with the Core Strategy -the application site was given a 'landscape quality' of 9, a 'visual quality' of 5 and 'overall [combined] judgement' of 14. When comparing this site against all other sites which were assessed, the average 'overall judgement' was a score of 13, which confirms that the site is slightly above average. However, when comparing to the Packington Nook site which was afforded an 'overall judgement' of 18, it is clear that this site was considered to be lower and therefore not comparable with the landscape and visual quality of Packington Nook. Nevertheless at a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy

and accordingly no weight can be attributed to the policies contained with the Core Strategy for the purposes of determining applications.

The impact of the development, was previously set out in the original application ref: 14/00520/FULM and for information is still considered relevant in the determination of this application, and is therefore repeated as follows:-

“It is acknowledged from letters of representation that the site occupies, locally, an important and visually prominent entrance into the town. However, it is important to note, as previously discussed the site abuts the settlement boundary and is bounded by residential development in the form of Willesley Gardens and Willesley Close. On this basis it is not considered that the site is an isolated development in the countryside. Therefore it is considered that it would be viewed in conjunction with existing surrounding residential development on the approach into and out of the settlement.

Furthermore, the layout has taken into consideration these concerns, by setting the dwellings approximately 10 metres back from the sites frontage, and through the retention of existing hedgerows, retention of a number of existing trees and additional planting. In addition, the north of the site has been proposed for the balancing pond and play pieces, and not dwellings, and it is also considered that the natural topography of the site, lower density and feathering out of the development towards the peripheries will assist the development assimilating into the countryside. Therefore it is considered that the residential scheme would not have a significantly detrimental impact upon the character and appearance of this setting.”

c) Failure to give due weight to decisions by the planning inspectorate on other local sites, particularly Packington Nook;

Consideration has also been given to the other appeal decisions in Ashby, namely South of Moira Road, Ashby and the planning application considered by Members at land between Burton Road and Moira Road, Shellbrook. Consideration was given to the Packington Nook Appeal in the previous application ref: 14/00520/FULM via the update sheet, when the appeal decision was issued. Similarly, consideration has been given to the findings of the Inspector at that appeal, within this planning application.

As discussed above, the overall landscape and visual quality of the site is lower than that of the Packington Nook site, as set out in the withdrawn Core Strategy.

d) Inadequate advice in assisting Councillors to develop sound material planning reasons for refusal;

As no decision was made by Members during the voting procedure, it was not possible to assist in this matter, at that stage.

e) Failure to inform councillors in a timely manner that a planning appeal was pending for this site and failure to state that an appeal was lodged or consider appeal implications in the reports;

The appeal relates to the previous application ref: 14/00520/FULM, however Members have been made aware of the impending Hearing during briefings and when visiting the site. The Planning Inspectorate currently has a backlog of ten weeks to register appeals, so no date has been set.

f) Failure to adequately train new councillors in planning procedures;

All members are required to undertake training prior to sitting on the Planning Committee. Member Training was undertaken on Tuesday 2 June 2015, and included a section about the process and procedures.

g) Allowing weight to be given to concerns of possible outcome of future appeals contrary to NWLDC constitution;

Members are entitled to express a view, including that if planning permission were to be refused for the application, it was likely that an appeal would be allowed. The Councillor also expressed concern that there were no strong planning grounds for refusal.

h) Allowing a second "free go" is contrary to policy;

As the application is the first revision of an application for the development of the same character/description on the same site, by the same applicant within 12 months from the date of the previous decision, it is exempt from an additional payment for this application.

i) Actions contrary to publicly stated plan leading to unfairness and removal of official statements from council website without explanation; misinformed and due process has not been adhered to; inadequate notification to objectors on decision to re-run the application; Inadequate notification to objectors on decision to re-run the application;

The statement was issued on the Council's website to advise of the situation at that time. Subsequently events changed and therefore the statement was overtaken by events. Accordingly the statement was removed from the website, and letters were sent to neighbours to notify them of the application being reported back to Planning Committee. Neighbours and other interested parties have been notified by letter, within the correct timeframes that the application is being re-considered at Planning Committee.

j) Failure to give adequate weight to local plan, emergent local plan or neighbourhood plan;

Due weight has been attributed to the North West Leicestershire Local Plan (2002), however no weight has been given to the emerging local plan as it has not been subject to publication for representations, or the Ashby Neighbourhood Plan which has not been submitted.

k) Failure to include a fair analysis of the Sustainability of the Site;

In respect of sustainability, officers have reported the approximate distances from the site to local facilities and services, via the existing footway network within the main report.

For the avoidance of doubt the distances, as set out in the main report are as follows:-

- Bus Stop - 465 metres
- Western Park - 675 metres (via Packington Nook Lane)
- Primary School - 790 metres
- Public House - 900 metres (Tamworth Road)

- Play Space 950 metres (to the west of Ridgeway Road)
- Town Centre boundary - 1,050 metres
- Market Street - 1,480 metres

In response to the letter of objection, further distances to these services have been checked and are as follows:-

- Ashby School – 2.2 km (mid-point between 'A' Block and 'B' Block)
- New Health Centre – 2.6 km (via Burton Road)
- Major Employment Site - 2.6 km (Tournament Way, Smisby Road)
- Superstore - 1.5 km (Co-operative)

As set out in page 32 of the main agenda, in the appeal decision at land South of Moira Road, Ashby, in which most of the urban area lay within 2 km of the site, with employment areas and the superstore being within about 3 km of the site, the Inspector considered the site to be a sustainable location.

- l) Undue influence was brought to bear by a (named) Committee Member regarding 'Costs of an Appeal' and confirm there is no risk of a costs award on appeal, and that such risk is not a material consideration;*

In the event that the application were not determined, the Council would potentially be exposed to an award of costs against it, as it may potentially be demonstrated that it had acted unreasonably, and it has been established that the potential financial implications for the Council are a legitimate consideration for the Committee to make.

- m) Leave the application un-determined as the application is so "tainted" that it is impossible to have either a fair hearing or a sound decision; strong sense that the application has been rushed through, a number of residents are away or on holiday; defer indefinitely or to the August Committee meeting, on the grounds of procedural fairness to the objectors;*

The application was undetermined at the 9 June 2015 Planning Committee and the applicant has formally requested the application be reported back to Planning Committee. The application is being considered on a Tuesday, with the same time of start, as that of the 9 June 2015 which is 4.30 pm.

- n) If the application is considered there is a risk of Judicial Review due to maladministration and the intention is to record the meeting.*

The Authority is of the opinion that all correct procedures have been followed and the report considers all relevant material planning considerations.

RECOMMENDATION: NO CHANGE TO RECOMMENDATION

A2 **15/00354/OUTM** **Outline planning application for up to 70 dwellings together with public open space, National Forest planting, landscaping, drainage infrastructure and access off Woodcock Way**
Land Adjoining Woodcock Way, Ashby de la Zouch

Additional Representations

Two further representations have been received, objecting to the application on the following grounds:

- Unsafe access - matter should be referred back to the County Highway Authority for further consideration
- County Highway Authority response ignores 6Cs Design Guide
- Access / turning lane / Woodcock Way too narrow (including for buses)
- Visibility splays not currently maintained due to overgrown vegetation so would not be in the event that planning permission were granted
- Traffic flows higher than stated by the County Highway Authority
- Residents' evidence regarding accidents ignored by the County Highway Authority
- Currently high levels of on-street car parking on Woodcock Way preventing access by large vehicles such as construction traffic

Further representations have been received from the **Ashby de la Zouch Civic Society**, objecting to the application on the following grounds:

- Application cannot be determined without consideration of the total Money Hill site
- Emergent local plan supports the developers aspirations to provide 2000 houses and industrial development on the site, involving separate plans for Woodcock Way, Money Hill (605 and 1,100 houses) and Arla Dairy
- Report suggests that Ashby de la Zouch will be gridlocked with traffic before the development and that severe congestion is acceptable, that mitigation is not required, that ignoring road design policies is acceptable, that no conditions or restrictions on traffic ingress or egress are required, and that the current rate of accidents on Nottingham Road / Wood Street of one per month is acceptable
- A 40% increase in housing in Ashby de la Zouch requires careful planning, a comprehensive development with good master planning and traffic conditioning
- Contrary to Local Plan Policy E6 and Paragraph 32 of the NPPF
- If permitted, an additional condition should be attached precluding development until a comprehensive traffic masterplan detailing traffic distribution for the total Money Hill site has been submitted and approved by Leicestershire County Council

Additional Consultee Responses

Leicestershire Police has sent in a lengthy email, asking for the Woodcock Way reports be re-drafted to be favourable to each element of its Section 106 request. No new evidence is offered to support this. The Committee is asked, by Leicestershire Police, to delegate to officers the task of continuing to negotiate. No change is recommended.

NO CHANGE TO RECOMMENDATION

A3 **14/00769/OUTM** **Erection of up to 70 dwellings together with public open space, National Forest planting, landscaping, drainage infrastructure and access off Woodcock Way (outline - all matters other than part access reserved)**
Land Adjoining Woodcock Way, Ashby de la Zouch

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- Report suggests that Ashby de la Zouch will be gridlocked with traffic before the development and that severe congestion is acceptable, that mitigation is not required, that ignoring road design policies is acceptable, that no conditions or restrictions on traffic ingress or egress are required, and that the current rate of accidents on Nottingham Road / Wood Street of one per month is acceptable
- A 40% increase in housing in Ashby de la Zouch requires careful planning, a comprehensive development with good master planning and traffic conditioning
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Additional Consultee Responses

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NO CHANGE TO RECOMMENDATION

A4 **15/00147/FUL** **Erection of 1 no 500 KW wind turbine and associated infrastructure.**
Land West Of Heather Lane, Ravenstone

Letters of Representation:

2 letters of support has been received stating that efforts should be made to reduce the reliance on fossil fuels, and the carbon levels in the atmosphere and this is an excellent scheme for the local area to support.

Officer Comment:

For the avoidance of doubt a total of 14 letters were receive at the time of writing the main report. The number of objections should be 13 on Pages 116 and 120, with 1 letter of support, and now an additional 2 letters of support have been received.

RECOMMENDATION: NO CHANGE TO RECOMMENDATION

A5 **15/00364/FUL** **Proposed Erection of 2 No. Detached Dwellings, Access & Parking**
33 Ashby Road, Moira

Additional Information:

The applicant has provided amended plans now showing plot 1 as the 4 bedroomed dwelling with three car parking spaces, with plot 2 as the 3 bedroomed dwelling with two car parking spaces.

The previous plans showed the opposite – with plot 1 as the 3 bed and plot 2 as the 4 bed.

Officer comment:

The amendment has arisen at the request of officers, to ensure car parking spaces are related to the dwelling to which they serve.

RECOMMENDATION: NO CHANGE TO RECOMMENDATION with an amendment to condition 2:

The proposed development shall be carried out strictly in accordance with the following plans, unless otherwise required by a condition of this permission: Location Plan Drawing No. 214-72.01 received by the Local Planning Authority on 29 April 2015 and amended details: Proposed Site Plan Drawing No. 214-72.02 B and Proposed Dwellings Drawing No. 215-24-03 B received by the Local Planning Authority on 29 June 2015.

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

A6

15/00278/FULM

Construction of access road and associated services to serve existing vacant site and erection of four lighting columns

Land at Smithy Road, Ashby de la Zouch

Letter of Representation:

1 additional letter of objection has been received raising the following concerns:-

- a) The road design will restrict the comprehensive development of the site, contrary to Policy E7;
- b) There are no references in the submission to how the site will be developed and no master plan;
- c) Impact on the future development of the site;
- d) This site has lain undeveloped for many years and is restricted to high value business developments under policy J5, the restriction has been tested and confirmed at appeal and sub- dividing the site will likely reduce the chances of Comprehensive development;
- e) County Highways state that the road is not of an adoptable standard and cannot comment on the acceptability of traffic flows without further information on any proposed development;
- f) There is no evidence to support the officer's recommendation and no facts to back up the officer's report that no significant harm would accrue by approving the application;
- g) The application should be refused until a comprehensive plan for the site is submitted and approved.

Officer Comments:

The County Highway Authority are of the opinion that the residual cumulative impacts of the development can be mitigated and are not considered severe, in accordance with Paragraph 32 of the NPPF and therefore raise no objections, subject to the imposition of planning conditions.

For the avoidance of doubt the County Highway Authority have suggested in a note to applicant that the road layout may not be suitable for adoption in its current format, however they raise no objections to the scheme.

The other matters have been addressed within the main report.

There is an error in the wording of condition 6 as reference to contaminated land needs to be included within the first sentence.

The agent has clarified that the fencing referred to on the plans does not form part of this application.

RECOMMENDATION: NO CHANGE TO RECOMMENDATION with amendments to conditions 2 and 6:

Amend Condition 2 to state that notwithstanding the approved plans, that the fencing does not form part of this application.

Amend Condition 6 as follows:-

6 No development shall commence on site until a Risk Based Land Contamination Assessment and a scheme of intrusive site investigations relating to contaminated land and coal mining legacy issues have 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 and to establish the situation relating to coal mining legacy issues. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

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

The scheme of intrusive site investigations relating to coal mining legacy issues shall then be undertaken and a report of the finding of these investigations shall then be submitted to and agreed in writing by the Local Planning Authority.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment or should any need for remedial works relating to coal mining legacy issues be identified, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

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

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

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

The development shall be carried out in accordance with the agreed Remedial Scheme and Verification Plan.

If, during the course of development, previously unidentified contamination or evidence of coal mining legacy 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/coal mining legacy (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.