

# UPDATE SHEET

## PLANNING COMMITTEE – 4 August 2015

To be read in conjunction with the  
Head of Planning & Regeneration's Report (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	15/00227/OUTM	<b>Proposed residential development of up to 122 dwellings (use class C3), retail unit (up to 400 sq m use class A1), access and associated infrastructure (outline all matters reserved)</b> Land South of Greenhill Road, Coalville
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#### **Additional Applicant Comments**

The applicants confirm as follows in respect of proposed planning obligations:

##### *Policing Contributions:*

The applicants advise they have reservations regarding the CIL compliance of the Leicestershire Police request, particularly as the request is not accompanied by a costed scheme at a designated site for the infrastructure, and as some of the items in the request cannot be demonstrated as being directly related to the development. Therefore, they consider, whether the contributions sought would directly mitigate the impact of the scheme is highly questionable but the applicants advise that they will leave it to the Local Planning Authority's judgement and understanding of the CIL Regulations as to whether the whole payment sought meets the relevant tests. If a contribution were included, however, the applicants propose to make the money available to the police within a Section 106 agreement on a "put and call" basis for Leicestershire Police to collect within five years if, following commencement, a costed scheme within Coalville on which the monies can be spent can be identified.

##### *Education Contributions:*

The applicants confirm their agreement to the requested primary and high school contributions, but do not agree to the requested upper school contribution as, they

suggest, account has not been taken by Leicestershire County Council of Stephenson College.

*Library and Waste Contributions:*

The applicants do not consider the library and waste contributions sought by Leicestershire County Council to be CIL compliant in that any waste and library service requirements arising from the scheme would be paid for by Council Tax receipts.

*Affordable Housing:*

The applicants advise that they would normally seek to use a condition for the provision of a scheme for affordable housing, but agree that it could be dealt with by way of a Section 106 agreement if that is the Council's preference.

The applicants have also made further representations in response to the Planning Committee report, and comment as follows:

- Report does not represent the most up-to-date position on housing land supply - Planning Policy officers now accept a much higher annual requirement is necessary (535 dwellings per annum), which means the Council does not have a five year housing land supply
- No greater landscape impact than the adjacent David Wilson Homes scheme (and, in fact, the adverse impacts are fewer as this application does not impact upon a Site of Special Scientific Interest)
- Applicants agree to pay all reasonable planning obligations
- Design issues could be resolved at reserved matters stage
- Planning balance exercise in the report is incorrectly weighted in favour of refusal
- Localised adverse impacts are not so significant so as to outweigh the substantial benefits of the scheme, including new market and affordable housing, new public open space, National Forest planting and biodiversity enhancements

## **Additional Consultee Responses**

**Leicestershire County Council Developer Contributions Officer** comments in respect of the library and waste contributions issue that the applicants' assumption that the receipt of contributions from Council Tax in respect of the County Council's services renders the collection of developer contributions as duplication is incorrect, and misses the point with regard to what has to be considered to determine whether the County Council's requests for the particular financial contributions are lawful. This, the County Council considers, *"requires reference to be made to the Community Infrastructure Regulations (CIL) in particular Regulation 122; not local government finance issues around the setting of the Council budget to take into account County precepts in respect of County Council functions such as libraries and civic amenity"*. The County Council refers to the three tests for contributions as set out in the main report and states that *"With regard to each financial contribution sought by the County Council in respect of libraries and civic amenities the justification is clearly in accord with the provisions of Regulation 122, as, but for the development the contributions would not be required and in each case the amount required is shown by reference to a calculation that is supported by the County Council policy contained in the Leicestershire Planning Obligations Policy document (Necessity). This Policy is clear that contributions are to be assessed on a site by site basis (Directly related). Further, it is submitted that the contributions also accord with*

*the District Council's policy with regard to planning obligations. I also observe that both contributions are extremely modest in amount (Fairly and Reasonably Related in Scale and Kind)...The County Council therefore submits that as a result of the proposed development (assuming permission is granted) pressure will be put on the existing specific library and civic amenity facilities as identified by the County Council. The financial contributions have been calculated in accordance with a specified formula and are reasonable. Without these contributions the development proposed by the applicant would have an unacceptable impact on those existing facilities."*

Insofar as education is concerned, the Local Education Authority has reassessed its contribution request, and agrees that, given the existence of Stephenson Studio School within a three mile walking distance of the development (and where there is surplus capacity), no education contribution for the upper sector is required.

### **Additional Third Party Representations**

Two additional representations have been received, raising objection on the following grounds:

- Application has already been rejected, and nothing has changed in the interim
- This is a perfect opportunity for the Council to demonstrate that it listens
- Increased flood risk
- Increased traffic / congestion
- Unsafe access arrangements
- Unrealistic Travel Plan targets

### **Officer Comments**

#### *Policing Contributions:*

In effect, the applicants are suggesting that, if the Local Planning Authority is satisfied as to the appropriateness of the contributions sought, they are agreeable to making them; the officer view on the contributions sought remains as set out in the main report. The applicants' requirement for any contributions collected to be demonstrably related to the development is not considered unreasonable, and it is recommended that the non-provision of Police contributions be removed from recommended Reason for Refusal 3.

#### *Education Contributions:*

As confirmed by Leicestershire County Council, it has now reassessed the impacts of the proposed development on the upper school sector, and no contribution is now required. This is therefore considered to address the issue, and it is recommended that the non-provision of education contributions be removed from recommended Reason for Refusal 3.

#### *Library and Waste Contributions:*

For the reasons set out by Leicestershire County Council, it is considered that the requests made would meet the relevant tests as set out in the NPPF and CIL Regulations in that they would be necessary to make the proposed development acceptable in planning terms (i.e. by being infrastructure required to support the increased population), would be directly related to the proposed development (i.e. occupants of the development would be likely to make use of facilities at Coalville Library and Coalville Civic Amenity site), and are fairly and reasonably related in

scale and kind to the proposed development. Whilst the applicants suggest that such contributions are, in principle, not CIL compliant because public services are funded by Council Tax, planning obligations serve a purpose of mitigating the impacts of developments by ensuring that those developments secure the delivery of the additional infrastructure required to accommodate them.

*Housing Land Requirements:*

The comments made by the applicants in respect of five year supply appear to relate to a report to the District Council's Local Plan Advisory Committee on 29 July 2015 in respect of the draft Local Plan. The Advisory Committee was only being asked to comment on the draft Local Plan with any comments then being forwarded to a meeting of the Full Council on 15 September 2015. That draft document indicates that a larger housing requirement than is currently identified may be appropriate. However, until such time as any such proposal has been considered by the Council and any draft Local Plan progressed on that basis, it is not considered that any weight could reasonably be attributed to it in determining this application.

*Highways and Transportation:*

Whilst the final formal views of the County Highway Authority are currently awaited, the County Council has advised that it is unlikely to raise objection. In particular, it is understood that the County Highway Authority considers as follows:

*Site Access:*

Whilst the County Highway Authority considers that a new roundabout incorporating both the proposed site access and the approved access to the David Wilson Homes site to the north of Greenhill Road would be a preferable solution in this location, a Stage 1 Road Safety Audit has not identified any fundamental issues with the proposed arrangement, and the proposals are considered to be acceptable in principle from a design and safety perspective. The County Highway Authority is also content that the proposed development would be able to accommodate projected demand up to and including 2024.

*Off-Site Implications:*

Whilst issues are raised in respect of the capacity of nearby junctions (including Warren Hills Road / Greenhill Road, Broom Leys Crossroads and Copt Oak Crossroads), the County Highway Authority is satisfied that, subject to appropriate mitigation (and including the making of contributions to the District Council's transportation infrastructure contributions strategy), the proposals would be acceptable. The County Highway Authority also considers that measures to reduce traffic speeds on Greenhill Road to the east of the site access would be necessary, including amendments to the current speed limits and associated measures.

*Transport Sustainability:*

The County Highway Authority considers that various measures designed to promote pedestrian access would be required, including appropriate alignment of the proposed zebra crossing, improvement of an existing track on Agar Nook Lane. Similarly, appropriate contributions to public transport measures would, in the County Council's view, be required.

On this basis, therefore, it is understood that the County Highway Authority does not wish to raise objection to the proposals and it is accepted that, in highway safety and transportation terms, subject to additional mitigation measures, the proposals could be made acceptable by way of conditions and Section 106 obligations.

*Other Matters Raised:*

Insofar as the other issues raised by third parties are concerned, members will be aware that, whilst listening carefully is one of the Council's values, any decision on the application must be made on planning reasons. It is noted that ongoing concerns regarding flood risk remain but, in the absence of any convincing evidence to demonstrate that the positions of the Lead Local Flood Authority and the Environment Agency (i.e. that the development can be made acceptable subject to appropriate conditions), it would, in officers' view, be inappropriate to refuse the application on this issue. Similarly, whilst concerns have been raised over how achievable the applicants' Travel Plan targets would be, it is noted that Leicestershire County Council's Sustainable Travel Officer has no objections in principle.

**RECOMMENDATION:            AMEND REASON FOR REFUSAL 3**

- 3        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 economic dimension) and also provides that the planning system needs to perform an economic role, including in respect of provision of infrastructure. The application as submitted does not include for appropriate contributions in respect of associated infrastructure (including mitigation for the impacts of the proposed development in terms of library facilities and civic amenity), contrary to the policies and intentions of the NPPF.

**A2            14/01132/FULM            Demolition of existing commercial building and erection of 188 dwellings, B2 manufacturing unit and associated development including vehicular access, pedestrian and cycle links, public open space, car parking, landscaping and drainage**

Slack & Parr Ltd, Long Lane, Kegworth

**Representations**

**Email received from Leicestershire Police 30 July 2015:**

Leicestershire Police has asked that the Committee agrees that further negotiation with the Police on the Section 106 agreement be delegated to officers due to ongoing discussions with Leicestershire Councils.

**Officer Comments**

The Leicestershire Police request is noted. Should Committee agree to contribution negotiations to continue under delegated powers it should also be noted that the developer is unlikely to be in a position to offer further contributions due to viability issues.

Plans and information have been amended at various points during the application process and the complete list of plans for approval has now been confirmed and is set out in Condition 2 below.

**RECOMMENDATION: PERMIT AS RECOMMENDED (SUBJECT TO CONDITIONS AS SET OUT IN THE MAIN REPORT and final Condition 2 as set out below )  
Condition 2**

The development shall be built strictly in accordance with the approved plans and documents as follows:

Site Location plan received 11 December 2014;  
Planning Layout SP-001-01a received 8 May 2015;  
Flood Risk Assessment revision D

*Housing*

Materials Layout SP-001-02a received 8 May 2015;

House types (Plans and Elevations):

BGS-C BGS D; DH302VE-2 AS & OPP; DH308AE-2 (AS); DH313RD-2 (AS); DH313RD-2 (OPP); DH314RD\_DH313CD-2; DH314RD-2 (AS); DH314RD-2 (OPP); DH314SP-2; DH314RDB-2 (AS); DH314RDB-2 (OPP); DH317A-2 (AS); DH317A-2 (OPP); DH330V-2 (OPP); DH400IB-2 (AS); DH400IB-2 (OPP); DH400V-2 (AS); DH403G-2 (AS); DH403G-2 (OPP); DH403V-2 (AS); DH403V-2 (OPP); DH410G-2 (AS); DH410G-2 (OPP); DH410M-2 (AS); DH412R (AS); DH412R (OPP); DH413W-2 (AS); DH413W-2 (OPP); DH413WR-2 (AS); DH413WR-2 (OPP); DH415BR-2 (AS); DH418W-3 (AS); DH418W-3 (OPP); DH418V-2 (AS); DH418V-2 (OPP); DH430W-2 (AS); DH430W-2(OPP); DH451SP-2 (AS); DH460W-2 (AS); DH460W-2 (OPP); SH26CE-2 (AS); SH26CE-2 (OPP); SH26CI-2 (AS); SH26CI-2 (OPP); SH32CE-2 (AS); SH32CE-2 (OPP); SH32CI-2 (AS); and SH32CI-I2 (OPP) received on 27 February 2015

House Types (Plans and Elevations):

DH308AE-2 (OPP) and DH330V-2 (AS) received on 19 March 2015

Proposed Garages Types (Plans & Elevations):

DG1; DG2; DG3; DG3V; LCC1S; and, LCC2 received on 11 May 2015

External Walls and Fences received 27 February 2015

*Industrial unit*

Drawing Numbers 1247 P01; 1247 P02c; 1247 P03c (including materials); and, 1247 P04.

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

**A3      15/00527/VCI      Removal of conditions 6 and 11 from planning permission 14/00311/VCI in order to allow the existing sports hall to be able to play amplified music and to allow doors and windows to be opened whilst in use**  
Newbridge High School, Forest Road, Coalville,  
Leicestershire

**Additional information received:**

Two further letter of objection from a surrounding resident has been received raising the following issues:

- The school have admitted that they have breached the conditions for 5 years;
- Amplified music should only be allowed during school time and not in the evening;
- The sports hall at Humphrey Perkins school in Leicester has windows fixed shut.

**Officer comment:**

After further clarification, it is apparent that the noise assessment provided was based on doors to the sports hall being closed. The reference to windows being opened and closed in the report in is respect of residential properties and not the sports hall. The Council's Environmental Health Team has provided additional information clarifying that amplified music should only be played whilst the doors to the sports hall are closed.

Given that any amplified music in the sports hall would be subject to planning controls in respect of the use of a noise limiter and the closing of any doors, this would ensure that no significant adverse impacts would arise during the times of operation. On this basis, there is no justification for restricting amplified music during school time only.

An additional condition is recommended to ensure that any doors to the sports hall are closed whilst amplified music is being played. This condition is in addition to the condition requiring a noise limiter to be used.

**RECOMMENDATION: Add the following condition:**

- 11 External fire exit doors to the sports hall shall be kept closed and access doors to the sports hall should not be wedged open whilst amplified music is being played.

*Reason - To safeguard the amenities of nearby residents and reduce the impact on local amenity (Policy E3 of the North West Leicestershire Local Plan)*

**ITEM 6 - RECEIPT OF ADVICE IN RESPECT OF APPLICATION NOS. 14/00769/OUTM AND 15/00354/OUTM**

The attached letter has been received from the Ashby de la Zouch Civic Society.

# Ashby de la Zouch Civic Society



69 Leicester Road  
Ashby de la Zouch  
Leicestershire  
LE65 1DD  
2nd August 2015  
Email: [christandy@hotmail.co.uk](mailto:christandy@hotmail.co.uk)

## **Planning Application 14/00769/OUTM and 15/00354 Land Adjoining Woodcock Way Ashby de la Zouch**

Firstly, thank you for supporting the local residents in rejecting these applications until such time as satisfactory access and traffic conditions are in place to make the development sustainable.

You refused the applications on three issues:

- > Inappropriate access via Woodcock Way
- > Impact on traffic conditions on Nottingham Road
- > Outside development limits contrary to policy S3

You were instructed by Mr Newton in the meeting that:

- > Policy E6 was not compromised by these applications
- > That because CHA raised no objection on highway grounds that the traffic situation could not be considered severe contrary to NPPF 32

I hope you are to receive legal advice on the validity of all five of these issues as potential reasons for refusal. If not then you should demand it before redetermining the applications.



We would comment on these reasons for refusal.

#### Inappropriate access Woodcock Way

*The CHA accepts that Woodcock Way does not meet policy requirements for road width, pavement width, lane width on Nottingham Road or turning for buses and HGVs and cannot be therefore adopted by the authority; yet does not demand conditions that these be met and indeed sanctions construction vehicles use of Woodcock Way.*

#### Impact on Traffic on Nottingham Road

*Mr Newton told you in the July meeting that the impact of this development was not severe and so conformed to NPPF 32. This is misleading. NPPF 32 states that the cumulative impact has to be severe. ( all developments added together) It does not say that this particular application has to be the sole cause of the severe impact. Our advice is that if all major junctions in the town are predicted to be over capacity by 18% to 35 %. This is sufficient for it to be considered severe.*

#### Outside development limits contrary to S3

*Mr Newton told you that S3 was inappropriate because it had not been quoted as a reason for refusal on the 605 application. S3 was not used as a reason for refusal because at the time there was not a five year land supply so was not a valid reason. However it is on these applications because there is now a five year supply.*

#### Policy E6

*This states that applications cannot be approved that jeopardises the comprehensive planned development of a site. Mr Newton told you that these applications did not compromise the development of the remaining site. Our advice is that the plan and control of the total site accesses would be severely compromised by the approval of the applications without conditions.*

*Councillors, the LPA and residents are of one mind that if Moneyhill, is to be developed access to Nottingham Road must be restricted, accesses on the A511 and Smisby Road need to be developed and controlled. However each entrance is in the control of a different developer. Therefore before any application is approved an access arrangements master-plan must be decided and conditioned. Planning guidance 025 states: "Conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted. The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those reserved matters."*

*Therefore access conditions must be agreed before outline permission is given. Officers have failed to attach any access conditions on either of these two applications or the 605 application. This must be corrected before approval or the LPA will have no control over any access arrangements.*

#### CHA raise no objection

*You were told at the meeting that because County Highways Authority do not object, transport issues cannot be used as a refusal. The LPA take advice from the CHA but it is the LPA who decides whether to take the advice or not.*

*Traffic is the key issue in these applications. The public and the councillors believe that the traffic situation is such that the applications should be rejected contrary to NPPF 32.*

*Why not request the officers to take professional traffic advice on this issue as see who is right?*

### Other Advice

*The new Local Plan carries little weight but the council wish to impose highway conditions on accesses. It is essential that these proposed conditions are used in any approvals given before the plan is adopted.*

*The plan recommends 61% growth for Ashby. It is questionable if such a large development will be approved as sustainable at public enquiry. If it is not then Moneyhill will not be developed in this plan.*

*The old local plan carries some weight but NPPF are the key policies in determining applications at this time.*

*The 605 appeal starts in early September and will give further guidance on these issues.*

*Their key issues on these two applications are:*

*Is the site sustainable considering the projected traffic consequences?*

*Will the harm of the development outweigh the social and economic benefits?*

*Is the traffic severe and thus contrary to NPPF 32?*

- 1. WE WOULD ASK YOU TO ENSURE THAT THE ISSUES RAISED HERE ARE SATISFACTORILY ANSWERED BY THE OFFICERS BEFORE YOU RECONSIDER YOUR RECOMMENDATION.**
- 2. WE ASK THAT ANY DECISION IS DETERMINED AT A PUBLIC PLANNING MEETING.**
- 3. WE ASK THAT YOU INSIST THAT TRAFFIC CONDITIONS ON ACCESS ARE COMPATIBLE WITH THE COMPREHENSIVE DEVELOPMENT OF THE TOTAL SITE AND INCLUDED IN OUTLINE APPLICATIONS.**

C.Tandy  
Vice Chairman  
Ashby de a Zouch Civic Society

\* Note. Details of statements from the July planning meeting are taken from a video of this meeting.