

Variation of conditions 2, 4 and 6 to amend the first phase of development to no less than 50 dwellings, the time period for the submission of the reserved matters for the extra care facility extended to 5 years from the date of the outline permission and the removal of the reference to the master plan. Removal of conditions 7,8,14 and 24 relating to drainage to discharge to the mains sewer system and replacement with a single condition and the removal of conditions 18,19 and 20 relating to sustainable construction methods and energy supply attached to outline planning permission 13/00486/OUTM.

Report Item No
A1

Land Adjoining Holywell Farm Burton Road Ashby De La Zouch Leicestershire LE65 2LP

Application Reference
15/00465/VCUM

Applicant:
Mr Michael Robson

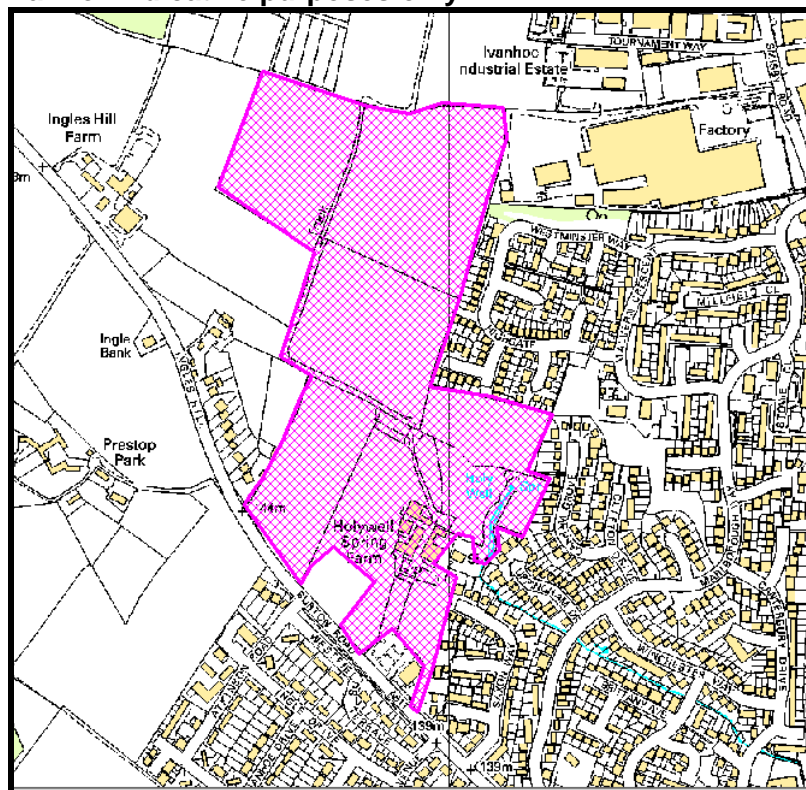
Date Registered
15 May 2015

Case Officer:
Ebony Mattley

Target Decision Date
14 August 2015

Recommendation:
PERMIT Subject to a deed of variation to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

In accordance with the North West Leicestershire District Council Constitution, the application has been referred to the Planning Committee to consider the impact upon the environment, in particular the River Mease Special Area of Conservation and Site of Special Scientific Interest.

Proposal

The previous application (ref: 13/00486/OUTM) sought outline permission for residential development (up to 400 Dwellings) formation of access to Burton Road, A1 Shop, D1 Medical centre, C2 Residential care home, Single form entry primary school, Pumping Station infrastructure and open space provision which was approved on 1 October 2014.

This application seeks to amend conditions 2, 4 and 6 to remove references to the original master plan, design and access statement, amend the first phase of development to no less than 50 dwellings and extend the time period for the submission of the reserved matters for the extra care facility. This application also seeks the removal of conditions 7,8,14 and 24 relating to drainage to discharge to the mains sewer system and replace with a single condition and to remove conditions 18, 19 and 20 relating to sustainable construction methods and energy supply.

Consultations

Members will see from the main report below that six letters of objection have been received. No objections have been received from any of the statutory bodies consulted upon with the exception of Ashby Town Council.

Planning Policy

It is considered that the development would remain compliant with all relevant Paragraphs of the National Planning Policy Framework (NPPF) as well as the relevant Policies of the North West Leicestershire Local Plan, other guidance and emerging draft Local Plan.

Conclusion

The site has the benefit of outline planning permission for residential development. For the reasons discussed within the main report it recommended that this application be granted consent, subject to the imposition of all other previous planning conditions, a new revised masterplan condition (previous outline condition 6) a new capacity condition, relating to the River Mease, a revised drainage condition (previous outline condition 14) amendments to conditions 2 and 4 relating to timeframes and removal of conditions 7,8,18,19,20 and 24.

RECOMMENDATION:- PERMIT, SUBJECT TO A DEED OF VARIATION TO THE ORIGINAL SECTION 106 AGREEMENT, AND SUBJECT TO THE IMPOSITION OF CONDITIONS

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

Main Report

1. Proposals and Background

This application was originally for the variation of conditions 2,4,7,8,14,18,19,20 and 24 attached to planning permission 13/00486/OUTM, however the application description has been amended twice during the course of the application, to include condition 6, which references the master plan and to extend the time period for the submission of the reserved matters for the extra care facility to 5 years from the date of the outline permission, and re-consultation has been undertaken with all neighbouring dwellings on both occasions.

Accordingly this application now proposes to amend conditions 2, 4 and 6 to remove references to the original master plan, design and access statement, amend the first phase of development to no less than 50 dwellings and extend the time period for the submission of the reserved matters for the extra care facility. This application also seeks the removal of conditions 7,8,14 and 24 relating to drainage to discharge to the mains sewer system and replace with a single condition and to remove conditions 18, 19 and 20 relating to sustainable construction methods and energy supply.

The previous application (ref: 13/00486/OUTM) sought outline permission for residential development (up to 400 Dwellings) formation of access to Burton Road, A1 Shop, D1 Medical centre, C2 Residential care home, Single form entry primary school, Pumping Station infrastructure and open space provision and was approved on 1 October 2014.

The application is accompanied by a supporting statement and addendum to the Flood Risk Assessment incorporating a drainage strategy plan.

Relevant Planning History

15/00738/REMM - Erection of 94 dwellings 'Phase 1' (reserved matters to outline permission reference 13/00486/OUTM of layout, scale, appearance and landscaping) - Pending Consideration.

13/00486/OUTM - Proposed residential development (400 Dwellings) formation of access to Burton Road, A1 Shop, D1 Medical centre, C2 Residential care home, Single form entry primary school, Pumping Station infrastructure and open space provision (Resubmission) - Approved - 01.10.2014.

2. Publicity

164 no neighbours have been notified (Date of last notification 6 July 2015)

Press Notice published 27 May 2015

Site Notices posted 22 May 2015

3. Consultations

Ashby De La Zouch Town Council
Environment Agency
Severn Trent Water Limited
Head of Environmental Protection
Natural England

Development Contributions
Manager Of Housing North West Leicestershire District Council

4. Summary of Representations Received

The following summary of representations is provided.

Ashby Town Council raises the following objections:-

- a) Impact upon the Council's 5 Year Supply
- b) Delay in construction of the school
- c) Replacing the old masterplan without replacing it with a new one
- d) The FRA and drainage mitigation should still be completed
- e) Condition 18 should be retained with at least 10% of the energy supply for the development being secured from renewable or low-carbon energy sources.

Natural England raises no objections.

Environment Agency raises no objection, subject to a Note to Applicant.

NWLDC Environmental Protection has no environmental observations.

Third Party Representations

6 letters of objection has been received raising the following concerns:-

- a) Only one access, why can't another access be created?
- b) Create congestion and traffic problems
- c) Highway safety
- d) Inadequate infrastructure
- e) Loss of historic nature of the town
- f) Drainage capacity
- g) Can the £500,000 being saved by the developer by not needing the pumping station be given to NWLDC for the benefit of people who are going to be affected by the development?
- h) At what stage will details of the type, size and houses be given?
- i) Has NWLDC allowed for any losses in generating capacity of solar panels fitted to roofs on bordering properties
- j) Errors contained in the planning application
- k) The old masterplan should not be removed, until a new one is agreed
- l) What are the costs to the Council if the conditions are passed?
- m) The Council might not be lawful in the way it is acting in negotiating these changes
- n) The use of the Section 73 application is an improper use of the process
- o) A new application should be submitted
- p) The Flood Risk report is not detailed enough
- q) The requirement for other businesses requiring capacity cannot be overlooked
- r) This application should be taken to committee and decided by Councillors
- s) Condition 2 - the developers should be required to commence as early as possible to maintain the Councils supply
- t) Condition 14 - relates to floodrisk and not capacity
- u) Condition 18 - the re-regulation act does not prevent the council imposing local targets

(The Merton Rule)

1 letter of support has been received stating that Ashby needs more housing.

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

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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

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

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

Paragraph 14 (Presumption in favour of sustainable development)
Paragraph 32 (Promoting sustainable transport)
Paragraph 34 (Promoting sustainable transport)
Paragraph 47 (Delivering a wide choice of high quality homes)
Paragraph 49 (Delivering a wide choice of high quality homes)
Paragraph 57 (Requiring good design)
Paragraph 59 (Requiring good design)
Paragraph 61 (Requiring good design)
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)
Paragraph 112 (Conserving and enhancing the natural environment)
Paragraph 118 (Conserving and enhancing the natural environment)
Paragraph 123 (Conserving and enhancing the natural environment)
Paragraph 131 (Conserving and enhancing the historic environment)
Paragraph 132 (Conserving and enhancing the historic environment)
Paragraph 135 (Conserving and enhancing the historic environment)
Paragraph 203 (Planning conditions and obligations)
Paragraph 204 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2002)

The application site is outside the 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 - Overall Strategy

Policy H4/1 - Housing Land Release
Policy H6 - Housing Density
Policy H7 - Housing Design
Policy H8 - Affordable Housing
Policy S3 - Countryside
Policy E2 - Landscaped Amenity Open Space
Policy E3 - Residential Amenities
Policy E4 - Design
Policy E6 - Comprehensive Development
Policy E7 - Landscaping
Policy E8 - Crime Prevention
Policy E30 - Floodplains
Policy F1 - National Forest - General Policy
Policy F2 - Tree Planting
Policy F3 - Landscaping & Planting
Policy T3 - Highway Standards
Policy T8 - Parking
Policy L21 - Children's Play Areas
Policy L22 - Formal Recreation Provision

Emerging North West Leicestershire Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Local Plan has progressed, only very limited weight can be attributed to its policies at this stage.

S1 - Presumption in favour of sustainable development
S2 - Future housing and economic development needs
S3 - Settlement Hierarchy
S4 - Countryside
S5 - Design of New development
H1 - Housing provision: planning permissions
H4 - Affordable Housing
H6 - House types and mix
IF1 - Development and Infrastructure
IF2 - Community Facilities
IF3 - Open space, sport and Recreation facilities
En1 - Nature Conservation
En2 - River Mease Special Area of Conservation
En3 - The National Forest
Cc1 - Renewable Energy
Cc2 - Sustainable design and construction
Cc3 - Water - flood risk
Cc4 - Water - Sustainable Drainage Systems

Other Guidance

National Planning Practice Guidance - March 2014.
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their

Impact Within The Planning System.

River Mease Water Quality Management Plan - August 2011.

River Mease Development Contributions Scheme - November 2012.

6Cs Design Guide (Leicestershire County Council)

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

North West Leicestershire District Council Play Area Design Guidance Supplementary Planning Guidance (SPG)

6. Assessment

Principle of Development

The principle of this development has already been established by the previous planning permission (13/00486/OUTM), which was granted in October 2014. This report should be read in conjunction with that of the earlier application that establishes the principle of development.

The main issue in the determination of the application is, therefore, whether the revised proposal would be acceptable in light of the suggested changes.

Condition 2

Condition 2 attached to outline consent 13/00486/OUTM states:-

"Notwithstanding condition 1, application for approval of all of the reserved matters relating to 200 of the dwellings hereby permitted shall be made to the Local Planning Authority before the expiration of two years from the date of this permission and the development hereby permitted shall begin before the expiration of one year from the date of approval of the reserved matters for these 200 dwellings.

Reason - to comply with the requirements of section 91 of the Town and Country Planning Act 1990 (as amended) and to expedite the delivery of housing on the site given the weight afforded to the ability of the site to contribute towards the Councils five year housing land supply position."

The applicant has confirmed that they have reviewed the phasing strategy for the site and intend to bring forward no less than 50 dwellings, and therefore would not be able to achieve the 200 dwellings, as currently referenced within the condition.

The NPPF requires that the Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The District Council is currently able to demonstrate a five year supply (and including for a 20% buffer).

The draft Local Plan identifies that an increased housing land requirement beyond that underpinning the District's existing housing needs may be required. This could, as the weight to be attached to the Local Plan increases as it progresses towards adoption, place the District in a position whereby it would no longer be able to demonstrate a five year (plus buffer) supply. However, having regard to the very limited weight that can reasonably be attributed to the emerging Local Plan at this early stage, officers remain of the view that a five year (including 20% buffer) can be demonstrated at this stage.

The Council is able to demonstrate a five year supply with a 20% buffer and there is still intention for the applicant to come forward with at least 50 dwellings. During the course of the application, the first reserved matters application has been submitted for the site (ref: 15/00738/REMM) which proposes 94 dwellings and shows the applicant's commitment to delivering in excess of the 50 dwellings.

Accordingly on balance there is no objection to the condition requiring at least 50, in lieu of the previously proposed 200 dwellings. It is therefore recommended that this condition be amended to reflect the phasing strategy.

During the course of the application the applicant has sought to also extend the timeframe for the delivery of the extra care facility. As the extra care facility was offered in lieu (and as a form of affordable housing) the views of the Council's Affordable Housing Officer have been sought.

The Council's Affordable Housing Officer raises no objection to the revised timeframe and it is therefore recommend that this condition be amended to reflect the new timetable for delivery.

Condition 4

Condition 4 attached to outline consent 13/00486/OUTM states:-

"In respect of those matters not reserved for later approval, the development hereby permitted shall be carried out in accordance with the following approved plans:

- o Masterplan 09.100_19H*
- o Site Location Plan 09.100_32A*
- o Site Accesses Drawing 11057-23*
- o Design & Access Statement July 2011 and by Design & Access Statement Addendum dated February 2012.*

Reason - for the avoidance of doubt and to determine the scope of this permission in the interests of proper planning."

The applicant states that there is a conflict with the condition, requiring the development to be carried out in accordance with the master plan and design and access statement, when layout was not for consideration at the outline stage and requires the reference to the master plan and design and access statement to be removed. Officers are in agreement with the applicant in this matter and therefore there is no-in principle objection to the removal of the masterplan and design and access statement from the list of approved plans.

Condition 6

During the course of the application, following concerns raised by officers, it was also considered that condition 6 would also need to be varied to remove the reference to the outline masterplan which was contained within it.

Condition 6 states:-

"No development shall take place unless and until a Design Code and Phasing Plan (including a detailed masterplan) for the entirety of the site has been submitted to and approved in writing by the Local Planning Authority. The Design Code and Phasing Plan should substantially accord with the principles and parameters described and illustrated in the Masterplan 09.100_19H, the

Design & Access Statement July 2011, Design & Access Statement Addendum dated February 2012 unless otherwise agreed by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason - To ensure an appropriate form of design and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan and to accord with the aims and objectives of the National Planning Policy Framework."

The removal of the reference to the masterplan within the condition would mean that the Authority would not have details of the overall vision and officers are of the opinion that the trigger for the condition is incorrect as it only requires the applicant to submit the details, prior to the commencement of development, which would only be after the reserved matters application(s) will have been submitted.

As such, whilst there is no objection in removing the reference to the masterplan, as the applicant originally intended to seek, it is also considered necessary, at this stage that the condition should be entirely reworded to ensure that the first reserved matters application includes a new revised masterplan for all of the site.

The suggested re-wording is as follows:-

"The first reserved matters application shall include a development masterplan for the whole of the site setting out details of site layout, principle road layout, areas of open space/children's play areas, landscaping, 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 on 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).

The reason would be to ensure that the development of the site (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner."

Conditions 7, 8, 14 and 24

Conditions 7, 8, 14 and 24 attached to outline consent 13/00486/OUTM state:-

"7) "No development shall commence on site until such time as full details of the proposed pumping station and rising main method of disposing of foul waste from the site outside of the catchment of the River Mease Special Area of Conservation have been submitted to and approved in writing by the Local Planning Authority. Any improvement works required to the sewerage network and/or Milton sewage treatment works shall be implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. No occupation of dwellings approved by this permission shall occur until these works have been completed.

Reason - To ensure the satisfactory disposal and treatment of foul waste and to protect the status of the River Mease SAC and to accord with the aims and objectives of the National Planning Policy Framework."

8) "None of the development consented shall be occupied until such time as the agreed

pumping station and rising main solution are provided and operational.

Reason - To ensure the satisfactory disposal and treatment of foul waste and to protect the status of the River Mease SAC and to accord with the aims and objectives of the National Planning Policy Framework."

14) "The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated July 2013, Ref: C865-x0228-Rev-, undertaken by Shepherd Gilmour Infrastructure Ltd and the following mitigation measures detailed within the FRA:

1. Limiting the discharge rate and storing the surface water run-off generated on site 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. Sections 3.7, and 3.10 to 3.18, and as shown on the outline master drainage plan drawing No. C865-210 Revision C.

The mitigation measures shall be fully implemented prior to occupation of any part of the development and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site."

24) "Prior to the commencement of any part of the development hereby permitted, a detailed design of the proposed pumping station access at Burton Road, as indicatively shown on DTA drawing no. 11057-23 revision D, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any part of the development, the approved junction shall be provided in full and be made available for use.

Reason: To provide vehicular access to the site, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan and to accord with the aims and objectives of the National Planning Policy Framework."

The applicant states that the intention is to remove all of the four conditions as listed above in lieu of one comprehensive condition based upon an amended foul drainage strategy, which has been submitted with the application. The applicant also confirms that they are willing to enter into an agreement to make contributions towards the River Mease Developer Contribution Scheme.

Natural England has confirmed that since Severn Trent Water has confirmed that the treatment works at Packington has the capacity, and a commitment has been made by the applicant to make appropriate contributions to the River Mease Contribution Scheme, Natural England therefore raises no objection to the proposal to replace conditions 7, 8 and 24 with a single condition.

Notwithstanding the comments regarding capacity, no additional response or comments have been received from Severn Trent in respect of the removal of the conditions, despite a series of requests from officers for their comments on 19 June 2015, 21 July 2015 and 5 August 2018 (in addition to the initial consultation).

The Environment Agency (EA) originally raised no objection to the removal of all of the conditions, however officers have liaised directly with the EA over concerns with the removal of condition 14 as this relates to surface water drainage. The EA have subsequently confirmed that they would raise an objection regarding the removal of condition 14, unless either condition 14 is retained or re-worded.

The applicant and EA have worked together and the EA have confirmed that they now have no objection providing the condition includes the following wording, as set out below:-

"The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated July 2013 Reference C865-x0228-Rev-undertaken by Shepherd Gilmour Infrastructure Ltd in respect of surface water drainage and the FRA Addendum produced by Rogers Leask Ltd dated March 2015 in respect of foul water drainage and the following mitigation measures detailed within the FRA and FRA Addendum unless otherwise agreed in writing by the local planning authority".

Members are aware that 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.

In terms of capacity, the Addendum to the FRA states that following the closure of Arla Dairy, this has allowed the equivalent of 2000 dwellings worth of capacity in the system and would therefore be feasible to make a connection into the public sewer in Burton Road, which outfalls at Packington Sewage Treatment works. The flows from the proposed dwellings will need to be taken into account against the existing headroom capacity (recently revised) at Packington Treatment Works, which would serve this site where there is sufficient capacity. In addition, the Strategic Planning Analyst from Severn Trent Water has also confirmed that there is sufficient capacity. The applicant also confirmed that they are willing to enter into an agreement to make contributions towards the DCS.

The adopted DCS for the equivalent of approximately 2,400 dwellings to be constructed to remove the required level of phosphorous (700 g per day). This is known as the "DCS First Development Window" and measures are currently in place to fund the removal of the phosphorous from the catchment.

Discussions have been undertaken with colleagues from the River Mease Programme Board regarding capacity. It is considered that, whilst the capacity is dependent upon the number of bedrooms for each dwelling type and the water efficient standard they are built to.

Members are advised that of the 2,400 dwellings, there is remaining capacity (based upon 4 bedroomed dwellings and low water efficiency) for 230 dwellings. Accordingly if the mix contained more dwellings with a lower number of bedrooms, the development window could accommodate more dwellings.

As such, it is not possible for all (up to) 400 dwellings, proposed are a result of this scheme, to

be accommodated within the DCS first development window, and in the absence, at present, of the DCS second development window, it is recommended that a condition be imposed requiring that there is a restriction on the number of dwellings occupied, until such time that the DCS second development window is in place.

Allowing this scheme capacity for the full (worst case scenario) 230 dwellings left within the DCS first development window, would therefore mean that any pending, or future application submissions could not be occupied, until such time that the DCS second development window was adopted.

Discussions have therefore been undertaken with the applicant to agree on an appropriate number of dwellings that could be reasonably accommodated within the DCS first development window, to ensure that the full 230 dwellings capacity is not taken at this time, which would otherwise prejudice future development.

Preliminary works have already been undertaken by the River Mease Programme Board on the DCS second development window, which is expected to be finalised in the Spring of 2016. The applicant has already submitted the first phase (Reserved Matters) of the development for 94 dwellings, and it is unlikely that even in the event that the Reserved Matters application was approved and the relevant pre-commencement conditions discharged, that any more than 94 dwellings would be occupied, prior to the DCS second development window being in place.

Nevertheless in the interests of being reasonable, the number of dwellings has been agreed to be no more than 115 dwellings. This is half of the overall 230 dwellings still remaining within DCS first development window, and thus leaves capacity for another 115 dwellings.

Accordingly the suggested wording for the condition is as follows:-

"No more than 115 dwellings shall be occupied until the Local Planning Authority has provided the applicant with written confirmation that River Mease Special Area of Conservation Water Quality Management Plan Developer Contribution Scheme Second Development Window has been formally adopted."

Therefore it can be ascertained that the proposal on the site will, either alone or in combination with other plans or projects, have no likely 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.

For the reasons discussed above there is no objection with the removal of conditions 7,8 and 24, the variation of condition 14 to reflect the suggested wording from the EA and the insertion of a new condition restricting occupation.

Conditions 18,19 and 20

Conditions 18, 19 and 20 attached to outline consent 13/00486/OUTM state:-

18) *"At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources (as described in Annex 2 of the NPPF). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority as a part of the first reserved matters submissions required by Conditions 1 and 2 above. The approved details shall be implemented in accordance with the approved timetable and retained as operational*

thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure the scheme provides for a sustainable form of development, and to accord with the aims and objectives of the National Planning Policy Framework."

19) *"All reserved matters applications for the erection of dwellings shall include full details of the proposed dwellings' anticipated level of achievement in respect of criteria / sub-categories contained within the Code for Sustainable Homes. None of the dwellings hereby permitted shall be occupied until such time as evidence to demonstrate the relevant dwelling's compliance with the relevant criteria has been submitted to and agreed in writing by the Local Planning Authority.*

Reason - To ensure the environmental integrity of the scheme is secured and to accord with the aims and objectives of the National Planning Policy Framework."

20) *"All reserved matters applications for the erection of non-residential development shall include full details of the proposed buildings' anticipated level of achievement within the Building Research Establishment's Environmental Assessment Method (BREEAM). No building shall be brought into use until such time as an assessment of the building has been carried out by a registered BREEAM assessor and a BREEAM Certificate has been issued for the relevant building certifying that the relevant BREEAM Level has been achieved and this BREEAM Certificate has been submitted to and agreed in writing by the Local Planning Authority.*

Reason - To ensure the environmental integrity of the scheme is secured and to accord with the aims and objectives of the National Planning Policy Framework."

The applicant states that on the basis of the Deregulation Bill 2015, planning permission should not be granted requiring or subject to conditions requiring compliance with any technical housing standards, other than for those areas where authority's have specific policies and should application ref: 13/00486/OUTM be brought forward for determination now, such conditions would not be imposed.

It is agreed that the Deregulation Bill 2015 takes immediate effect and consequently the justification for conditions 18,19 and 20 no longer applies.

Other Matters

Members are advised that with the exception of the insertion of the River Mease Developer Contribution, all other previous contributions secured by the S106 Agreement attached to the original outline consent will be carried forward with this application. A deed of variation to the original S106 is currently under consideration to secure this.

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

In response to the neighbour comment regarding the approximately £500,000 being saved by the developer, in requesting contributions from the developer, a planning obligation must meet all of the following tests:-

- o It is necessary to make the development acceptable in planning terms
- o Directly related to the development and
- o Fairly and reasonably related in scale and kind to the development

As such, it is not considered that these tests would be satisfied for such a request.

In respect of the timeframe for consideration of the type, size and heights of houses, the outline application only sought consent for the access, and reserved the details of layout, scale, appearance and landscaping for future consideration.

During the course of the application the first reserved matters application has now been submitted and details have been provided in respect of layout, scale, appearance and landscaping. This application is seeking to review the conditions attached to the original outline and has no bearing on layout, scale, appearance and landscaping.

In response to the neighbours comments regarding impacts upon the generating capacity of solar panels, when layout is presented for approval (at the Reserved Matters stage) the Council will then have the respective distances between the existing neighbouring properties and those proposed on this site. Depending on the orientation of the proposed plots, and whether they contain windows serving habitable rooms, depends upon the separation distance the Council would seek. As to the impacts specifically upon the generating capacity of solar panels, this is not a material planning consideration and therefore the Council would not assess this potential impact.

Conclusion

In conclusion, the principle of this development has already been established through the earlier grant of planning permission (ref: 13/00486/OUTM).

For the reasons discussed above it recommended that this application be granted consent, subject to the imposition of all other previous planning conditions, a new revised masterplan condition (condition 6) a new capacity condition, relating to the River Mease, a revised drainage condition (condition 14) amendments to conditions 2 and 4 relating to timeframes and removal of conditions 7,8,18,19,20 and 24.

RECOMMENDATION, PERMIT, subject to the signing of a legal agreement and subject to the following condition(s):

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from 1 October 2014 (the date of the original permission ref: 13/00486/OUTM) 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 Notwithstanding condition 1:-
 - a. Application for approval of all of the reserved matters relating to a minimum of 50 of the dwellings hereby permitted shall be made to the Local Planning Authority before the expiration of two years from the date of the outline permission (1 October 2014) and the development hereby permitted shall commence before the expiration of one year from the date of approval of the reserved matters for these minimum of 50 dwellings.

- b. Application for approval of all of the reserved matters relating to the extra care facility hereby permitted shall be made to the Local Planning Authority before the expiration of five years from the date of the outline permission (1 October 2014) and the development hereby permitted shall commence before the expiration of one year from the date of approval of the reserved matters for the extra care facility.

Reason - To comply with the requirements of section 91 of the Town and Country Planning Act 1990 (as amended) and to expedite the delivery of housing on the site given the weight afforded to the ability of the site to contribute towards the Councils five year housing land supply position.

- 3 No development shall take place within any phase of the development unless and until full details of the access (save for the details of vehicular accesses into the site from Burton Road) to and within that phase, scale, layout and appearance of all buildings and landscaping (hereafter referred to as the reserved matters) have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (as amended).

- 4 In respect of those matters not reserved for later approval, the development hereby permitted shall be carried out in accordance with the following approved plans:
- o Site Location Plan 09.100_32A
 - o Site Accesses Drawing 11057-23

Reason - For the avoidance of doubt and to determine the scope of this permission in the interests of proper planning.

- 5 The development hereby permitted shall not provide more than 400 dwellings net.

Reason - In order to secure an acceptable form of development for this site and to accord with the aims and objectives of the National Planning Policy Framework.

- 6 The first reserved matters application shall include a development masterplan for the whole of the site setting out details of site layout, principle road layout, areas of open space/children's play areas, landscaping, 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 on 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.

- 7 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) unless and until a scheme of foul drainage and surface water drainage for that phase has been submitted to and agreed in writing by the Local Planning Authority. This will be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The

scheme shall subsequently be implemented in accordance with the approved details before the development or phase of the development is complete.

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) Limiting the discharge rate 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.
- c) 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.
- d) 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.
- e) 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.
- f) Details of how the scheme shall be maintained and managed after completion.

None of the buildings within the relevant phase shall be brought into use until such time as the relevant scheme has been implemented in full in accordance with the approved details.

Reason - To prevent the increased risk of flooding, to improve and protect water quality and improve habitat and amenity in the interests of environmental quality and to accord with the aims and objectives of the National Planning Policy Framework.

8 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as a surface water drainage scheme for the site (or relevant phase), based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development (including a timetable for its implementation), has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and timetable. The submitted scheme shall demonstrate:

- a) The utilisation of above ground holding sustainable drainage techniques;
- b) The limitation of surface water run-off to equivalent greenfield rates;
- c) The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and
- d) Responsibility for the future maintenance of drainage features.

Reason - To prevent the increased risk of flooding, to improve and protect water quality, to improve habitat and amenity, to ensure the future maintenance of the sustainable drainage structures and to accord with the aims and objectives of the National Planning Policy Framework.

9 No development shall commence on site until an intrusive site investigation and Risk Based Land Contamination Assessment, in line with the requirements of the Geo-environmental desk study conducted by Shepherd Gilmour Environmental Limited Report No. T0106 NTM (ME1167) dated July 2011, 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 Year 2011 Investigation Of Potentially Contaminated Sites Code of Practice;
- b) BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
- c) 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:

- d) 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:

- e) Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- f) 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 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 ensure that the proposed development does not results in deterioration of controlled waters and to accord with the aims and objectives of the National Planning Policy Framework.

10 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 relevant to either the whole development or that part of the development. Prior to occupation of any part of the completed development, a report showing the findings of the Verification Investigation 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 the National Planning Policy Framework.

- 11 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 prevent mobilisation of contamination to controlled waters and to accord with the aims and objectives of the National Planning Policy Framework.

- 12 The development hereby permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated July 2013 Reference C865-x0228-Rev- undertaken by Shepherd Gilmour Infrastructure Ltd in respect of surface water drainage and the FRA Addendum produced by Rogers Leak Ltd dated March 2015 in respect of foul water drainage and the following mitigation measures detailed within the FRA and FRA Addendum unless otherwise agreed in writing by the Local Planning Authority;

1. Limiting the discharge rate and storing the surface water run off generated on site 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. Sections 3,7, and 3.10 to 3.18 and as shown on outline master drainage plan drawing No. C865-210 Revision C.

2. Provision of the foul water drainage strategy as detailed on drawings Nos. P14-179-300 and O14-179-301.

The mitigation measures shall be fully implemented prior to occupation of any part of the development and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or with any other period as May subsequently be agreed in writing by the Local Planning Authority.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

- 13 No development shall take place within any phase of the development unless and until

full details of a landscape and biodiversity management plan, including long-term design objectives, management responsibilities and maintenance schedules for all hard and soft landscaped areas (except privately owned domestic gardens) within that phase, together with a timetable for its implementation has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt the landscape management plan shall include the following information:

- a) the extent and type of new planting (planting to be of native species)
- b) details of maintenance regimes
- c) details of any new habitat created on site
- d) details of treatment of site boundaries and/or buffers around water bodies
- e) details of management of SuDs schemes present within the development site
- f) details of urban biodiversity design to be integrated into the development.

The development shall be carried out in accordance with the approved details, 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 comply with Policies E2 and E7 of the North West Leicestershire Local Plan and to accord with the aims and objectives of the National Planning Policy Framework.

- 14 The first reserved matters application for each phase of the development shall be accompanied by full details of all measures proposed in respect of the enhancement of the biodiversity of the area, including proposals in respect of future maintenance and a timetable for the implementation of the relevant measures. The development shall thereafter be undertaken and occupied in accordance with the agreed measures and timetable unless otherwise agreed in writing with the Local Planning Authority.

Reason - To ensure the development contributes to the meeting of Biodiversity Action Plan priorities, and to accord with the aims and objectives of the National Planning Policy Framework.

- 15 No hedgerows shall be removed or soil stripping undertaken pursuant to this planning permission during the months of March to August inclusive unless first agreed in writing by the Local Planning Authority. Should nesting birds be found during construction work, work in the area shall cease immediately, and shall not resume until such time as the young have left the nest.

Reason - In the interests of nature conservation, and to accord with the aims and objectives of the National Planning Policy Framework.

- 16 The retail food store hereby permitted shall not exceed 1,000 square metres gross floorspace at any time.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, and to ensure satisfactory control over the retail impact of the development and to accord with the aims and objectives of the National Planning Policy Framework.

- 17 Prior to the commencement of any part of the development hereby permitted, a detailed

design of the proposed signalised site access junction at Burton Road, as indicatively shown on DTA Drawing no. 11057-23 revision D, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any part of the development, the approved junction shall be provided in full and be made available for use.

Reason: To provide vehicular access to the site, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan and to accord with the aims and objectives of the National Planning Policy Framework.

- 18 Prior to the commencement of any part of the development hereby permitted, a detailed design of the proposed ghost island site access junction at Burton Road, as indicatively shown on DTA drawing no. 11057-23 revision D, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of the 151st dwelling, the approved junction shall be provided in full and be made available for use.

Reason: To provide vehicular access to the site, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan and to accord with the aims and objectives of the National Planning Policy Framework.

- 19 No development shall commence on the site until such time as a construction 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 associated with the development does not lead to on-street parking problems in the area and to accord with the aims and objectives of the National Planning Policy Framework.

- 20 Notwithstanding the submitted Residential Travel Plan, no development shall commence on site in respect of any of the dwellings hereby approved until such time as a scheme of measures to reduce the amount of single occupancy car journeys to/from the site, including a timetable for their implementation, has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with the submitted details and shall thereafter be so retained.

Reason: To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to/from the site and to accord with the aims and objectives of the National Planning Policy Framework.

- 21 No development shall commence until such time as a scheme for the provision of a new or diverted bus service between Ashby de la Zouch town centre and Burton on Trent serving the development has been submitted to and approved in writing by the Local Planning Authority. The details of the scheme shall include hours of operation, service frequencies, routing, and the provision of necessary on and off site bus stop infrastructure (including pole and flag, bus shelter, raised kerbs and information display case). The scheme shall include any works/measures required for the initial implementation of the scheme, together with a phased programme for the implementation of any remaining measures required by the scheme as the development progresses. The scheme shall cover a minimum period of 5 years from commencement

of the service. No more than 150 dwellings shall be occupied until such time as the entire approved bus service scheme is fully operational.

Reason - To ensure that adequate steps are taken to provide a choice in mode of travel to and from the site and to accord with the aims and objectives of the National Planning Policy Framework.

22 No development shall commence on site until such time as full details of surface water drainage, including attenuation facilities, have been submitted to and approved by the Local Planning Authority through consultation with East Midlands Airport. Details shall include cross sectional bank profiles of any open water areas, mean residence time of attenuated water and mean water levels. The development shall be carried out in accordance with the agreed details which shall thereafter be retained.

Reason - In the interests of the safe and effective operation of East Midlands Airport and to accord with the aims and objectives of the National Planning Policy Framework.

23 No demolition / development shall commence on the site until such time as a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation first submitted to and agreed in writing by the Local Planning Authority. 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; and
- 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 at any time other than in accordance with the agreed Written Scheme of Investigation. None of the buildings shall be occupied until such time as the site investigation and post investigation assessment has been completed in accordance with the programme set out in the agreed Written Scheme of Investigation 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.

24 No more than 115 dwellings shall be occupied until the Local Planning Authority has provided the applicant with written confirmation that River Mease Special Area of Conservation Water Quality Management Plan Developer Contribution Scheme Second Development Window has been formally adopted.

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

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).
- 2 Your attention is drawn to the notes to applicant provided as part of planning permission 13/00486/OUTM.