

Residential development (up to 91 dwellings) and associated infrastructure (outline - access only) Re-submission of 15/00306/OUTM

Report Item No  
A1

Land North Of Butt Lane And East Of Hepworth Road  
Woodville/Blackfordby Swadlincote DE11 7BY

Application Reference  
15/01078/OUTM

Applicant:  
Mr Tom Dickens

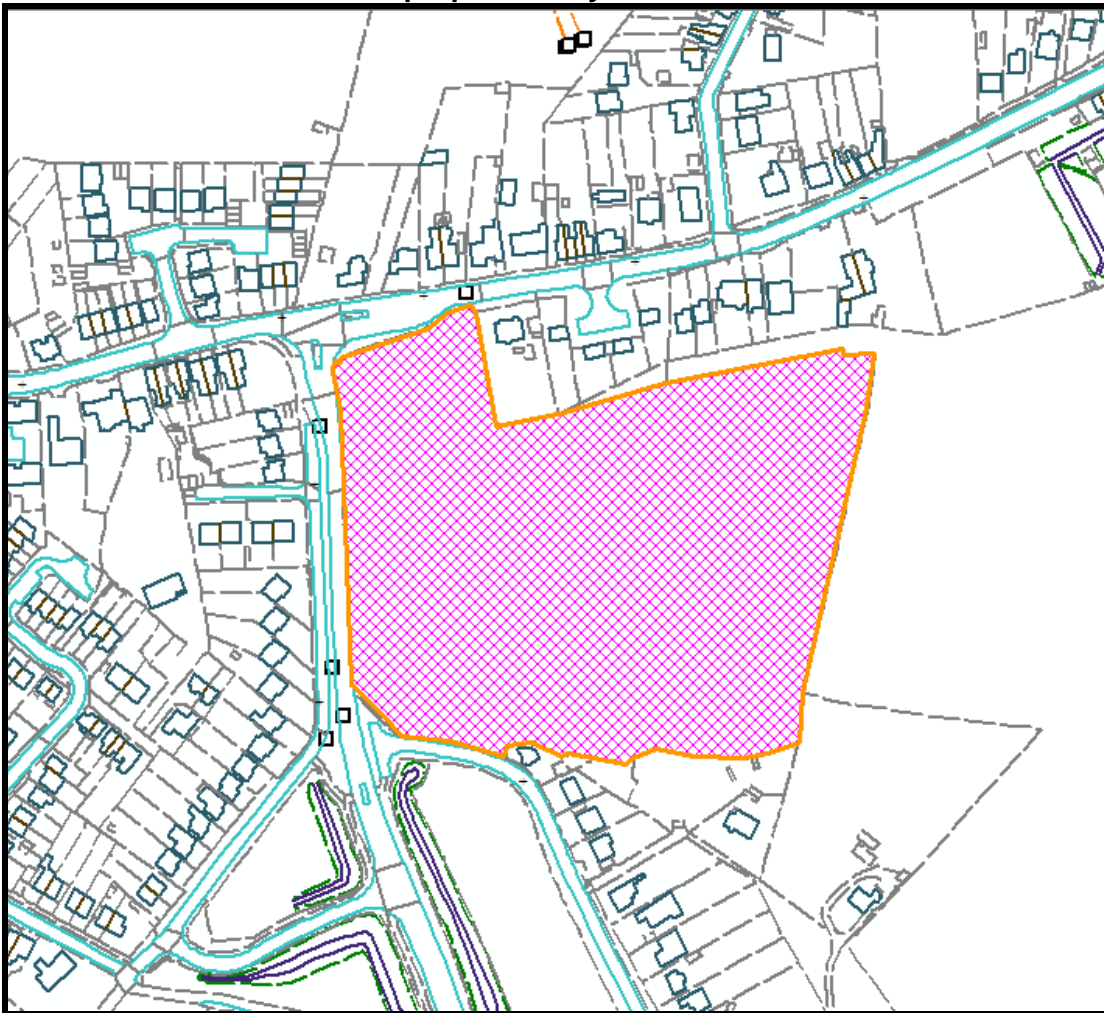
Date Registered  
26 November 2015

Case Officer:  
Ebony Mattley

Target Decision Date  
25 February 2016

Recommendation:  
PERMIT Subject to a Section 106

Site Location - Plan for indicative purposes only



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

### **Reason for Call In**

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

### **Proposal**

This application seeks outline planning permission for up to ninety-one dwellings, at land to the north of Butt Lane and east of Hepworth Road, Blackfordby.

The application is in outline at this stage with details of means of access only included for consideration. The vehicular access into the site would be off Butt Lane.

Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

This application is a re-submission of application ref: 15/00306/OUTM which is currently subject to an appeal.

### **Consultations**

Members will see from the main report below that there are objections from 87 addresses to the scheme, and objections from Ashby Town Council and Woodville Parish Council. Concerns and/or financial contributions, in respect of cross boundary issues are raised from South Derbyshire District Council. There are no other objections raised from statutory consultees.

### **Planning Policy**

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

### **Conclusion**

When having regard to the information presented by the applicant in seeking to overcome the previous reason for refusal, the absence of a five year housing supply, the fact that no weight can be attributed to Policies S3 and H4/1 (in light of the recent Greenhill Road appeal decision) the sustainability credentials of the settlement of Woodville and Blackfordby, combined with the fact that the site is well related to existing built development and the Limits to Development, it is considered that a strong case has been made concerning the sustainability of the site.

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

The proposed development would be acceptable in terms of density, design, impact upon heritage assets, trees, residential amenities, highway safety, coal mining and land contamination, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise. Consideration has been given to the cross boundary implications, given the proximity of the site to Woodville (South Derbyshire). Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services (in both North West Leicestershire and South Derbyshire), including the full provision of on-site affordable dwellings. There are no other relevant material planning considerations that indicate planning permission should not be granted.

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

**RECOMMENDATION - PERMIT, APPROVE SUBJECT TO SECTION 106 OBLIGATIONS AND THE IMPOSITION OF CONDITIONS**

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

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission is sought for the erection of up to 91 residential units. The application is in outline at this stage with details of means of access included for consideration. Vehicular access into the site would be off Butt Lane, to the south of the site.

Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.

Members are advised that an application for the same development proposal was previously considered at the September 2015 Planning Committee, where the application was refused resultant of the coalescence between Blackfordby and Woodville, harm and intrusion into the countryside and overall un-necessary and un-sustainable development. An appeal has recently been submitted to the Planning Inspectorate, in respect of the previous application ref: 15/00306/OUTM.

The applicant has also sought to address the previous objection raised with regards to harm and intrusion into the countryside with the submission of a Landscape and Visual Appraisal within this application submission.

The site is 3.4 hectares and is currently in agricultural use. Public Footpath P12 runs along the southern periphery of the site. The site lies within the catchment area of the River Mease Special Area of Conservation and the site is located outside Limits to Development, as identified in the North West Leicestershire Local Plan 2002.

Whilst the site falls within North West Leicestershire District Council's boundary, the site abuts the border of Woodville, which falls with South Derbyshire District Council. To the south, the site borders residential properties on the east side of Butt Lane, Blackfordby and borders No's 14-38 Ashby Road, Boundary to the north. The site immediately bounds Hepworth Road to the west, which abuts residential properties on Butt Lane, which are located within Woodville.

The application is accompanied by:-

- Amphibian Survey
- Arboricultural Report
- Coal Authority Mining Report
- Design and Access Statement
- Ecological Appraisal (preliminary)
- Flood Risk Assessment and Drainage Strategy
- Geotechnical and Geo-environmental Desk Study
- Landscape and Visual Appraisal
- Noise Assessment
- Planning Statement
- Precautionary Method of Works: Great Crested Newts and Reptiles
- Statement of Community Engagement
- Transport Assessment
- Travel Plan

**Relevant Planning History:-**

15/00306/OUTM - Residential development of up to 91 dwellings and associated infrastructure (outline - access only) Refused - 09.09.2015.

An appeal has recently been submitted to the Planning Inspectorate, in respect of the above mentioned application.

**2. Publicity**

108 No neighbours have been notified (date of last notification 27 November 2015)

Press Notice published 9 December 2015

Site Notice published 8 December 2015

**3. Consultations**

Ashby De La Zouch Town Council consulted 27 November 2015  
County Highway Authority  
County Highway Authority  
Environment Agency  
Severn Trent Water Limited  
Head of Environmental Protection  
Natural England-  
NWLDC Tree Officer  
County Archaeologist  
LCC ecology  
Airport Safeguarding  
NWLDC Conservation Officer  
NWLDC Urban Designer  
National Forest Company  
LCC Fire and Rescue  
County Planning Authority  
LCC Development Contributions  
NHS Leicester, Leicestershire And Rutland Facilities Management  
Development Plans  
Head Of Leisure And Culture  
Manager Of Housing North West Leicestershire District Council  
Police Architectural Liaison Officer  
LCC/Footpaths  
NWLDC Footpaths Officer  
LCC Flood Management  
Coal Authority  
Derby City Council  
Derbyshire County Council  
South Derbyshire District Council  
Ashby Woulds Town Council

#### 4. Summary of Representations Received

*Statutory consultees:*

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

- o Greenfield site, outside village limits and would remove the area of separation between Blackfordby and Woodville;
- o The site is not designated for housing within the draft Local Plan;
- o Serious traffic problems in the village which would be exacerbated;
- o Vehicular access from Butt Lane is inappropriate;
- o The site is not sustainable, relying on the use of Woodville services;
- o Blackfordby Primary School has no capacity and no room to expand;
- o Lack of infrastructure generally within the village to support this expansion; and
- o Concerns about sewers coping with the additional discharge and exacerbating flooding which already occurs in Blackfordby.

**South Derbyshire District Council** raise the following concerns over the cross boundary impacts in relation to:-

- o Healthcare provision - approaches should be made to NHS Southern Derbyshire to agree a financial contribution towards plans to construct a new surgery in Woodville;
- o Education provision - in the event that the contribution requested by Leicestershire County Council Education department cannot be secured within North West Leicestershire, financial contributions should be secured at the primary, high and upper schools in South Derbyshire, in liaison with Derbyshire County Council Education department;
- o Highway capacity and congestion - there is evidence of a direct impact arising on existing infrastructure which is unable to cater for the additional demand that would arise as a result of this development and Derbyshire County Council Highways department should seek a financial contribution towards the 'Swadlincote Regeneration Route.'
- o Recreation and community facilities - outdoor sports and built facilities within South Derbyshire would tend to be preferred over provision in Ashby and consideration should be given whether a financial contribution towards 'Woodville Recreation Ground' is necessary.
- o Ward and Parish Councillors for Woodville raise concerns over the coalescence of the communities of Woodville and Blackfordby.
- o The scheme should be subject to full compliance with the River Mease Developer Contributions Scheme.

**Woodville Parish Council** raise objections on the following grounds:-

- o Detrimental impact on the infrastructure of Woodville;
- o Already overstretched highway network and additional harm to existing roads
- o Future reliance on services available in Woodville
- o Unlikely to contribute to provision of additional services, despite its location
- o Health, sport and recreation are already in short supply
- o Impact upon the character of Woodville and add to the pressure of coalescence of the villages of Woodville and Blackfordby
- o Entirely inappropriate location for development in Leicestershire, away from services provided by Leicestershire.

**Derbyshire County Highway Authority** raises concerns over the proposed traffic impact upon the A511/A514/B5004 "Clock" roundabout at Woodville and has requested a contribution to mitigate the impact.

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

**Environment Agency** considers that this proposal falls outside the scope of matters on which the Environment Agency is a statutory consultee and therefore do not wish to make representations on this application.

**Coal Authority** raises no objection subject to a condition.

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

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

**Lead Local Flood Authority** raises no objection subject to conditions.

**Leicestershire County Council - Ecology** raises no objections subject to conditions.

**Leicestershire County - Archaeology** raises no objections subject to conditions.

**Leicestershire County Council - Footpaths** raises no objection, providing notes to the applicant in respect of Public Footpath P12 are adhered to.

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

**NWLDC Urban Designer** is not satisfied that the indicative layout scheme is acceptable and proposes a condition for a scheme to produce a Building for Life based design code.

**NWLDC Conservation Officer** has no observations to make on this application.

**NWLDC Footpaths Officer** states that no footpath diversion order would be required, if the layout shown is adhered to.

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

**NWLDC Head of Environmental Protection** raises no objection, subject to a noise condition.

**NWLDC Street Action Team** raises no objection, subject to a contaminated land condition.

County Councillor Sheahan raises the following objections:-

- a) the proposal is outside limits to development;
- b) the pressures it would put on schools and roads make it unsustainable;

- c) it will lead to the coalescence of the settlements of Blackfordby and Woodville and
- d) there are historic problems of flooding in the area, which this development will add to.

Representations from 87 addresses have been received raising the following objections:-

- a) Outside development limits and on Greenfield land
- b) Other suitable brownfield sites which should be prioritised first;
- c) Inappropriate location
- d) The land is not barren and is high agricultural quality land;
- e) Purely economic development
- f) The council have a 5 year supply;
- g) Loss of green wedge and green belt;
- h) Merging and coalescence of the two settlements;
- i) Loss of traditional village
- j) Contravenes all aspects of a good 'sustainable' development;
- k) Contrary to local plan policies and NPPF;
- l) Unfair to use the facilities of South Derbyshire and place the houses in North West Leicestershire;
- m) Increase in size of village by 25%;
- n) Blackfordby is not a sustainable village;
- o) Existing inadequate infrastructure/services/amenities; no additional infrastructure is provided;
- p) Loss of view of the countryside;
- q) Density is too high and scheme is too urban;
- r) Layout concerns;
- s) Houses accord with the character of new housing estates in Woodville;
- t) Insufficient open space
- u) Affordable housing is not "pepper-potted";
- v) Planting is vague and non-specific;
- w) Impact upon amenities of existing local residents;
- x) Pollution from noise and traffic;
- y) Highway safety;
- z) Volume of traffic and exacerbate congestion;
- aa) Narrow roads and lack of footpath;
- bb) Impact upon wildlife;
- cc) Impact upon existing trees;
- dd) Existing drainage and sewage issues; will exacerbate flooding
- ee) Similar developments have been rejected;
- ff) Inadequate documents submitted and profound statements given;
- gg) De-valuation of property prices
- hh) The Localism Act requires people and local authorities to be at the heart of the process;
- and
- ii) Essential that SDDC is consulted in this process

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

## 5. Relevant Planning Policy

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



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

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

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

Paragraph 14 (Presumption in favour of sustainable development)  
Paragraph 32 (Promoting sustainable transport)  
Paragraph 34 (Promoting sustainable transport)  
Paragraph 47 (Delivering a wide choice of high quality homes)  
Paragraph 49 (Delivering a wide choice of high quality homes)  
Paragraph 54 (Delivering a wide choice of high quality homes)  
Paragraph 57 (Requiring good design)  
Paragraph 59 (Requiring good design)  
Paragraph 61 (Requiring good design)  
Paragraph 64 (Requiring good design)  
Paragraph 100 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 101 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 103 (Meeting the challenge of climate change, flooding and coastal change)  
Paragraph 109 (Conserving and enhancing the natural environment)  
Paragraph 112 (Conserving and enhancing the natural environment)  
Paragraph 118 (Conserving and enhancing the natural environment)  
Paragraph 119 (Conserving and enhancing the natural environment)  
Paragraph 129 (Conserving and enhancing the historic environment)  
Paragraph 131 (Conserving and enhancing the historic environment)  
Paragraph 134 (Conserving and enhancing the natural environment)  
Paragraph 143 (Facilitating the sustainable use of minerals)  
Paragraph 203 (Planning conditions and obligations)  
Paragraph 204 (Planning conditions and obligations)

**Adopted North West Leicestershire Local Plan:**

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

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan.  
Policy S3 - Countryside  
Policy E2 - Landscaped Amenity Open Space  
Policy E3 - Residential Amenities  
Policy E4 - Design  
Policy E7 - Landscaping  
Policy E8 - Crime Prevention  
Policy E30 - Floodplains  
Policy F1 - National Forest General Policy  
Policy F2 - Tree Planting

Policy F3 - Landscaping and Planting  
Policy T3 - Highway Standards  
Policy T8 - Parking  
Policy H4/1 - Housing Land Release  
Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy H8 - Affordable Housing  
Policy L21 - Children's Play Areas

### **Consultation Draft 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  
S3 - Settlement Hierarchy  
S4 - Countryside  
S5 - Design of New development  
H6 - House types and mix  
IF1 - Development and Infrastructure  
IF2 - Community Facilities  
IF3 - Open space, sport and Recreation facilities  
En2 - River Mease Special Area of Conservation

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

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

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

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

The District Council's Play Area Design Guidance SPG sets out the relevant requirements in respect of children's play provision required in association with residential development.

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

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

### **6Cs Design Guide (Leicestershire County Council)**

The 6Cs Design Guide sets out the County Highway Authority's requirements in respect of the

design and layout of new development.

### 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.

Sections 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## 6. Assessment

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

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

Members are advised that planning permission was refused at the September 2015 Planning Committee for the following reason:-

*"Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan sets out the circumstances in which development outside limits to development would be acceptable.*

*The introduction of residential development on this un-developed site, outside Limits to Development, as defined in the adopted Local Plan, would result in the unnecessary development of a Greenfield site and constitute un-sustainable development. The loss of separation between Blackfordby and Woodville would result in coalescence and significant harm to the character and rural appearance of the locality and any development on this site would appear as an unwarranted and incongruous intrusion into the countryside. In the opinion of the Local Planning Authority the scheme would therefore be contrary to the policies and intentions of the NPPF and Policy S3 of the North West Leicestershire Local Plan."*

### "Un-necessary and un-sustainable development"

The previous reason for refusal states:-

*"The introduction of residential development on this un-developed site, outside Limits to Development, as defined in the adopted Local Plan, would result in the unnecessary development of a Greenfield site and constitute un-sustainable development...In the opinion of the Local Planning Authority the scheme would therefore be contrary to the policies and intentions of the NPPF and Policy S3 of the North West Leicestershire Local Plan."*

Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2002 (as amended)).

The application site lies outside the Limits to Development of Blackfordby, as defined by the proposals map of the adopted Local Plan and therefore falls to be considered against Saved Policy S3 of the Local Plan. Saved Policy H4/1 is also of relevance and identifies the criteria for in releasing "appropriate" land for housing.

The Inspector's decision concerning the Greenhill Road appeal sets out that the local planning authority is currently unable to demonstrate a five year supply of housing land. This means that "saved" local plan policies that are concerned with housing supply, such as S3 and H4/1, must be considered to be out of date, and accordingly 'weight' should not be afforded to them when determining planning applications. The NPPF includes a clear presumption in favour of sustainable development, which taken together with the current inability to demonstrate a five year supply, indicate that planning permission for new homes should normally be granted.

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

The provisions of the NPPF do not specifically seek to preclude development within the countryside, and consideration must therefore be given to whether the proposals constitute sustainable development (including in its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF.

- o Economic - in this respect developments should contribute towards building a strong competitive economy through ensuring that sufficient land of the right type is available to support growth, and by coordinating development requirements, including the provision of infrastructure. It is considered that the development would benefit the local economy through both the creation of jobs for the construction of the development itself, as well as securing financial contributions for the provision and maintenance of local infrastructure. Accordingly the site is considered to be consistent with the 'economic role'.
- o Social - in this respect, developments should support strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment with accessible local services that reflect the community's needs and support its health, social and cultural well-being. The new population could support and help sustain the local services and facilities that meet local needs and contribute to the creation of sustainable communities. The development would provide both open market and affordable housing, appealing to a wider spectrum with the local market, thus increasing local market choice and appealing to groups whom may have otherwise been excluded from the locality. The proposal would include the provision of public open space and financial contributions will be secured towards the provision of local services and facilities. Accordingly the site is considered to be consistent with the 'social role'.
- o Environmental - to fulfil this role development should protect and enhance the natural, built and historic environment. As part of this biodiversity should be improved, natural resources should be used more prudently, waste and pollution should be minimised, and development should help mitigate, and adapt to climate change. The site is located

outside the limits to development, but is well related to the existing settlement of Woodville. Furthermore, as set out in this report, it is considered that the proposal would not be contrary to the aims of protecting or enhancing the natural and historic environment. Accordingly the site is considered to be consistent with the 'environmental role'.

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

In respect of the loss of agricultural land, the Best and Most Versatile (BMV) agricultural land is defined as that falling within in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The applicant has confirmed that the land would be assigned to Class 3, however the information does not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification. Whilst, the NPPF does not suggest that the release of smaller BMV site is acceptable, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost and therefore given the relatively limited extent of the potential loss of the site, at 3.4 hectares, it is considered that the potential agricultural land quality issue is not sufficient to sustain a reason for refusal in this case.

#### **Loss of separation, coalescence and harm to the locality**

The previous reason for refusal states:-

*"The loss of separation between Blackfordby and Woodville would result in coalescence and significant harm to the character and rural appearance of the locality and any development on this site would appear as an unwarranted and incongruous intrusion into the countryside."*

In seeking to address and overcome this element of the objection, the application has been accompanied by a Landscape and Visual Appraisal.

The Appraisal states that views into the site are predominantly localised, and where more distant views may be possible, these would be restricted by intervening buildings and vegetation and/or softened and filtered by intervening vegetation. The Appraisal states that mature wooded copse, existing boundary hedgerow and maturing woodland plantation restrict views of the Site from the south and that the proposed development can be sympathetically accommodated within the existing landscape and will not have a significant adverse effect on the existing landscape character and visual amenity of the area. The Appraisal concludes that an opportunity exists for housing development at the Heart of the National Forest that would contribute to the changing rural appearance of the locality.

Whilst the site falls within North West Leicestershire District Council's (NWLDC) boundary, the site abuts the border of Woodville, which falls within the jurisdiction of South Derbyshire District Council (SDDC). It is considered that the application site would relate reasonably well to the boundaries of existing residential properties to the north of No's 14-38 Ashby Road, Boundary (NWLDC) and to the south with a linear row of residential properties to the east of Butt Lane, Blackfordby (NWLDC). The site immediately bounds Hepworth Road to the west, which abuts residential properties on Butt Lane, Woodville (SDDC).

In respect of the concerns raised about the merging of the settlements, it is acknowledged that the site would adjoin the settlement boundary of Woodville to the north, whilst adjoining the

most northerly point of the settlement boundary of Blackfordby, to the south. However, it is considered that a suitably designed scheme would be provided which proposes a layout with a landscaping buffer (and not built - residential development) to the south of the site, which would result in both a physical and visual separation.

For the avoidance of doubt the site does not fall within an area designated as an area of separation, under the Saved Policy E21 - Separation of Settlements (of the Adopted Local Plan).

In terms of the concerns raised about the impact upon the countryside, the application site abuts the settlement boundary of Boundary to the north - with Ashby Road, the settlement boundary of Blackfordby to the south and the settlement boundary of Woodville to the north and west. As such, it is considered that the development on this site would be viewed against this backdrop of existing, adjacent built development and therefore, would not appear an isolated development in the countryside.

Therefore having regard to the existing landscaping and the scope for mitigation in the detailed layout, design and landscaping of the scheme, whilst there would be moderate and localised harm to the countryside it is considered that it would be limited and not be so significantly detrimental to justify a reason for refusal based on the proposal resulting in an adverse impact on the character of this locality and the countryside.

### **Sustainability credentials of the site**

In terms of distance to amenities, the Institute of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' details the distance of 800 metres is considered to be the preferred maximum walking distance to a town centre with 400 metres acceptable and 200 metres being desirable.

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

### *Services within South Derbyshire*

The following services are available in Woodville off the A511, measured from the proposed pedestrian connection to the north west of the site:-

- o Shop - 230 metres
- o Convenience Store (Tesco) 615 metres
- o Post Office - 615 metres
- o Pharmacy - 615 metres;
- o Doctors - 920 metres
- o Primary School (Woodville Infant and Woodville C of E Junior School) - 570 metres
- o Secondary School - 1,735 metres

The County Highway Authority (CHA) have also commented upon transport sustainability within this application, stating that the site is within a reasonable walking and cycling distance of many facilities within Woodville and Swadlincote, including an hourly bus service along the A511 within 400 metres of the site and can therefore be considered a sustainable location in transport terms.

The CHA have also confirmed that whilst the westerly bound bus stop to the east of the site does not have a continuous footway linking it to the site, the next bus stop to the west of the site is a similar walking distance and does benefit from a continuous footway.

#### *Services within North West Leicestershire*

The now withdrawn submission version North West Leicestershire Local Plan: Core Strategy did identify Blackfordby as a "sustainable village".

Below are the approximate distances to services within Blackfordby, measured from the access point at Butt Lane:-

- o Recreation Ground - 870 metres
- o Primary School - 1,250 metres
- o Village Hall - 1,280 metres
- o Public Houses - 1,280 - 1,450 metres
- o Chapel 1,320 metres
- o Bus Service - (nearest stop opposite 23 Main Street) - 1,150 metres

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

Having regard to the location of the site, it is considered that residents of the site would have easy access to services and facilities in Woodville by walking, with some reasonable access to facilities in Blackfordby by walking and cycling and reasonable access to facilities that neighbouring settlements (Swadlincote and Norris Hill) have to offer by cycling or by using public transport.

Whilst the services available within Blackfordby are more limited, the site is well related to Woodville and it is considered that accumulatively, with the services within Woodville and Blackfordby, overall there would be a good range of services and facilities, for the occupiers of the proposed dwellings.

#### **Summary: Principle of Development and assessing the previous reason for refusal**

When having regard to the information presented by the applicant in seeking to overcome the previous reason for refusal, the absence of a five year housing supply, no weight to be attributed to Policies S3 and H4/1, the sustainability credentials of the settlement of Woodville and Blackfordby, combined with the fact that the site is well related to existing built development and the Limits to Development, it is considered that a strong case has been made concerning the sustainability of the site.

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

## **Access and Highway Safety**

There is no change to the vehicular access and therefore consideration of this matter remains as per the previous application ref: 15/00306/OUTM. In this respect, the Committee did not include highway safety in the reason for refusal.

All matters are reserved for subsequent approval, except for access. The point of access proposed shows vehicular access from Butt Lane. The County Highways Authority has been consulted on the application and although concerns have been raised by local residents about traffic generation, point of access and highway safety matters, the County Highways Authority has raised no objections (subject to conditions) to the proposed development in respect of highway safety implications.

The CHA confirms that to encourage walking trips the existing footway along Butt Lane should be widened to a minimum of 1.2 metres, where possible and have requested a series of developer contributions, which is discussed later in this report.

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

## **Public Footpaths**

There is no change to the indicative layout and therefore consideration of these matters therefore remains as per the previous application ref: 15/00306/OUTM. In this respect, the Committee did not include the impact upon the existing footpath in the reason for refusal.

Public Footpath P12 runs along the southern periphery of the site. The County Footpaths Officer (CFO) has confirmed that there is no objection to the application as it should not affect the public's use and enjoyment of the Right of Way, subject to adding a note to applicant to make them aware of safety, security, obstructions, surfacing, planting and any proposed diversions or temporary closures.

Whilst layout is not for consideration at this time, from the illustrative layout provided the existing Public Footpath would not be obstructed by any proposed dwellings and it would appear that a diversion would not be required and it is considered acceptable in terms of its impact on the existing Public Footpath. Nevertheless, as layout is not for consideration, it is considered appropriate to impose a note to applicant to inform the applicant of the comments of the CFO for future consideration.

The CHA have also confirmed that in order to provide the most convenient pedestrian and cycle links, Public Footpath P12 should be improved to a 2 metre wide hard surface, the proposed footway link between plot 5 and the Public Footpath should be to an adoptable standards and the link to Hepworth Road to the north of the site should be a shared cycleway/footway to a width of 3 metres. It is considered that conditions shall be imposed to this affect.

## **Density and Design**

For the avoidance of doubt this application is in outline at this stage with details of means of access only included for consideration. Details of an indicative scheme are provided to show how the site could be developed but these are for illustrative purposes only and therefore, are not to be considered in the determination of the application.



There is no change to the density nor the illustrative layout and therefore consideration of these matters therefore remains as per the previous application ref: 15/00306/OUTM. In this respect, the Committee did not include density, or design in the reason for refusal.

The density of 26.7 dwellings per hectare is considered appropriate, having regard to the location of the site, which is currently countryside, and it is not considered that a higher density of development could be achieved on the site, without having detrimental impacts upon the proposal. Therefore, the scheme is considered to be acceptable in relation to the advice contained in the NPPF and Policy H6 of the Adopted Local Plan.

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

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

### **Impact upon Residential Amenity**

For the avoidance of doubt, layout, scale and appearance have not been presented and consideration of these matters therefore remains as per the previous application ref: 15/00306/OUTM. In this respect, the Committee did not include impact upon residential amenity in the reason for refusal.

The impacts upon the occupiers of existing neighbouring dwellings and proposed dwellings would need to be assessed at the reserved matters stage(s); notwithstanding the details shown on the illustrative layout, there would appear to be no reason in principle why up to 91 units could not be provided on the site in a manner which would not adversely impact upon neighbouring residential amenities, in terms of loss of privacy, loss of light or overbearing impact.

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

### **Impact upon Historic Assets**

For the avoidance of doubt, layout, scale and appearance have not been presented and consideration of these matters therefore remains as per the previous application ref: 15/00306/OUTM. The Committee did not include impact upon historic assets within the reason for refusal.

The scheme has been considered by the Council's Conservation Officer who has no observations to make on this application.

Having regard to the distances involved, the relationship between the site and the Conservation Area and the intervening land uses/development, it is not considered that there would be an

adverse affect upon the setting of heritage assets and the development of the site for housing would accord with Sections 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Protected Species/Ecology**

There has been no change in respect of these matters and therefore consideration remains as per the previous application ref: 15/00306/OUTM. In this respect, the Committee did not include impact upon protected species as a reason for refusal.

The application submission has been accompanied by an Ecological Appraisal, Amphibian Survey and Precautionary Method of Works Report which has been considered by the County Ecologist who has confirmed that the land is currently arable, of minor wildlife value and does not require any further mitigation in respect of Great Crested Newts. The County Ecologist raises no objection to the scheme, subject to the imposition of planning conditions.

### **Archaeology**

There has been no change in respect of these matters and therefore consideration remains as per the previous application ref: 15/00306/OUTM. In this respect, the Committee did not include archaeology in the reason for refusal.

The County Archaeologist advises that the site is of archaeological interest and it is recommended that conditions are imposed for an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording.

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

### **Impact upon Trees**

There is no change to the indicative layout and therefore consideration of these matters therefore remains as per the previous application ref: 15/00306/OUTM. In this respect, the Committee did not include impact upon the trees in the reason for refusal.

An Arboricultural Report accompanies this application submission. The Council's Tree Officer has been consulted on the application and considers that there should be no significant impact on trees, if the Arboricultural Report is followed. The Council's Tree Officer states that the root protection area radii have not been specified, the root protection areas are vague, the use of fastigiated tree varieties should be specified in front gardens and a focal tree should be shown at the junction in front of plot 22. As neither layout nor landscaping are for consideration at this stage, it is not possible to state whether a plot would be positioned within a root protection area or where proposed planting will be undertaken, as this will be determined at the reserved matter stage(s).

### **Coal Mining and Land Contamination**

There has been no change in respect of these matters and therefore consideration remains as per the previous application ref: 15/00306/OUTM.

The site lies within the Coal Authorities' 'Development High Risk Area' and the Coal Authority

has been consulted on the application and concurs with the recommendations of the Geotechnical and Geo-environmental Desk Study and requires further investigation and any necessary mitigation measures, to be undertaken prior to development commencing.

The Council's Environmental Protection Team have raised no objections to the development with regards to ground contamination or land instability, subject to conditions.

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

### **Drainage and Flood Risk**

There has been no change in respect of these matters and therefore consideration remains as per the previous application ref: 15/00306/OUTM. In this respect, the Committee did not include flood risk in the reason for refusal.

The application has been accompanied by a Flood Risk Assessment (FRA). The Lead Local Flood Authority have confirmed that the scheme is acceptable subject to the imposition of conditions for a surface water drainage scheme and the scheme to be undertaken in accordance with the specified discharge rate, contained within the FRA. Conditions to this affect are recommended to be imposed.

### **Impact on the River Mease Special Area of Conservation/SSSI**

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS is considered to meet the three tests of Paragraph 204 of the NPPF.

When having regard to the existing agricultural use of the site, the proposal for 91 dwellings would increase the foul drainage discharge from the site and as such it is subject to the requirements of the DCS. The contribution is provided later on in the report, under the heading "Developer Contributions".

The flows from the new dwellings will need to be taken into account against the existing headroom capacity (recently revised) at Packington Treatment Works, which serves Blackfordby. At the time of writing sufficient capacity exists for 1,871 dwellings.

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

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

## Developer Contributions

For the avoidance of doubt, there was previously no objection to the proposal on the grounds of impact upon Woodville, or upon its services which fall under the jurisdiction of South Derbyshire or Derbyshire County Council. Within this application, new financial requests have been received from Derbyshire County Council Highways department and from the NHS (Southern Derbyshire Clinical Commissioning Group) which are discussed below in more detail.

Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:

- o necessary to make the proposed development acceptable in planning terms;
- o directly related to the proposed development; and
- o fairly and reasonably related in scale and kind to the proposed development.

Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.

### *Affordable Housing*

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

The Council's Strategic Housing Team have requested the split to be 79% rented and 21% intermediate housing, with the unit types which would equate to 22 affordable rented and 6 intermediate types, and is satisfied with the mix proposed.

The Council's Housing Team welcome the approach to provide all affordable properties on site and confirm that their preferred position is to seek delivery on site through a Registered Provider. However, the Housing Team has indicated that recently there have been situations whereby Registered Providers have been un-able to make offers for such properties and therefore Planning Committee should be made aware that in the event that there are not any firm offers, a cascade approach would be employed, to ensure an affordable housing contribution is received.

### *Education*

Leicestershire County Council (Education) request a contribution of £249,723.57 for the primary school sector, for St. Margaret's C of E Primary School; a contribution of £153,735.06 for the high school sector, for Ivanhoe College and a contribution of £157,854.38 for the upper school sector, for Ashby School.

South Derbyshire District Council have confirmed that where a contribution cannot be sought or justified at St. Margaret's C of E Primary School in Blackfordby, that discussions with Derbyshire County Council should be undertaken.

Consideration has also been given to the potential impacts upon Derbyshire County Council's schools, given the proximity of the site to schools within South Derbyshire and officers have undertaken discussions with the Education contacts at both Leicestershire and Derbyshire County Councils. Leicestershire County Council have confirmed that they are un-able to take into account any primary or secondary schools, within any other County (even in cases where

they may be closer) as they have no information on the capacity, number on roll, forecasts, admission arrangement or housing developments in other Counties and have no jurisdiction over the allocation of places at schools in other Counties. For the avoidance of doubt, Derbyshire do not include places in Leicestershire schools for the same reasons. The County Councils have also confirmed that any parent has the right to request a place at any school which may be in another Authority or in a different catchment, however, that preference can only be agreed if spaces are available. As such financial contributions have only been sought by Leicestershire County Council for the schools that fall within Leicestershire and in this case the District of North West Leicestershire.

The County Highway Authority (CHA) have confirmed that the closest primary school in the catchment area is St. Margaret's C of E Primary School, in Blackfordby, which is about 1 mile from the site, and the closest Secondary school in the catchment is 2.8 - 3 miles away. The CHA have confirmed that all schools are within a walking distance and that there exist safe walking routes from the site to both schools. The CHA does however request that to encourage walking trips the existing footway along Butt Lane should be widening to a minimum of 1.2 metres, where possible, and a condition to this affect is recommended to be imposed.

### *Health*

NHS England have requested a contribution of £17,346 towards the development of a new GP surgery in Woodville, to provide patient space, to meet the demands of the patients, arising from this development.

### *Highways*

Leicestershire County Council (Highways) request:-

- o Travel Packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area (can be supplied by LCC at £52.85 per pack).
- o Six-month bus passes, two per dwelling (2 application forms to be included in Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other than the car
- o Improvements to the nearest bus stop, including raised and dropped kerbs to allow level access, to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
- o Bus shelters at the nearest bus stops (east bound stop to the east of the site) at £4908.00.
- o A monitoring fee of £6,000 to enable Leicestershire County Council to provide support to the developers Travel Plan Co-ordinator, audit annual Travel Plan performance reports to ensure Travel Plan outcomes are being achieved and for it to take responsibility for any necessitated planning enforcement.

Derbyshire County Highway Authority raises concerns over cross boundary traffic impacts, particularly the proposed traffic impact upon the A511/A514/B5004 "Clock" roundabout at Woodville and have therefore requested a contribution of £53,158.56 (based upon £584.16 per dwelling) towards works specifically at the junction or by the early implementation of the Swadlincote Regeneration Route, to mitigate this impact. South Derbyshire District Council also considers that a contribution should be sought to mitigate the impacts upon the local highway network. This applicant is agreeable to making this contribution.

*Libraries*

Leicestershire County Council (Libraries) request £2,670 towards additional resources at Ashby de-la Zouch Library.

*National Forest*

The National Forest Company require 20% of the site area to be for woodland planting and landscaping, which equates to a requirement of 0.68 hectares. Whilst the application submission indicates that the development site could accommodate 0.74 hectares of public open space, which is in excess of the requirement, the S106 Agreement would only specify the policy requirement of 0.68 hectares.

*Play Area/Open Space*

Under the Council's Play Area SPG, on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 91 dwellings are proposed, this would require a play area of not less than 1820 square metres. The indicative masterplan shows that provision is proposed to be made for open space within the site, including a naturalist play space and it is considered that whilst layout is not for consideration, a suitable sized children's equipped play area could be provided at the reserved matters stage(s). Therefore, the proposal is considered to be in accordance with Local Plan Policy L21 and the SPG. In terms of the range of equipment necessary, for developments of this number of dwellings, the Council's SPG requires that the needs of children up to the age of 14 should be provided for, including a minimum of 8 types of activity.

*Police*

Leicestershire Police requests a developer contribution of £33,833 comprising of the following:-

Staff equipment	£3,703
Vehicles	£2,313
Additional radio call capacity	£232
Police National Database additions	£118
Additional call handling	£212
ANPR	£2,055
Mobile CCTV	£375
Additional premises	£24,643
Hub equipment	£182

With regard to the acceptability of police contributions, the issue is not one of principle. Furthermore, officers and representatives of Leicestershire Police have, in recent months, engaged in dialogue with a view to addressing ongoing officer concerns regarding CIL compliance of the requests. This has resulted in provision of additional / updated evidencing of contribution requests which, when considered in the context of the views taken by the majority of (but not all) Inspectors in recent appeal decisions within Leicestershire, leads officers to conclude that, on balance, the above requests would meet the tests in CIL Regulation 122 and NPPF paragraph 204.

*River Mease DCS*

A contribution under the River Mease DCS is required (as outlined earlier in the report) but an exact figure for the contribution cannot be determined at this stage (although the maximum amount would be £32,214 - assuming all properties were 4 beds and constructed to the lowest

code or equivalent of 1/2) as the number of bedrooms in each dwelling would not be finalised until the reserved matters stage(s).

#### *Other*

Leicestershire County Council (Civic Amenity) have confirmed that they are not requesting a contribution.

In response to the comments raised by SDDC in respect of the leisure and recreation facilities, the information presented would fail to meet the tests and therefore a contribution cannot be justified.

#### *Summary*

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

- o Affordable Housing (30% on site)
- o Education (£561,313.01 to North West Leicestershire)
- o Health NHS England (£17,346 to Woodville)
- o Highways/Transport (Travel Packs, Bus Passes, Bus Stop Improvements, and Bus Shelter to North West Leicestershire and £53,158.56 to the Clock Island, Woodville).
- o Libraries (£2,670 to North West Leicestershire)
- o National Forest (on site planting and/or contribution)
- o Play and Open Space (on-site)
- o Police (£33,833)
- o River Mease DCS

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

In respect of affordable housing, River Mease DCS and National Forest planting these are specific requirements and requests, arising as a result of this development and therefore no previous requests for the same project, have been requested previously.

In recognition of pooling limitations applicable to financial contributions secured by planning obligations, NHS England have confirmed that their have been no previous requests for the GP surgery at Woodville.

Leicestershire County Council have confirmed that there have not been more than five obligations (including this proposed) have been sought for the Education requests. It is therefore considered that no issues arise in respect of pooling (insofar as the limitations on pooled contributions as set out within the CIL Regulations are concerned).

#### **Other Matters**

An application was refused in 1984 (ref: 84/0675/P) for outline residential development. The District Plan and approved Structure Plan have subsequently been replaced since 1984 and as

such carry no weight in the determination of this application. Furthermore, the County Highway Authority have considered this scheme and do not consider that there is any reason to sustain a highway objection.

### **Letters of Representation**

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

- o Layout (including layout of affordable properties) and landscaping are not for consideration at this time.
- o A right to a view and de-valuation of property prices are not material planning considerations.

### **Conclusion**

When having regard to the information presented by the applicant in seeking to overcome the previous reason for refusal, the absence of a five year housing supply, the limited weight to be attributed to Policies S3 and H4/1 (in light of the recent Greenhill Road appeal decision) the sustainability credentials of the settlement of Woodville and Blackfordby, combined with the fact that the site is well related to existing built development and the Limits to Development, it is considered that a strong case has been made concerning the sustainability of the site.

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

The proposed development would be acceptable in terms of density, design, impact upon heritage assets, trees, residential amenities, highway safety, coal mining and land contamination, flood risk and drainage, ecological impacts and impact on the River Mease SAC/SSSI and no other technical issues are considered to arise. Consideration has been given to the cross boundary implications, given the proximity of the site to Woodville (South Derbyshire). Appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities/services (in both North West Leicestershire and South Derbyshire), including the full provision of on-site affordable dwellings. There are no other relevant material planning considerations that indicate planning permission should not be granted.

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

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

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



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

*Reason - This permission is in outline only.*

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

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

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

*Reason - To ensure that the development of the site takes place in a consistent and comprehensive manner.*

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

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

- 6 The first reserved matters application in respect of the matter of layout shall provide for:-
- a) The submission of a scheme of intrusive site investigations for the shallow coal workings and mine entries for approval and the undertaking of these intrusive site investigations
  - b) The submission of a report of findings from these intrusive site investigations
  - c) The submission of a layout plan which identifies appropriate zones of influence for the mine entries, and the definition of suitable 'no build' zones, if required
  - d) The submission of a treatment for the mine entries on site for approval, if required
  - e) The submission of a scheme of remedial works for the shallow coal workings for approval.

The development shall thereafter be implemented in accordance with the approved details prior to the commencement of development.

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

- 7 The proposed development shall be carried out strictly in accordance with the following drawings, unless otherwise required by a condition of this permission: Location Plan Drawing No. 40180/001 A received by the Authority on 26 November 2015.

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

8 A total of no more than 91 dwellings shall be erected.

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

9 No demolition/development shall take place/commence until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:

- a) The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)
- b) The programme for post-investigation assessment
- c) Provision to be made for analysis of the site investigation and recording
- d) Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e) Provision to be made for archive deposition of the analysis and records of the site investigation
- f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

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

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

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

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

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

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

12 No development shall commence on site until details of the design:-

- a) for off-site highway works being widening of the existing footway on Butt Lane south of the site and north of the junction with Forest Road to 1.2m wide (where achievable)
- b) of Public Footpath P12 west of the new access road showing a 2m wide tarmacadam (or similar hard bound materials) surface
- c) of a shared cycleway/footway 3m wide to an adoptable standard, to connect the site to the existing shared cycleway/footway on the A511

have first been submitted to and approved in writing by the Local Planning Authority.

Schemes a) and b) shall be implemented in accordance with the approved details prior to the first occupation of any dwelling. Scheme c) shall be implemented in accordance with the approved details prior to the first occupation of the 26th dwelling.

*Reasons - To ensure a safe and convenient walking route is available to the primary school in Blackfordby and to bus stops and services in Woodville and Swadlincote and to ensure a safe and convenient walking and cycling route is available to bus stops and services in Woodville and Swadlincote.*

- 13 Notwithstanding the submitted details, no development shall commence until a revised vehicle access road has first been submitted to and approved in writing by the Local Planning Authority. The access shall be implemented in accordance with the approved details prior to the first occupation of any dwelling.

*Reason - To ensure adequate inter-visibility between pedestrians crossing the access road and vehicles turning left out of the access.*

- 14 Prior to the first occupation of any dwelling, visibility splays of 2.4 metres by 43 metres shall be provided at the junction of the access with Butt Lane. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

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

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

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

- 16 No part of the development as approved shall be brought into use until details of a Residential Travel Plan has first been submitted to and agreed in writing by the Local Planning Authority and thereafter implemented and retained in accordance with the approved details.

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

- 17 No development shall commence until a scheme for surface water drainage has been first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:-
- a) The utilisation of holding sustainable drainage techniques with the incorporation of two treatment trains to help improve water quality;
  - 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 the drainage calculations; and
  - d) The responsibility for the future maintenance of drainage features

The scheme shall be implemented and maintained in accordance with the agreed details and timetable, unless subsequently timing and phasing arrangements are agreed in writing by the Local Planning Authority.

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

- 18 The discharge rate for the proposed site should be based on the Qbar calculation contained within the Flood Risk Assessment 1.8 l/s/ha (6.6 l/s for the current proposal) and not the 5 l/s/ha estimate.

*Reason - To prevent flooding by ensuring that there is no increased discharge from the proposed development.*

- 19 No development shall commence until drainage plans for the disposal of foul drainage have first been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

*Reason - To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.*

- 20 No development shall commence on site until a Further Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- a) BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
  - b) BS 8576 Year 2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs)
  - c) BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from

- d) Ground Gas in Affected Developments; and  
CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

- e) CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.  
f) The Verification Plan shall be prepared in accordance with the requirements of:  
g) Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;  
h) CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

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

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

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

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

- 22 No site works of any description shall take place on the site until such time as the existing trees to be retained have been securely fenced off in accordance with a scheme that has first been submitted to and agreed in writing with the Local Planning Authority. Within the fenced off areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and any service trenches shall be dug and back-filled by hand, unless any alteration is first agreed in writing by the Local Planning Authority.

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

- 23 The development hereby permitted shall be carried out in strict accordance with and including the recommendations contained within the 'Noise Assessment' by Acute Acoustics Ltd dated 14 April 2015 received by the Local Planning Authority on 26 November 2015.

*Reason - In the interests of residential amenity.*

- 24 The development hereby permitted shall be carried out in strict accordance with precautionary working methods for Great Crested Newts as set out in the 'Preliminary Ecological Appraisal' by Ramm Sanderson Ref: RSE-012-01-V1 dated 25 September 2014 received by the Local Planning Authority on 26 November 2015.

*Reason - In the interests of protected species on the site.*

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

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

### **Notes to applicant**

- 1 In relation to Condition 11, the Local Planning Authority would expect the biodiversity management plan to specify the retention of hedgerows and include buffer zones of at least 5m from natural vegetation along the boundaries of the site except for the proposed vehicular access point.
- 2 The applicant's attention is drawn to the attached comments of The Coal Authority dated 16 December 2015.
- 3 The applicant's attention is drawn to the attached comments of Leicestershire County Council Lead Local Flood Authority Officer dated 7 December 2015.
- 4 The applicant's attention is drawn to the attached comments of The Council's Tree Officer dated 14 January 2016.
- 5 The applicant's attention is drawn to the attached comments of Leicestershire County Council Footpaths Officer dated 1 December 2015. The applicant should be aware that, if any of the public footpaths crossing the site are to be diverted because the

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

- 6 The applicant's attention is drawn to the attached comments of Leicestershire County Council Highways Authority Officer dated 13 January 2016.