

Erection of 28 dwellings together with public open space,  
national forest planting, landscaping, drainage infrastructure  
and vehicular access

Report Item No  
A1

Land At Loughborough Road Whitwick Coalville  
Leicestershire LE67 5AQ

Application Reference  
16/00070/FULM

Applicant:  
Gayle And Philip Baker And Verity Cave

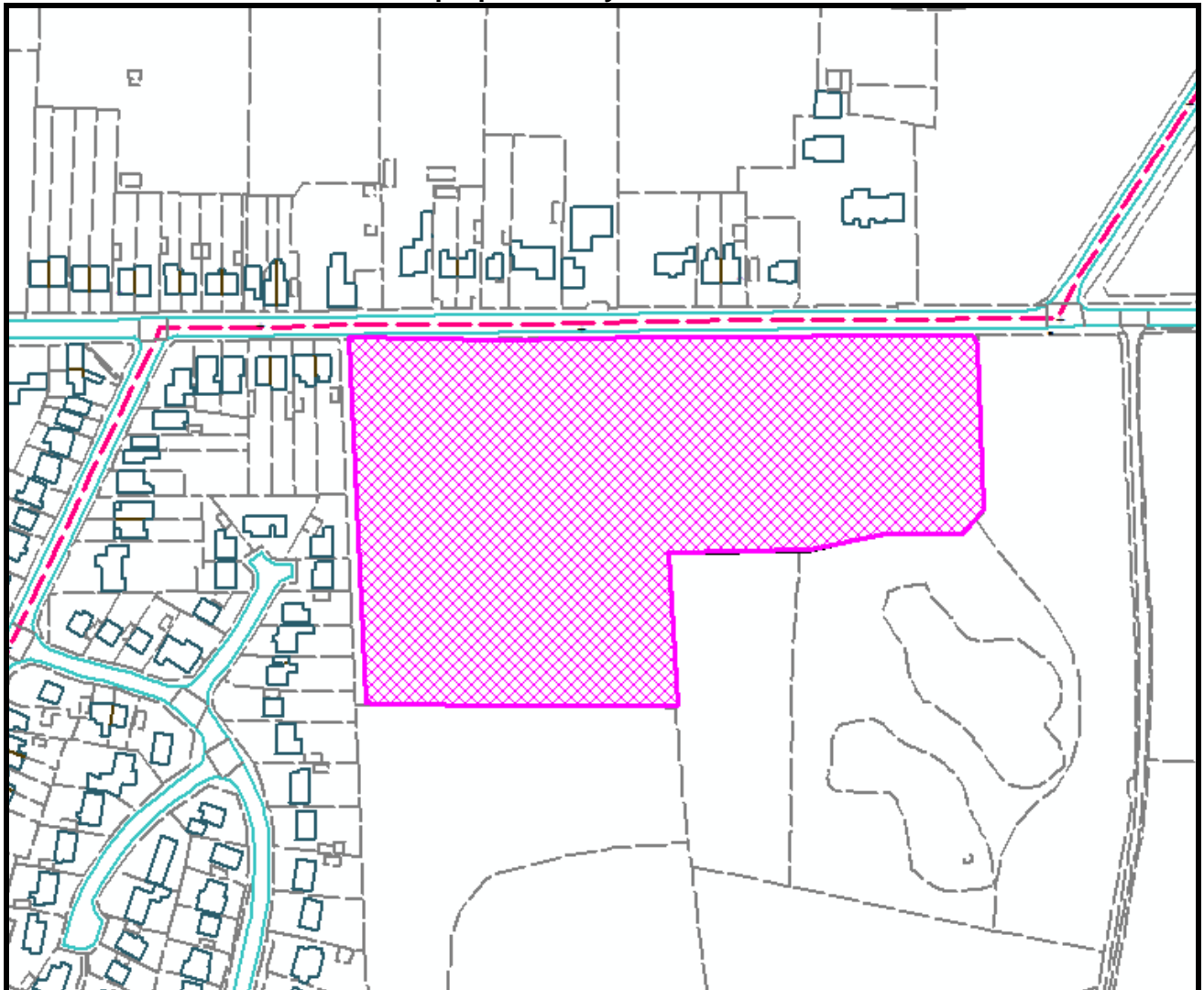
Date Registered  
18 January 2016

Case Officer:  
James Mattley

Target Decision Date  
18 April 2016

Recommendation:  
REFUSE

Site Location - Plan for indicative purposes only



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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **Proposal**

Planning permission is sought for the erection of 28 dwellings together with public open space, national forest planting, landscaping, drainage infrastructure and vehicular access at Loughborough Road, Whitwick.

### **Consultations**

Members will see from the report below that a significant number of objections have been received from surrounding neighbours, Whitwick Parish Council and Leicestershire and Rutland Wildlife Trust but no objections have been received from any other statutory consultees. The application has also resulted in some letters of support.

### **Planning Policy**

The application site lies outside the Limits to Development and in an area designated as an Area of Particularly Attractive Countryside. However, also material to the determination of the application is the supply of housing in the context of the National Planning Policy Framework (NPPF) and whether the scheme represents sustainable development.

### **Conclusion**

As set out in the main report, the site is outside Limits to Development as defined in the adopted Local Plan and constitutes greenfield land. The site is located in an Area of Particularly Attractive Countryside and is also identified as being in the countryside in the Council's draft Local Plan. Lying outside the limits to development, in both the adopted Local Plan and the draft local plan, the development would not be in accordance with these plans. The site is located adjacent to the existing settlement and it is considered that the scheme would have some level of accessibility to local services. However, at the current time, the District Council is unable to demonstrate a five year housing land supply, although it is anticipated that this position will change once the proposed publication version of the Local Plan is considered by Council on 28<sup>th</sup> June 2016. Whilst it is accepted that there are some social and economic benefits associated with the development, on balance, when taking into account the impacts of developing a particularly attractive greenfield site in a highly visible location at the semi-rural entrance to the settlement, the view is taken that the proposed development would result in significant environmental harm, which is not outweighed by the lack of a demonstrated five year housing land supply. Overall the proposal would not represent sustainable development, contrary to the policies and intentions of the NPPF.

Therefore, it is recommended that the application be refused for these reasons.

## **RECOMMENDATION:- REFUSE**

**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, the Officer's assessment and recommended conditions, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of 28 dwellings, together with public open space, national forest planting, landscaping, drainage, infrastructure and vehicular access off Loughborough Road, Land Adjacent to 86, Loughborough Road, Whitwick, Leicestershire. The application site, which measures 2.58 ha is 'L' shaped and is located to the south of Loughborough Road. The site is maintained as a privately owned pasture that is part used for grazing horses. The site is located outside of the Limits to Development and also within an Area of Particularly Attractive Countryside as defined by the adopted North West Leicestershire Local Plan.

This application forms a re-submission of a previously refused application for the erection of 28 dwellings. That application, which is nearly identical to the one now been considered, had a reference number of 14/00916/FULM and was refused in October 2015 under delegated powers for the following reason:

*In addition to being located outside of the Limits to Development as defined in the adopted North West Leicestershire Local Plan, the site also falls within an Area of Particularly Attractive Countryside. Policy E22 of the adopted North West Leicestershire Local Plan presumes against development within Areas of Particularly Attractive Countryside which would, amongst others, adversely affect or diminish their present open character. By virtue of the site's development for housing, the present open character of that part of the Area of Particularly Attractive Countryside forming the application site would inevitably be diminished, to the detriment of this part of the Area of Particularly Attractive Countryside and the character of the Area as a whole. In terms of the environmental strand of sustainable development the scheme is considered to result in significant harm and overall would not represent sustainable development, contrary to the policies and intentions of the NPPF and Policy E22 of the North West Leicestershire Local Plan.*

The scheme proposes 3 x 1 bed dwellings, 2 x 2 bed dwellings, 2 x 3 bed dwellings, 17 x 4 bed dwellings and 4 x 5 bed dwellings. Plots 4-8 would be provided as affordable dwellings. The eastern field that makes up the application site would not be built upon and would be used as informal open space.

Access to the site would be formed from a new vehicular access off Loughborough Road.

The application is accompanied by a design and access statement, planning statement, statement of community involvement, affordable housing statement, transport assessment, flood risk assessment, landscape and visual assessment, tree survey and report, phase 1 habitat survey and protected species report, archaeological desk based assessment and housing character assessment, views and vistas plan.

The application is also accompanied by a letter from Jeremy Cahill QC which sets out the relevant planning issues and concludes that the proposed scheme constitutes sustainable development and should be approved without delay.

Relevant Planning History:

05/01686/FUL - Change of use of land for keeping of horses and the erection of a stable and menage - refused.

06/01960/FUL - Change of use of land for keeping of horses and the erection of a stable and menage - refused.

14/00916/FULM - Erection of 28 dwellings, together with public open space, national forest planting, landscaping, drainage, infrastructure and vehicular access off Loughborough Road - refused.

## **2. Publicity**

62 neighbours have been notified (Date of last notification 21 January 2016)

Site Notice displayed 21 January 2016

Press Notice published 27 January 2016

## **3. Consultations**

Whitwick Community Office, consulted 21 January 2016

Head of Environmental Protection

County Highway Authority

Environment Agency

Severn Trent Water Limited

Natural England-

NWLDC Tree Officer

County Archaeologist

LCC ecology

NWLDC Urban Designer

National Forest Company

LCC Development Contributions

NHS Leicester, Leicestershire And Rutland Facilities Management

Manager Of Housing North West Leicestershire District Council

Police Architectural Liaison Officer

LCC Flood Management

Head of Street Management North West Leicestershire District Council

## **4. Summary of Representations Received**

### **Statutory Consultees**

**Whitwick Parish Council** object to the application on grounds of unsustainability, unsuitable housing mix, outside Limits to Development, contrary to planning policies in respect of areas of particularly attractive countryside, highway safety, lack of public transport, increased flooding risks, detrimental to air quality and lack of adequate public service infrastructure. The Parish Council have indicated that if planning permission were to be granted that traffic calming should be included, that the existing 30mph speed limit is extended and that green buffer zones are transferred into public ownership in order to guarantee against further expansion.

**Environment Agency** does not wish to comment and advises the Local Planning Authority to consider any comments made by the Lead Local Flood Authority.

**Leicestershire and Rutland Wildlife Trust** objects to the application.

**Leicestershire County Archaeologist** does not consider that any archaeological work is required as part of the scheme.

**Leicestershire County Civic Amenity Team** requests a developer contribution of £1,831.

**Leicestershire County Ecologist** has no objections to the proposal subject to the inclusion of conditions in respect of habitat protection and protected species.

**Leicestershire County Education Department** requests a developer contribution of £44,690.43.

**Leicestershire County Highway Authority** raises no objection to the scheme subject to the inclusion of relevant planning conditions and obligations.

**Leicestershire County Library Service Team** requests a developer contribution of £800.

**Leicestershire Lead Local Flood Authority (LLFA)** originally objected to the proposed scheme as the Flood Risk Assessment did not assess the greenfield runoff rate and further ground investigation works and modelling were required. Following the submission of an amended Flood Risk Assessment the LLFA now consider that the proposed scheme is acceptable subject to the inclusion of relevant planning conditions.

**National Forest Company** raises no objection to the proposed scheme subject to the inclusion of landscaping conditions and a suitable management plan for the whole site.

**Natural England** has no objections to the proposed scheme although notes to applicant are provided.

**NHS England** has not responded at the time of writing this report.

**North West Leicestershire Contaminated Land Officer** raises no objection subject to the inclusion of relevant planning conditions.

**North West Leicestershire Environmental Protection Section** has no environmental observations to make regarding the scheme.

**Severn Trent Water** has no objection to the proposal subject to the imposition of conditions.

### **Third Party Representations**

A total of 19 letters of support have been received raising the following points:

- Housing would blend in given the amount of landscaping proposed;
- Small scale and low density of the development would be acceptable;
- There has been significant local interest in the proposed houses;
- More housing is required in the local area;
- Site is located in a good location;
- Access would be acceptable;
- Would represent controlled growth of Whitwick;
- Sustainable location near to local schools;
- Would allow existing residents of Whitwick to stay in the village rather than move out;

- Will bring more money into the local economy.

A total of 28 individual letters of objection have been received raising the following points:

- Previous objections still apply as there has been no change;
- The proposal would not constitute sustainable development;
- There is no local bus service and shops in the surrounding area;
- Impact of the proposal upon the APAC;
- There is a sufficient level of housing and this proposal is not needed;
- Highway safety issues;
- Increased congestion;
- Limited industry in Whitwick means that people commute using cars;
- Brownfield sites should be developed;
- Flooding and drainage concerns;
- Impact upon ecology and protected species;
- Lack of infrastructure in the surrounding area;
- Site is outside the Limits to Development;
- Inappropriate housing mix;
- Would set a precedent for further unacceptable development;
- Previous proposals on the site have been refused;
- Private views across the land would be lost;
- Ecology survey is out of date;
- Overlooking issues.

703 letters of representation have been received from local residents and visitors from further afield. The representations have been received on a number of different types of pro forma letters: 388 of one letter; 2 of another; 83 of another and 230 of another. All representations are objections to the proposal, and the concerns raised can be summarised as follows:

- The Council previously refused a residential development on the site and urges a similar stance on this application;
- Development should not be considered until the new local plan is adopted;
- Development would impact upon the APAC and The National Forest;
- Application site is not located in a sustainable location;
- Surrounding roads are congested and proposal would be unsafe;
- There is no bus route and local people rely extensively on the motor car;
- Loss of openness and visual and landscape impact of the proposal;
- Derelict sites should be developed first;
- Would contravene policies E1 and E22 of the adopted Local Plan;
- There is sufficient housing in the local area;
- Increased risk of flooding;
- Lack of social infrastructure;
- Would not address the national affordable housing crisis.

## **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 adopted 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 17 (Core planning principles)  
Paragraph 28 (Supporting a prosperous rural economy)  
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 60 (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 109 (Conserving and enhancing the natural environment)  
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 124 (Conserving and enhancing the natural 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 Limits to Development as defined in the adopted Local Plan. The following Local Plan policies are relevant to this application:

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 E22 - Areas of Particularly Attractive Countryside  
Policy F1 - National Forest General Policy  
Policy F2 - National Forest Tree Planting  
Policy F3 - National Forest Landscaping and Planting  
Policy T3 - Highway Standards  
Policy T8 - Parking  
Policy H4/1 - Housing Land Release  
Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy H8 - Affordable Housing  
Policy L21 - Children's Play Areas

## **Other Policies**

### **North West Leicestershire District Council Affordable Housing SPD**

Key Principle AH2 provides that affordable housing will be sought on all sites of 15 or more dwellings in the Greater Coalville Area.

Key Principle AH3 requires a minimum of 20% of residential units to be available as affordable housing within the Greater Coalville area.

### **North West Leicestershire District Council Play Area Design 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.

### **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, as the proposed publication version of the Local Plan is to be considered by Council on 28th June with a view to its submission for examination in September, more weight can now 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

H4 - Affordable Housing

H6 - House types and mix

IF1 - Development and Infrastructure

IF4 - Transport Infrastructure and new development

IF7 - Parking provision and new development

En1 - Nature Conservation

En3 - The National Forest

En4 - Charnwood Forest

Cc2 - Sustainable design and construction

Cc3 - Flood risk

Cc4 - Sustainable Drainage Systems

## **6. Assessment**

### **Principle of Development**

Insofar as the principle of development is concerned, and in accordance with the provisions of 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)).

With regards to the application site it is noted that it lies outside the defined Limits to Development with residential dwellings not being a form of development permitted by Policy S3 of the adopted Local Plan. The site is also within an Area of Particularly Attractive Countryside, as highlighted under Policy E22 of the adopted Local Plan, which is considered to represent the most significant and important rural landscape locally.



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 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 constrain housing supply, such as S3, H4/1 and E22, must be considered to be out of date, and the weight afforded to them when determining planning applications should be reduced accordingly. The NPPF includes a clear presumption in favour of sustainable development, which taken together with the current inability to demonstrate a five year supply, indicates that planning permission for new homes should normally be granted in sustainable locations.

It is also important to bear in mind that the Limits to Development, as defined in the adopted Local Plan, were drawn having regard to housing requirements only up until the end of that Plan Period (i.e. to 2006). It is therefore considered inevitable that greenfield land will need to be released to maintain a five year supply of deliverable sites, as well as (as in this case) land not allocated for housing development in the adopted Local Plan. In this respect it is acknowledged that the site borders the Limits to Development.

In addition, notwithstanding the principles contained in Paragraph 17 of the NPPF which highlights the need to recognise the intrinsic character and beauty of the countryside, the NPPF's provisions 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. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set below.

With regards to the sustainability credentials of the site, Policy H4/1 of the Local Plan relating to the release of land for housing states that a sequential approach should be adopted. Whilst a sequential approach is outdated in the context of the NPPF (and Policy H4/1 could not be relied upon as an up to date policy given the lack of a 5 year supply of housing), the sustainability credentials of the scheme would still need to be assessed against the NPPF.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF at paragraph 39. In terms of accessibility generally, it is accepted that the site is located within Greater Coalville although the actual application site is located on the edge of the settlement of Whitwick and any non-vehicular trips to services in Whitwick and the wider area would involve navigating significant gradients on Loughborough Road and/or Parsonwood Hill. It is also noted that there is no regular bus service operating in the immediate area with the nearest bus stop only providing a Demand Responsive Transport Service on Mondays to Wednesdays and a limited bus service on Thursdays to Saturday. These services do not operate at late hours or at all on Sundays.

The proposal would result in a development in which residents would be fairly dependant on their cars and where opportunities for non-car modes would be limited. However, the wider sustainability credentials of Whitwick and Greater Coalville are noted and this would ensure that the length of trips for many purposes would be limited. Overall, the accessibility of the application site is not considered to be so severe as to warrant a refusal of the application on this matter alone. It is also noted that the previous planning application on the site and a residential application over the road (14/00219/FUL) was not refused on sustainability grounds.

Having regard to the three dimensions of sustainable development, it is accepted that the

development has the potential to make a positive contribution to the economic dimension by virtue of the growth associated with the proposed development. Socially the development would benefit from the provision of 28 dwellings which would include five affordable properties with a mix of 1, 2, 3, 4 and 5 bedroom properties being supported and contributing to the housing needs of different groups in the community. Subject to the inclusion of appropriate contributions to local services as detailed below and the inclusion of affordable housing, the scheme has the potential to sit well in terms of the economic and social dimensions.

From an environmental sustainability point of view it is noted that the site is located within an Area of Particularly Attractive Countryside (APAC) which the adopted Local Plan confirms is considered to represent the most significant and important rural landscape area locally. This designation is subject to saved Policy E22 which states the following:-

*"Development will not be permitted which would adversely affect or diminish the present open character and attractive rural landscape and/or be detrimental to natural habitats and scientific interest of the following Areas of Particularly Countryside, identified on the Proposals Map:*

- (a) Land to the east of Greenhill, Thringstone, Whitwick and Worthington, including part of Charnwood Forest;*
- (b) Land in the vicinity of Staunton Harold; and*
- (c) Land at Gospall's Wharf, Snarestone.*

*Built development will be permitted only where it is appropriate to the established character of the designated area in terms of scale, siting, detailed design and materials of construction.*

*In addition the District Council will seek to:*

- (a) Undertake or encourage measures to protect and enhance the landscape, wildlife, habitat, archaeological and scientific interest of the designated area, including planting, nature conservation measures and the provision of nature interpretation and appreciation facilities;*
- (b) Secure the positive management of land within the designated areas to enhance and maintain its wildlife habitat and features of scientific and archaeological interest;*
- (c) Protect and conserve particular features which contribute to the special character of the designated areas, such as dry stone walls in the Charnwood Forest."*

In many respects this policy would be supported by the principles of Paragraph 17 of the NPPF and the ministerial letter from Brandon Lewis of the 27th March 2015 urging Inspectors to protect the intrinsic beauty of the countryside.

When the Local Planning Authority considered the previous application on the site in October 2015 it was considered that the scheme would adversely affect and diminish the present open character and attractive rural landscape in this area which would not be in accordance with Policy E22 of the adopted Local Plan. However, in the Greenhill Road appeal decision the Inspector concluded that Policy E22 of the adopted Local Plan was out of date due to it not being consistent with Paragraphs 109 and 113 of the NPPF. In addition, a more recent Court of Appeal Judgement (Richborough Estates v Cheshire East Borough Council & Secretary of State) has concluded that those environmental policies which seek to resist the delivery of housing should not be considered up-to-date if the Council cannot demonstrate a five-year supply of housing sites (which on the basis of the Greenhill Road appeal decision the Council cannot at this present time) as they would be inconsistent with the aims of Paragraph 49 of the NPPF (albeit it is acknowledged that this decision is currently subject of a challenge to the

Supreme Court). On the basis of the Greenhill Road appeal decision and the Court of Appeal Judgement, full weight cannot be attributed to Policy E22 of the adopted Local Plan.

Paragraph 17 of the NPPF highlights that planning decisions should seek to "*recognise the intrinsic character and beauty of the countryside.*" The environmental role should also contribute to protecting and enhancing our natural, built and historic environment; and, as part of this, help to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

In terms of the built development being proposed, the landscape and visual impacts are dealt with in more detail below, although it is considered that the site makes a positive contribution to the character and appearance of the countryside and the surrounding landscape. The proposed development would urbanise the site and result in the loss of this area of countryside. It is clear that the development would result in a significant physical intrusion into the rural environment and would not be in keeping with the character and appearance of the surrounding area.

The resulting environmental harm from these impacts would significantly and demonstrably outweigh the social and economic benefits. Accordingly, the proposal cannot be considered to represent sustainable development and, therefore, the application is not considered to be acceptable in relation to the NPPF.

### Detailed Issues

In addition to the issues of the principle of development, consideration of other issues relevant to the application is set out in more detail below.

### Landscape and Visual Impact

A Landscape Visual Impact Assessment (LVIA) has been submitted in respect of both the previous and current planning application on the site. . The LVIA considers the site's context in relation to surrounding development / landscape, and considers the impact upon a total of 14 viewpoints within the vicinity of the application site. In terms of the impacts upon these 14 viewpoints, the assessment indicates the following:

View	Magnitude of Change	Level of Impact	Impact after Landscape Proposals
1 (Loughborough Road - east)	Low	Adverse effect of minor significance	Adverse impact of minimal significance
2 (Loughborough Road - east)	High	Adverse effect of major significance	Adverse impact of moderate significance
3 (Loughborough Road - east)	High	Adverse effect of major significance	Adverse impact of moderate significance
4 (Loughborough Road - west)	High	Adverse effect of major significance	Adverse impact of moderate significance
5 (Loughborough Road - west)	Medium to Low	Adverse effect of moderate significance	Adverse impact of minor significance
6 (King Richard's Hill)	Low	Adverse effect of minor significance	Adverse impact of minimal significance
7 (Eastern boundary of site)	Moderate	Adverse effect of major significance	Adverse impact of moderate significance
8 (South of site)	Medium	Adverse effect of major significance	Adverse impact of moderate significance

9 (South of site)	Medium	Adverse effect of major significance
		Adverse impact of moderate significance
10 (South of site)	Medium	Adverse effect of major significance
		Adverse impact of moderate significance
11 (North Street)	Low	Adverse effect of minor/minimal significance
		Adverse impact of minimal significance
12 (PROW to west of site)	Low	Adverse effect of moderate significance
		Adverse impact of minor significance
13 (PROW to west of site)	Low	Adverse effect of moderate significance
		Adverse impact of minor significance
14 (PROW to west of site)	Low	Adverse effect of moderate significance
		Adverse impact of minor significance

Overall, the LVIA concludes that the development proposals are unlikely to result in any adverse effects of significance to the character of the wider Charley Landscape Character Area in which it is situated, and also notes that the proposal secures a number of the landscape recommendations set out in the published landscape character assessment. In terms of the visual impacts, the assessment states that short-term adverse effects of significance to the visual setting of the site would be limited to the immediate boundaries of the site which would not be uncommon. Beyond the immediate boundaries of the site the appraisal has demonstrated that the development would have an extremely limited effect. Overall, the LVIA concludes that it is unlikely to result in any long-term adverse effects that would make the proposal unacceptable in landscape and visual terms.

The LVIA accompanying the current application was assessed on the Council's behalf by a landscape consultant (Jon Etchells Consulting) as part of the previous application on the site. He expressed a number of concerns regarding the revised LVIA document including, an overstating of the influence/relevance of the adjoining Bardon Landscape character area and an understated importance of the Charley character area. The claim in the LVIA that the proposals would secure a number of the landscape recommendations for the Charley character area are also considered to be exaggerated by the landscape consultant and he considers that the scheme would not have the key characteristic of '*small hamlets and individual farmsteads nestled into the well wooded landscape*' and would not meet the recommendation that '*built form should also retain its scattered and small form*'.

On this basis the Local Planning Authority concluded the following as part of planning application 14/00916/FULM:

*Local Plan Policy E22 presumes against development which would adversely affect or diminish the present open character and attractive rural landscape and / or be detrimental to natural habitats and scientific interest of the relevant Area of Particularly Attractive Countryside. The proposals would, inevitably, diminish the open character of that part of the Area of Particularly Attractive Countryside upon which the development would be sited. Whilst it needs to nevertheless be considered whether other material considerations can outweigh this departure from the Development Plan (and, not least, the NPPF's requirements in respect of housing land supply and the presumption in favour of sustainable development), having regard to the Local Planning Authority's current position in respect of housing land supply, it is not considered that there is any overriding need to release the most sensitive areas of countryside within the District for housing. Whilst, in order to maintain a five year supply, it would seem likely that some areas of land outside Limits to Development would need to be released, any such release should, it is considered, be limited to areas wherein the adverse environmental effects of so doing would not be such that, overall, they would not constitute sustainable development. In this case, it is*

*considered that there would be no overriding reason to release this part of the Area of Particularly Attractive Countryside for housing and that, on balance, any economic or social benefits of the scheme could not reasonably be concluded to outweigh the significant adverse environmental impacts in this regard.*

*In conclusion on the landscape and visual impact issues, the proposals would, inevitably, diminish the open character of that part of the Area of Particularly Attractive Countryside upon which the development would be sited and, therefore, would not be in accordance with Local Plan Policy E22.*

The current application is accompanied by a landscape update note (January 2016) which takes into account the recent appeal decision at Greenhill Road (APP/G2435/W/15/3005052) which is relevant in landscape terms to this site as that too was located in an APAC. The landscape update note concludes that in the previously refused scheme there is an overreliance on the findings of the Charley LCA and this has been applied incorrectly to the site. The Local Planning Authority has had regard to the Greenhill Road appeal decision (although it is noted that this is located in the Bardon LCA and not the Charley LCA) and this concluded that as the Local Planning Authority could not demonstrate an adequate level of housing supply, that 'little weight' could be attributed to Policy E22. Whilst the Local Planning Authority could no longer attach full weight to Policy E22 of the adopted Local Plan it is still necessary to have regard to the landscape and visual impacts of the proposal. The previous advice of the Council's landscape consultant is still considered to be relevant as the proposed scheme is almost identical to that which was previously considered and the site is still located in the same character area as when that advice was provided. There have been no significant on-site changes between the receipt of that previous advice and the writing of this report.

Therefore, it can be concluded that the landscape and visual impact of this proposal would be significantly harmful and the proposed development would not be in keeping with the character and appearance of the surrounding area.

### **Loss of Agricultural Land**

The site is currently being used for the grazing of horses which is an agricultural use and, insofar as the proposed built development is concerned, this would result in an irreversible loss to non-agricultural use. The extent of the loss would be in the region of 2.5 hectares although it is noted that the eastern part of the site would not include built development and would be used as informal open space..

Paragraph 112 of the NPPF suggests that, where significant development of agricultural land is demonstrated to be necessary, poorer quality land should be used in preference to that of a higher quality. Having regard to the need to maintain a five year housing land supply position, it would seem inevitable that land outside Limits to Development (much of which will be agricultural in terms of use) will need to be released. Best and Most Versatile (BMV) agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The application site falls within Grade 3 of the ALC but it has not been established whether the land is Grade 3a or Grade 3b and, therefore, whether any BMV would be affected.

However, even if the site does fall within the 3a classification, it is commonly accepted that the magnitude of loss of agricultural land is low where less than 20 hectares of BMV would be lost (with medium and high impacts defined as those resulting in a loss of between 20 and 50ha, and those of 50ha and above respectively). It is noted that the NPPF does not suggest that release of smaller BMV sites is acceptable. However, it nevertheless appears reasonable to

have regard to the extent of the loss in the decision making process. A loss of 2.5 hectares of agricultural land is not considered to represent a significant loss and would not be so severe to warrant refusal of the application on this matter alone.

### **Means of Access and Transportation**

In respect of the access arrangements, the scheme proposes a new priority junction off Loughborough Road that would be located across the road from No.153/155 Loughborough Road. The submitted drawing shows a 5.5 metre wide junction, with 6 metre corner radii and a 2 metre wide footway on either side. Visibility splays of 2.4 metres x 65 metres are shown to the east and the west.

The County Highway Authority (CHA) has been consulted on the application in order to assess the highway safety impacts of the proposed scheme. The CHA raise no objections subject to the inclusion of relevant planning conditions and obligations (the obligations are discussed in more detail in the relevant section below). The conditions recommended by the County Highway Authority includes for, amongst other things, off-site highway works including the relocation of the existing 30 mph limit and the provision of a 2 metre wide footway at the site frontage on Loughborough Road.

With regard to car parking, the adopted Local Plan includes parking standards in the Annex (based on Leicestershire County Council parking standards) that seeks to ensure that no more than an average of 1.5 off-street car parking spaces are provided per dwelling, and were based on the advice contained in PPG3. PPG3 has now been superseded by the advice in the NPPF which is less prescriptive in terms of parking standards. The advice in the NPPF is that Local Planning Authorities should, amongst other things, take account of expected levels of car ownership, the type, mix, accessibility and use of the development and the opportunities for public transport.

In terms of car parking on the site, a total of 82 car parking spaces would be provided (double garage spaces have been discounted as they are not in accordance with the internal dimensions required by the County Council's 6Cs document). The proposed parking arrangements provide an average of 2.92 car parking spaces per dwelling which is above the required level of 1.5 spaces per dwelling in the adopted Local Plan. Whilst this level of car parking is above the level required by the adopted Local Plan, it is noted the County Highway Authority raises no objections to the level of car parking nor are any objections raised in terms of the level of car parking impacting upon the design of the scheme. On this basis, the level of car parking is considered to be acceptable.

At one stage the CHA had stated that consideration should be given to the provision of children's play equipment on the site or for consideration to be given to the provision of a safe route to existing play areas. Following clarification that the applicant intends to pay a contribution towards improving an existing facility adjacent to the Primary School on Parsonwood Hill / Loughborough Road, the CHA has confirmed that no further contribution or conditions are required in this respect.

The CHA recommends that details of the routing of construction traffic should be included if planning permission is granted. This could be secured in the Section 106 agreement.

Therefore, it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the adopted Local Plan, the advice in the NPPF or the advice contained in the County Council's 6Cs document.

## **Ecology**

The application is accompanied by an ecology report which has been assessed by the County Ecologist. The County Ecologist's original comments submitted as part of 14/00916/FULM indicated that the whole of the eastern field should remain undeveloped as it is of Local Wildlife Site quality due to the presence of species rich grassland. The County Ecologist indicated that she would oppose any planting of trees and shrubs in this field as this would destroy some of the grassland which is a high conservation priority. In addition to the comments in respect of habitats, the County Ecologist also stated that badger and reptile surveys would be required.

Following a fundamental re-design of the site layout as part of the previous application, the whole of the eastern field is now proposed to be undeveloped. The County Ecologist now raises no objection in principle to the development subject to a planning condition requiring management of the grassland. In terms of protected species surveys the County Ecologist confirms that these matters could be covered by planning conditions now that the eastern field is proposed to remain undeveloped.

Therefore, subject to suitable planning conditions, it is considered that the scheme would be acceptable in terms of ecological considerations.

## **Trees**

In terms of the proposed planting, the original scheme submitted as part of 14/00916/FULM included for National Forest Planting in the eastern field. This part of the site was previously amended during the course of the application due to the ecological significance contained in the eastern field. The plans show for a scheme which includes for pedestrian links to adjacent woodland planting, tree lined roads, woodland belt planting and a SUDS balancing facility with National Forest planting. The National Forest Company raise no objection in principle to the scheme but request further details regarding the amount of forest planting within the open space and that a woodland belt should be included along the eastern part of the application site. These matters could be dealt with through suitably worded planning conditions although it is recognised that any additional planting would need to have regard to the important habitat that exists.

Insofar as existing trees are concerned, the application is supported by an Arboricultural Implication Study assessing existing trees and hedges on the site, all of which are located on the site's periphery. Based on the layout submitted, no existing trees would be impacted upon and the majority of the hedgerows on the site would be retained. Therefore, the scheme is considered to have an acceptable impact upon existing trees and hedgerows within the site and is considered to be acceptable in relation to Policy E7 of the adopted Local Plan.

## **Design**

The need for good housing design in new residential development is outlined not only in adopted Local Plan Policy H7, but also paragraphs 57, 60 and 61 of the NPPF, with paragraph 61 outlining that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment. Policy E4 indicates that in the determination of planning applications regard will be had to the wider settings of new buildings; new development should respect the character of its

surrounding, in terms of scale, design, height, massing, materials of construction, the spaces between and around buildings and the street scene generally.

The scheme has been the subject of discussions and negotiations with the Council's Urban Designer during the course of the previous application, and was amended in order to address previously expressed concerns regarding the design quality of the scheme. The main area of concern was in relation to whether the scheme would accord with question 5 and 6 of Building for Life which require developments to have a locally inspired or distinctive character and whether the scheme takes advantage of existing topography, landscape features and habitats. The initial response from the Council's Urban Designer was that the application should be refused as the scheme would not accord with these questions principally due to the character of the area being open and rural and the proposals being more urban in nature.

The scheme was subsequently amended in order to provide for a reduced number of dwellings on the site and provide additional landscaping in order to overcome the concerns raised by the Council's Urban Designer. The Urban Designer completed a full Building for Life Assessment on the revised application and considered that it could not be supported as it scored three red indicators. The red indicators are in respect of public transport, local housing and working with the site and its context. In terms of public transport and site accessibility this matter has already been assessed above and with regards to local housing the Council's Affordable Housing Officer has confirmed that no objections are raised in this respect. Therefore, two of the three red indicators are deemed to be acceptable. The remaining issue is in respect of the character of the area and it is noted that the scheme has been amended in order to be more respectful to the character of its surroundings and further improvements could be secured through the use of conditions in respect of boundary treatments, landscaping and materials. On this basis, a reason for refusal on this matter alone would not be justified and it is noted that the previous application on the site was not refused for this reason.

### **Residential Amenity**

In terms of the impact upon existing residential properties the main area of concern would be in respect of the 10 new properties along the western boundary and the impact that these would have upon No.86 Loughborough Road and properties off King John's Road (No's 4, 6, 8, 10 and 12). The two storey elements of the proposed dwellings would all be located at least 12 metres from the boundary with existing properties to the east and at this distance it is not considered that any significant overlooking, overbearing or overshadowing impacts would arise. The Council's former development guidelines indicate that there should be at least a 22 metre back to back distance and the scheme would be in accordance with this guide.

The Council's Environmental Protection Team has not raised any objections in relation to noise, blasting and dust from Whitwick Quarry or any concerns in respect of the impact of the development upon air quality. The site is not located in an Air Quality Management Area.

In terms of the objections raised over construction noise it is considered that this is an inevitable temporary, manifestation of any development project, which is not the concern of the planning system unless there would be exceptional amenity harm. When this is the case, a planning condition restricting hours is often applied but in this instance given that only 28 dwellings would be constructed on the site, it is considered that the imposition of an hours condition would not be necessary.

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



E3 of the adopted Local Plan.

### **Developer Contributions**

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

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

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

The relevant developer contributions are listed below.

#### *Affordable Housing*

The Affordable Housing Supplementary Planning Document (AHSPD) indicates that all sites yielding 15 or more properties within Whitwick trigger an affordable housing requirement for a minimum of 20% affordable housing. The overall number of properties planned for the site is 28 which to be fully policy compliant equates to 6 affordable homes. The application seeks to provide 5 affordable homes which amounts to almost 18% which would be acceptable to the Strategic Housing Team.

With regard to the tenure split, the Strategic Housing Team would be seeking 79% to be provided as rented (4 properties) and 21% provided as intermediate housing (1 property).

These matters would need to be secured through the Section 106 legal agreement.

#### *Transportation Contributions*

The County Highway Authority has requested the following developer contributions, required in the interests of encouraging sustainable travel to and from the site, achieving modal shift targets, and reducing car use.

- 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).
- 6 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 (can be supplied through LCC at (average) £350.00 per pass - NOTE it is very unlikely that a development will get 100% take-up of passes, 25% is considered to be a high take-up rate).
- New/Improvements to 2 nearest bus stops (including raised and dropped kerbs to allow level access); to support modern bus fleets with low floor capabilities. At £3263.00 per stop.
- Information display cases at 2 nearest bus stops; to inform new residents of the nearest bus services in the area. At £120.00 per display.

- Contribution towards equipping the nearest bus stop with Real Time Information (RTI) system; to assist in improving the nearest bus service with this facility, in order to provide a high quality and attractive public transport choice to encourage modal shift. 3 line display £5000.

The applicants are agreeable to making these contributions.

### *Education*

In respect of the proposed education contributions, Leicestershire County Council comments as follows:

#### *Primary School Requirements:*

The site falls within the catchment area of Whitwick St John the Baptist CE Primary School. The School has a net capacity of 419 and 355 pupils are projected on roll should this development proceed; a surplus of 64 pupil places after taking into account the 6 pupils generated by this development. There are 2 other primary schools within a 2 mile walking distance of the development and the result of this is that there is an overall surplus in this sector of 63 pupil places. Therefore, an education contribution will not be requested for this sector.

#### *High School Requirements:*

The site falls within the catchment area of Coalville Castle Rock High School. The School has a net capacity of 600 and 623 pupils are projected on roll should this development proceed; a deficit of 23 pupil places after taking into account the 3 pupils generated by this development.

There are no other high schools within a 3 mile walking distance of the site. A claim for an education contribution in this sector is therefore justified. In order to provide the additional high school places anticipated by the proposed development, the County Council requests a contribution for the high school sector of £44,690.43. This contribution would be used to accommodate the capacity issues created by the proposed development by improving, remodelling or enhancing existing facilities at Castle Rock High School.

#### *Upper School Requirements:*

The site falls within the catchment area of Coalville King Edward VII College. The College has a net capacity of 1193 and 1232 pupils are projected on roll should this development proceed; a deficit of 39 pupil places after taking into account the 3 pupils generated by this development.

There is one other upper schools within a 3 mile walking distance of the development and the result of this is that there is an overall surplus in this sector of 159 pupil places. Therefore, an education contribution will not be requested for this sector.

### *Play and Public Open Space*

Under the District Council's Play Area Design Guidance Supplementary Planning Guidance (SPG), on-site children's play provision is required at a rate of 20 square metres per dwelling. Given that 28 dwellings are proposed, this would require a play area of not less than 560 square metres. No on-site children's play area is proposed as part of this proposal although the applicant's agent has confirmed that they are willing to make a contribution towards an existing facility adjacent to the school off Parsonwood Hill.

It appears in this case that the distance to the proposed site is around 450 metres and,

therefore, the existing area of land would be in excess of the 400 metres walking distance as suggested by adopted Local Plan Policy L21 (as well as that set out in the District Council's SPG). However, guidance in Building for Life indicates that a point should be awarded for community facilities (such as play areas) being within a short distance (defined as 800 metres), and the proposals would satisfy this criterion. In terms of the lack of existing play equipment on the site on Parsonwood Hill this is not considered to be an issue as the applicant would need to fully equip the area.

Given that the children's play area would only be located marginally past the 400 metres suggested by adopted Local Plan Policy L21 and taking into account the alternative distance recommended under Building for Life (which the Council has adopted as a design quality indicator), it is considered that a commuted sum towards upgrading and improving the existing informal area adjacent to the school off Parsonwood Hill would be acceptable in this instance.

#### *National Forest Planting*

As discussed under the relevant section above, the scheme includes for on-site National Forest Planting. Whilst it is unclear whether this would result in 20% of the site area the Section 106 agreement could be worded flexibly in order to provide for an off-site commuted sum should the scheme be unable to provide the sufficient level of planting on the site.

#### *Civic Amenity*

A contribution of £1,831 is proposed to be made by the developer for Civic Amenity facilities in accordance with the requirements of Leicestershire County Council.

#### *Library Services*

A contribution of £800 is proposed to be made by the developer for library services in accordance with the requirements of Leicestershire County Council.

Insofar as the various developer contributions are concerned, the view is taken that, save where indicated otherwise above, the proposed obligations would comply with the relevant policy and legislative tests as set out in Circular 05/2005 and the CIL Regulations.

### **Conclusion**

As set out in the main report above, the site is outside Limits to Development as defined in the adopted Local Plan and constitutes greenfield land. The site is located in an Area of Particularly Attractive Countryside and is also identified as being in the countryside in the Council's draft Local Plan. Lying outside the limits to development, in both the adopted Local Plan and the draft local plan, the development would not be in accordance with these plans. The site is located adjacent to the existing settlement and it is considered that the scheme would have some level of accessibility to local services. However, at the current time, the District Council is unable to demonstrate a five year housing land supply, although it is anticipated that this position will change once the proposed publication version of the Local Plan is considered by Council on 28<sup>th</sup> June 2016. Whilst it is accepted that there are some social and economic benefits associated with the development, on balance, when taking into account the impacts of developing a particularly attractive greenfield site in a highly visible location at the semi-rural entrance to the settlement, the view is taken that the proposed development would result in significant environmental harm, which is not outweighed by the lack of a demonstrated five year

housing land supply. Overall the proposal would not represent sustainable development, contrary to the policies and intentions of the NPPF.

Therefore, it is recommended that the application be refused for these reasons.

## **RECOMMENDATION - REFUSE**

- 1 The site is located outside of the Limits to Development as defined in the adopted North West Leicestershire Local Plan and is located in an Area of Particularly Attractive Countryside. The site is also identified as being in the countryside in the Council's draft Local Plan. The NPPF recognises the intrinsic character and beauty of the countryside. By virtue of the site's development for housing, the present open character and rural appearance of this site would inevitably be diminished. The extent of the impact on the proposals upon the character and appearance of the landscape would be significantly harmful and the proposed development would not be in keeping with the character and appearance of the surrounding area which would be contrary to Policy E4 of the Local Plan. Whilst there would be some economic and social benefits associated with the development, in terms of the environmental strand of sustainable development, the scheme is considered to result in significant harm and overall would not represent sustainable development, contrary to the policies and intentions of the NPPF.

## **Notes to applicant**

- 1 Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Local Planning Authority acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The Local Planning Authority has therefore acted pro-actively 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).