

Development of 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Nottingham Road (outline - all matters other than part access reserved)

Report Item No  
A3

Money Hill Site North Of Nottingham Road And South Of A511  
Ashby De La Zouch Leicestershire

Application Reference  
15/00512/OUTM

Applicant:  
Money Hill Consortium

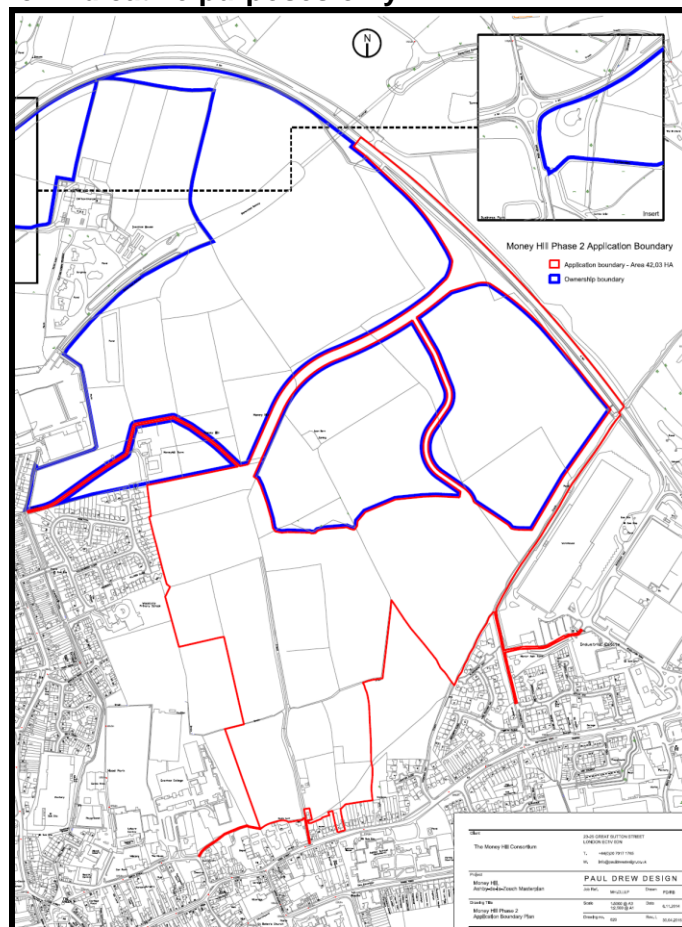
Date Registered  
13 May 2015

Case Officer:  
James Knightley

Target Decision Date  
12 August 2015

Recommendation:  
PERMIT Subject to a Section 106 Agreement

Site Location - Plan for indicative purposes only



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## **Executive Summary of Proposals and Recommendation**

### **Proposal**

This application seeks outline planning permission for residential development of 605 dwellings together with an extra care centre, primary school, nursery school, community hall and retail development as well as new public open space served via vehicular accesses from the A511 and a new access from Nottingham Road.

### **Consultations**

Members will see from the main report below that objections have been received in respect of the proposals (and including from Ashby de la Zouch Town Council).

### **Planning Policy**

The majority of the application site lies outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. This Policy now has to be considered as not being up-to-date in the context of the National Planning Policy Framework (NPPF) as the Council cannot currently demonstrate a five year supply of deliverable housing sites.

### **Conclusion**

The report below indicates that, whilst the scheme differs from the scheme permitted by the Secretary of State in February 2016 (and, including in respect of the proposed means of vehicular access to Nottingham Road), the conclusions in respect of the issues relating to the principle of development, together with the majority of technical matters, would remain unchanged. Whilst the Local Highway Authority had raised a number of issues in respect of the proposed means of access to the site from Nottingham Road, those concerns have now been addressed, and the Local Highway Authority is now content that an appropriate form of access to serve the development would be provided. There are no other technical issues that would indicate that planning permission should not be granted, and appropriate contributions to infrastructure would also be made so as to mitigate the impacts of the proposals on local facilities.

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

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

## MAIN REPORT

### 1. Proposals and Background

This is an outline planning application, accompanied by an Environmental Statement, for the mixed development of a site of approximately 42 hectares to the north / north east of Ashby de la Zouch currently used primarily for agricultural purposes. Whilst some matters are reserved for subsequent approval, an illustrative masterplan has been submitted which shows:

- 605 new dwellings
- A 60 unit extra care facility
- A primary school (single form entry on a site of 1.5ha with capacity to be enlarged to 2.1ha)
- A nursery school
- A community hall
- Retail development
- Public open space, and play areas
- Pedestrian and cycle links

As set out above, the application is in outline. All matters are reserved save for the access insofar as it relates to the proposed means of vehicular access into the site. The remainder of the "access" matters (i.e. including the pedestrian and cycle links to adjacent land and circulation routes through the site itself as shown on the illustrative masterplan) are reserved for subsequent approval.

The application is similar to an earlier application (ref. 13/00335/OUTM) refused at the Planning Committee meeting of 6 May 2014 and subsequently approved at appeal. The current application differs principally from that previously considered under application 13/00335/OUTM and the subsequent appeal in that, rather than including access via Woodcock Way, the applicants now propose to form a new priority junction serving the site from Nottingham Road, created following demolition of a pair of semi-detached dwellings (Nos. 3 and 5 Nottingham Road). Other differences vis-à-vis the approved scheme include the omission of the previously proposed health centre (following the progression of a proposed new facility as part of the Holywell Spring Farm development).

As per the approved scheme, the application is EIA development and, as such, is accompanied by an Environmental Statement.

### 2. Publicity

768 no neighbours have been notified (date of last notification 24 June 2016)

Press Notice published 3 June 2015

Site Notice posted 116 June 2015

### 3. Consultations

Derbyshire County Council consulted 18 June 2015  
 Ramblers' Association consulted 29 June 2015  
 Ashby de la Zouch Town Council consulted 2 June 2015  
 County Highway Authority consulted 2 June 2015  
 Environment Agency consulted 2 June 2015  
 Severn Trent Water Limited consulted 2 June 2015  
 Head of Environmental Protection consulted 2 June 2015

Natural England consulted 2 June 2015  
NWLDC Tree Officer consulted 2 June 2015  
County Archaeologist consulted 2 June 2015  
LCC ecology consulted 2 June 2015  
Airport Safeguarding consulted 2 June 2015  
NWLDC Conservation Officer consulted 2 June 2015  
NWLDC Urban Designer consulted 2 June 2015  
National Forest Company consulted 2 June 2015  
LCC Fire and Rescue consulted 2 June 2015  
Historic England- Grade I/II\* LB Setting consulted 2 June 2015  
County Planning Authority consulted 2 June 2015  
LCC Development Contributions consulted 2 June 2015  
NHS Leicester, Leicestershire And Rutland Facilities Managme consulted 2 June 2015  
Development Plans consulted 2 June 2015  
Head Of Leisure And Culture consulted 2 June 2015  
Manager Of Housing North West Leicestershire District Council consulted 2 June 2015  
Police Architectural Liaison Officer consulted 2 June 2015  
LCC/Footpaths consulted 2 June 2015  
NWLDC Footpaths Officer consulted 2 June 2015  
Highways Agency- Article 15 development consulted 2 June 2015  
Head Of Street Management North West Leicestershire District consulted 2 June 2015  
Coal Authority consulted 2 June 2015  
South Derbyshire District Council consulted 2 June 2015  
LCC Flood Management consulted 2 June 2015  
Natural England- Within 2k Of SSSI consulted 30 June 2015

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

**Ashby de la Zouch Town Council** objects on the following grounds:

- Safety concerns over proposed Nottingham Road access close to a school
- Exacerbation of existing congestion on Nottingham Road
- Scheme is speculative and unviable
- Site is outside Limits to Development

**Coal Authority** has no objections subject to conditions

**Environment Agency** has no objections subject to conditions

**Highways England** has no objections

**Historic England** recommends that the Local Planning Authority considers the impacts on the setting of Ashby Castle and St Helen's Church in accordance with the relevant legislative and planning policy requirements

**Leicestershire County Council Education Authority** requests provision of a primary school or a financial contribution in respect of the primary sector of £1,756,776.25, a financial contribution in respect of the high school sector of £1,081,508.29, and a financial contribution in respect of the upper school sector of £1,110,487.18 (although attention is also drawn to supplementary comments made by the Local Education Authority under Developer Contributions below).

**Leicestershire County Council Library Services Development Manager** requests a

developer contribution of £18,260

**Leicestershire County Council Ecologist** has no objections subject to conditions

**Leicestershire County Council Highway Authority** final comments awaited

**Leicestershire County Council Lead Local Flood Authority** has no objections subject to conditions

**Leicestershire County Council County Planning Authority** has no objections in respect of potential sterilisation of mineral resources

**Leicestershire County Council Rights of Way Officer** has no objections subject to conditions securing the upgrading and diversion of various rights of way in the vicinity of the site

**Leicestershire Local Access Forum** suggests the improvement and extension of various rights of way

**Leicestershire Police** requests a policing contribution of £219,029

**National Forest Company** requests submission of further information in respect of additional landscaping and footpath linkages and the imposition of conditions

**Natural England** has no objections subject to conditions

**NHS England (Central Midlands)** requests a healthcare contribution of £201,878.28

**North West Leicestershire District Council Environmental Health** has no objections subject to conditions

**North West Leicestershire District Council Cultural Services Officer** comments that the Ivanhoe Way will need diverting and that advice on the requirements will be provided by Leicestershire County Council

**Severn Trent Water** has no objections subject to conditions

**South Derbyshire District Council** has no objections

### **Third Party representations**

88 representations have been received, raising the following concerns:

- Unsafe access onto Nottingham Road
- Nottingham Road / Wood Street already very busy / unsafe
- Increased traffic congestion
- Nottingham Road access close to existing school and its associated traffic
- Nottingham Road access close to a sharp bend
- Access contrary to design requirements in the 6Cs guide
- Proposed Nottingham Road access not suitable in terms of junction design to accommodate the level of development
- Bus gate mechanism could fail
- Supporting transportation evidence is flawed
- Inappropriate relocation of bus stop

- Loss of two period homes to form Nottingham Road access
- Adverse impacts on occupants of properties adjacent to the proposed Nottingham Road access
- Adverse impacts on existing properties from proposed pedestrian routes through the site
- Loss of on-street car parking
- Damage to vehicles
- Increased difficulties accessing / egressing nearby driveways
- Rat-running
- Access should be provided via the A511 / Featherbed Lane / Smisby Road
- Impact on capacity of Ashby Bypass
- Insufficient infrastructure (including schools, healthcare, water supply, sewage, waste management and highway network capacity)
- Insufficient town centre car parking
- Adverse impact on town centre shops
- Loss of amenity value of rights of way
- Brownfield sites should be used in preference to greenfield ones
- Loss of green space
- Site outside Limits to Development
- Proposal contrary to planning policy
- Flooding
- Impact on wildlife / habitat / water quality
- Pollution
- Health centre should not be included
- Adverse impact on Ashby de la Zouch Conservation Area
- Ashby de la Zouch already has sufficient / too much housing
- Ashby de la Zouch has a disproportionate amount of planning applications compared to other settlements
- Loss of privacy
- Impact on adjacent properties' security
- Loss of agricultural land
- Loss of property value
- Poor design / materials
- Would not create additional business or employment
- Additional sewage generated greater than the headroom available at Packington Sewage Treatment Works
- Loss of character of Ashby de la Zouch
- Potential over-heating of dwellings if excessive glazing used
- Limited options explored in terms of renewable or low carbon forms of development

Two representations have been received supporting the development on the following grounds:

- Would allow more people to live in one of the nicest towns in Leicestershire
- Proposed facilities would benefit the whole town
- Developers need to be required to include proposed benefits

In addition, the **Ashby Labour Party** objects for the following reasons:

- Increased traffic (cars and buses)
- New access opposite an existing school with its attendant traffic
- Would be more logical to only allow access via the A511 (other than for emergency services)

**Ashby School** has no objection to the proposed development per se, but raises concerns regarding the access arrangements as follows:

- New access would be opposite the school where the road is heavily congested with parents' vehicles when dropping off or collecting children
- New access would add to the already significant risk
- School entrance close to a blind bend

## 5. Relevant Planning Policy

### National Policies

#### *National Planning Policy Framework*

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

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

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

- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 17 (Core planning principles)
- Paragraph 24 (Ensuring the vitality of town centres)
- Paragraph 26 (Ensuring the vitality of town centres)
- Paragraph 28 (Supporting a prosperous rural economy)
- Paragraph 32 (Promoting sustainable transport)
- Paragraph 34 (Promoting sustainable transport)
- Paragraph 38 (Promoting sustainable transport)
- Paragraph 47 (Delivering a wide choice of high quality homes)
- Paragraph 49 (Delivering a wide choice of high quality homes)
- Paragraph 56 (Requiring good design)
- 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 112 (Conserving and enhancing the natural environment)
- Paragraph 118 (Conserving and enhancing the natural environment)
- Paragraph 120 (Conserving and enhancing the natural environment)
- Paragraph 121 (Conserving and enhancing the natural environment)
- Paragraph 123 (Conserving and enhancing the natural environment)
- Paragraph 131 (Conserving and enhancing the historic environment)
- Paragraph 132 (Conserving and enhancing the historic environment)
- Paragraph 134 (Conserving and enhancing the historic environment)
- Paragraph 135 (Conserving and enhancing the historic environment)
- Paragraph 173 (Using a proportionate evidence base)
- Paragraph 203 (Planning conditions and obligations)

Paragraph 204 (Planning conditions and obligations)

**Adopted North West Leicestershire Local Plan (2002)**

The majority of the site falls outside of Limits to Development as defined in the adopted North West Leicestershire Local Plan; the remainder falls within Limits to Development. No other site-specific policies apply.

The following adopted Local Plan policies are considered relevant:

- Policy S2 - Limits to Development
- Policy S3 - Countryside
- Policy H4/1 - Housing Land Release
- Policy H6 - Housing Density
- Policy H7 - Housing Design
- Policy H8 - Affordable Housing
- Policy E2 - Landscaped Amenity Open Space
- Policy E3 - Residential Amenities
- Policy E4 - Design
- Policy E6 - Comprehensive Development
- Policy E7 - Landscaping
- Policy E8 - Crime Prevention
- Policy E30 - Floodplains
- Policy F1 - National Forest General Policy
- Policy F2 - National Forest Tree Planting
- Policy F3 - National Forest Landscape and Planting
- Policy T3 - Highway Standards
- Policy T8 - Parking
- Policy R1 - Central Areas Shopping
- Policy L21 - Children's Play Areas
- Policy L22 - Formal Recreation Provision

**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 Ashby de la Zouch.

Key Principle AH3 requires a minimum of 30% of residential units to be available as affordable housing within Ashby de la Zouch.

**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.

**Ashby de la Zouch Conservation Area Appraisal and Study SPG**

The south western part of the application site abuts the Ashby de la Zouch Conservation Area. The Ashby de la Zouch Conservation Area Appraisal and Study 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.



### **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.

The site is located within Limits to Development as defined in the draft Local Plan and also includes areas identified as new housing and employment allocations.

The following draft Local Plan policies are considered relevant:

Policy S1 - Presumption in favour of sustainable development

Policy S5 - Design of new development

Policy H3 - Housing provision: new allocations (site H3a)

Policy H4 - Affordable housing

Policy H6 - House types and mix

Policy Ec2 - Employment provision: new allocations

Policy Ec9 - Town and local centres: Hierarchy and management of development

Policy Ec10 - Town and local centres: Thresholds for Impact Assessments

Policy IF1 - Development and infrastructure

Policy IF2 - Community facilities

Policy IF3 - Open space, sport and recreation facilities

Policy IF4 - Transport infrastructure and new development

Policy IF7 - Parking provision and new development

Policy En1 - Nature conservation

Policy En2 - River Mease Special Area of Conservation

Policy En3 - The National Forest

Policy En6 - Land and air quality

Policy He1 - Conservation and enhancement of North West Leicestershire's historic environment

Policy Cc2 - Sustainable design and construction

Policy Cc3 - Flood risk

Policy Cc4 - Water: sustainable drainage systems

### **Emerging Ashby de la Zouch Neighbourhood Plan**

On 2 May 2016 Ashby de la Zouch Town Council commenced public consultation on a pre-submission Neighbourhood Plan. The draft policies listed below are considered relevant to this application. However, in view of the very early stage to which the draft Neighbourhood Plan has progressed, only very limited weight can be attributed to its policies at this stage.

The site lies within Limits to Development as defined in the emerging Neighbourhood Plan. The following draft Local Plan policies are considered relevant:

Policy S1 - Presumption in Favour of Sustainable Development

Policy S2 - Limits to Development

Policy S4 - Design

Policy S5 - Priority to be given to Brownfield Sites

Policy H1 - Sustainable Housing Growth

Policy H2 - Requirement for Masterplan

Policy H4 - Housing Mix  
Policy H5 - Affordable Housing  
Policy TC1 - Town Centre Uses  
Policy T1 - Sustainable Development  
Policy T2 - Travel Plans  
Policy T3 - Safer Routes to Schools Schemes  
Policy ELWB 3 - Open Space, Sport and Recreation Provision in New Housing Developments  
Policy ELWB 4 - Allotment Provision in New Developments  
Policy ELWB 5 - Biodiversity  
Policy ELWB 6 - Trees and Hedges  
Policy ELWB 7 - Listed Buildings  
Policy ELWB 8 - Ashby de la Zouch Conservation Area  
Policy ELWB 10 - Areas of Archaeological Interest  
Policy ELWB 12 - New Community Facilities  
Policy ELWB 14 - New Arts / Community Centre  
Policy ELWB 15 - Education  
Policy DC1 - Community Infrastructure

## **6. Assessment**

### **Relationship to Approved Scheme**

As set out above, a similar form of development has the benefit of an extant outline planning permission granted on appeal by the Secretary of State in February 2016. In view of the limited differences between the current application proposals and those permitted on appeal, and the limited changes in circumstances since the time that the permission was issued, the officer view, overall, is that the conclusions reached by the Secretary of State (and by his Inspector with whose recommendations the Secretary of State generally concurred) continue to be relevant, and are a material consideration of very significant weight in the determination of this application. As such, this report focuses principally on those issues where there are material differences between the two schemes.

### **Principle of Development and Contribution to Sustainable Development**

The principle of development has already been established by the appeal decision of February 2016. The issues relating to the principle of development and its contribution to sustainable development are considered to be unchanged from the position taken by the Secretary of State.

### **Detailed Issues**

In addition to the issues of the principle of development, consideration of other issues relevant to the application (and including those addressed within the Environmental Statement) is set out in more detail below.

### **Means of Access, Highways and Transportation Issues**

As set out in the introduction above, the application is in outline with all matters reserved save for the access insofar as it relates to the vehicular access points into the site; the applicants propose the use of restrictive measures (bus gate(s)) to ensure that the site could only be accessed or egressed as follows:

Phase 1 (150 dwellings) plus proposed car park: Accessible via Nottingham Road only, but also able to be exited via the A511

Remainder of the development: Accessed and egressed via the A511

Use of the bus gate(s) would allow bus penetration throughout the whole site (i.e. via both Nottingham Road and the A511). The proposed car park would, it is understood, be accessible from both routes (but laid out so as to prevent "through" travel).

The proposed vehicular access arrangements have been the subject of extensive discussions between the applicants and the County Highway Authority, with the County Council expressing particular concern over the design of the proposed Nottingham Road access. An amended access plan has now been submitted. Whilst, at the time of preparing this report, the final, formal comments of the County Highway Authority had not been received, it is understood that the County Council considers that the amended proposals now meet the design requirements of the 6Cs Design Guide and, in terms of junction capacity, work from a modelling point of view. The amended scheme is therefore likely to be agreed from a technical point of view.

In terms of the impacts of the development on the wider highway network, it is understood that the County Highway Authority accepts that the impacts are not significantly different from those arising from the approved scheme and, as such, are considered to remain acceptable in this regard. Whilst the proposed access arrangements set out above would appear to enable access northbound from Nottingham Road to the remainder of the development (i.e. through Phase 1), it is understood that, given that use of such a route would be of limited usefulness and would be likely to be somewhat tortuous in its nature, the County Highway Authority considers that significant rat-running would be unlikely. The final views of Leicestershire County Council will, however, be reported on the Update Sheet.

#### *Public Rights of Way / Connectivity of the Site*

The site is crossed by existing right of way O89 which via the south western section, connects the site to the town centre at North Street. As per the proposals secured under the Section 106 unilateral undertaking obligation entered into at the time of the earlier appeal, it is the applicants' intention to make a contribution of £105,651 in respect of improvements to existing public rights of way and to make an "enhanced connectivity" contribution of £400,000 intended to be directed towards a range of measures (including assessment of existing public transport, cycle and pedestrian connectivity within the town, and implementation of measures identified as a result of that assessment in order to enhance the site's connectivity with the town). Other proposed transportation-related contributions are as set out under Developer Contributions below.

#### **Landscape and Visual Impact**

As per the previous application, the development has been assessed in terms of its landscape and visual effects both during and after construction. The Environmental Statement identifies the elements of the site and its surroundings that are important in terms of landscape resources and landscape character, and the extent to which these would be affected by the proposals. Given the nature of the changes vis-à-vis the approved and amended schemes, the overall conclusions in respect of this issue as set out in the Environmental Statement are unchanged. The Inspector who considered the previous appeal determined that, other than the right of way passing through the site, there is no public access through the site, and it therefore has no recreational value and can be valued only for the outlook that is available over it. Whilst he accepted that the loss of this outlook would be regrettable, the proposed development would not have any significant effect on the character of the area.

Given the limited differences between the two schemes in this regard, it is considered that the

Secretary of State's previous conclusions would continue to be applicable.

### **Drainage, Ecology and the River Mease SAC**

The Environmental Statement includes assessment of the flood risk, drainage and ecological implications of the proposed development and, having regard to the site's location within the catchment of the River Mease Special Area of Conservation (SAC), the impacts on water quality of the Mease. These issues are considered in more detail below.

#### *Flood Risk and Drainage*

The Environmental Statement is informed by a Flood Risk Assessment (FRA), assessing the existing flood risk to the site along with any resulting flood risk associated with the proposed development. The revised application includes an updated FRA, but the overall conclusions remain broadly unchanged, as do those contained within the relevant section of the Environmental Statement. Neither the Environment Agency nor the Lead Local Flood Authority raise objection to the application and its associated surface water drainage proposals subject to conditions. It is noted that the Environment Agency requests imposition of an additional condition not previously sought nor imposed, but has clarified that this is now necessary given that the FRA does not otherwise cover the relevant hydraulic modelling the condition seeks to secure. As such, it is accepted that the attachment of the additional condition requested by the Agency is warranted (see Condition 10 below).

Insofar as foul sewage is concerned, given its location within Ashby de la Zouch, the site's foul drainage would discharge to the Packington sewage treatment works. The development proposed under this application would however simply replace that approved under the earlier permission, so would have no overall change in terms of sewerage capacity; Severn Trent Water raises no objections subject to the conditions. The issues relating to the River Mease SAC are addressed in more detail below.

#### *Ecological Issues*

The previous application's Environmental Statement included a detailed assessment of the ecological implications of the proposed development on various receptors of ecological value, and setting out proposed mitigation measures. Updated ecological assessment work has been undertaken in support of the revised application, and the relevant Environmental Statement chapter amended accordingly.

In recommending the Secretary of State allow the appeal, the Inspector who considered the earlier scheme considered that there was no evidence to indicate that ecology or biodiversity interests would be harmed. Whilst noting that the site is subdivided by hedgerows and has other biodiversity credentials, he accepted that the proposed development would have significant areas of open space and that all residential gardens, to a lesser or greater extent, include features and opportunities for the enhancement of biodiversity.

Insofar as the updated supporting information is concerned, the revised Environmental Statement suggests that, with the relevant mitigation measures, the overall ecological impacts of the scheme would be positive, would ensure no net loss of biodiversity, and would provide for enhanced habitat.

The County Ecologist and Natural England have been consulted in respect of the application and raise no objections subject to conditions. Under Regulation 53 of the Habitat Regulations 2010, activities which would otherwise contravene the strict

protection regime offered to European Protected Species under Regulation 41 can only be permitted where it has been shown that the following three tests have been met:

- The activity must be for imperative reasons of overriding public interest or for public health and safety;
- There must be no satisfactory alternative; and
- The favourable conservation status of the species in question must be maintained.

Whilst these tests would need to be applied by Natural England at the appropriate time in respect of any required licence submission, it is nevertheless considered appropriate to also have regard to them at this stage in respect of the planning process. In this case, it is considered that the tests would be met as (i) for the reasons set out under Principle of Development above, it is considered that the site needs to be released for the proper operation of the planning system in the public interest; (ii) the works affecting the protected species would be necessary to enable the development to proceed in a logical / efficient manner; and (iii) the proposed mitigation measures would satisfactorily maintain the relevant species' status.

Subject to the imposition of suitably-worded conditions, therefore, the submitted scheme is considered acceptable in ecological terms, and would provide suitable mitigation for the habitat affected, as well as appropriate measures for biodiversity enhancement. It is also considered that imposition of those relevant conditions previously imposed by the Secretary of State in respect of the appeal scheme would address the issues raised by the statutory consultees, and ensure the required mitigation and enhancement measures are secured.

#### *River Mease Special Area of Conservation (SAC)*

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC), which was designated in 2005. The Habitat Regulations 2010 set out how development proposals within an SAC should be considered. During 2009 new information came to light regarding the factors affecting the ecological health of the River Mease SAC, in particular that the river is in unfavourable condition due to the high level of phosphates within it. 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 will have a significant effect on the SAC is required.

In order to mitigate the impacts of the development, the approved scheme was subject to a contribution under the Developer Contribution Scheme (DCS), and based on the relevant requirements of that document. The dwellings have, in effect, therefore, already been accounted for under the first DCS (DCS1). Whilst the flows from the new dwellings would need to be taken into account against the existing headroom at Packington sewage treatment works, given that the dwellings have already been accounted for under the capacity for the previous scheme, there are no further issues with regards to capacity at the treatment works.

On this basis, it is accepted that the proposed development would not have an adverse impact on water quality (nor would there be any other impacts on other aspects of the SSSI / SAC), and the development is acceptable on this basis, subject to the implementation of the mitigation identified, secured by way of conditions and Section 106 obligations as appropriate.

#### **Historic Environment**

The Environmental Statement indicates that the site itself does not contain any Scheduled Monuments, listed buildings or Conservation Areas, but there are Grade II listed buildings in close proximity as well as the Ashby de la Zouch Conservation Area which abuts the site. The

Environmental Statement also considers the impacts on other designated heritage assets including Ashby Castle (a Scheduled Monument as well as a Grade I listed building) and the Parish Church of St Helen (listed Grade II\*). Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard should be had to the desirability of preserving the building or its setting. Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

The submitted Environmental Statement includes a detailed assessment of the archaeology and historic environment implications of the proposed development. This reaches similar conclusions to the Environmental Statement submitted in respect of the previously approved scheme, and including in respect of its impacts on the Ashby de la Zouch Conservation Area, nearby listed buildings and non-designated heritage assets. Insofar as Ashby Castle is concerned, Historic England draws attention to the need to understand the context and setting of the Castle (and the Church of St Helen), and the impacts of the setting on those features' significance.

In recommending approval of the earlier scheme, the Inspector noted that there are views across the site from the top of the ruined keep of the castle. He accepted that the proposed development would replace a section of countryside in this view but noted that it would be seen in the context of existing development to the west and south-east. He considered that the proposed development would not cause any demonstrable harm to the setting of the Conservation Area, nor to the setting of any listed building within it. As such, he (and the Secretary of State) concluded, Paragraphs 133 and 134 of the NPPF (which identify the approach to be taken where harm is identified) were not engaged. In terms of non-designated heritage assets, the Environmental Statement (as previously) identifies the archaeological potential of the development. However, it is again accepted that any impacts can be addressed by way of the imposition of an appropriate condition requiring the implementation of an archaeological mitigation strategy.

It is therefore accepted that the scheme continues to meet the relevant NPPF tests and, in reaching this view, the legislative requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 would be met.

### **Air Quality**

Whilst there are no Air Quality Management Areas (AQMAs) within close proximity of the site, the Environmental Statement assesses the impacts on dust, particulates and nitrogen oxides associated with the construction and post-construction phases of the proposed development. Whilst the amended scheme includes a revised form of access to Nottingham Road, this does not affect the overall conclusions of the revised Environmental Statement and, as previously, the proposed development would not be expected to result in any significant harm to air quality (either during or post construction); no objections in respect of air quality issues have been raised by the District Council's Environmental Protection team.

### **Neighbours' and Future Occupiers' Amenities**

In terms of amenity issues, the impacts of the proposed development need to be considered both in terms of the impacts on existing residents arising from the proposed development (including, in particular, construction noise), as well on the future living conditions of residents of the proposed development, having regard to the site's location. Insofar as the impacts of

construction noise on existing residents, and the suitability of the site for residential development given its relationship to existing nearby land uses etc are concerned, it is considered that there are no significant differences between the approved and proposed revised schemes which would indicate that a different conclusion ought to be reached in this regard.

The principal difference between the schemes in terms of residential amenity issues is, it is considered, the impact of the proposed Nottingham Road access on existing occupiers. In particular, it is considered that the provision of a new access road between nos. 1 and 7 Nottingham Road has the potential to result in increased noise to the rear of existing properties (and, not least, nos. 1 and 7). The Environmental Statement does not identify any specific unacceptable impacts from and it is noted that no objections are raised in this regard by the District Council's Environmental Protection team. It is considered that, on balance, whilst it would seem likely that some impacts would result from the development, they would not be so harmful as to warrant refusal and could, to a significant degree, be mitigated by provision of suitable screening. From a design perspective, the Local Planning Authority would usually seek to secure brick walls (as opposed to fencing) in locations prominent from the public realm so, in that respect, provision of such features would, it is considered, assist in mitigating the impacts.

### **Loss of Agricultural Land**

Part of the site is currently in active agricultural use and, insofar as the proposed built development is concerned, this would result in an irreversible loss to non-agricultural use.

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. However, in allowing the previous appeal, the Secretary of State accepted that, whilst the proposed development would result in the loss of agricultural land, the scheme would, on balance, satisfy the environmental role of sustainable development.

### **Geotechnical Issues and Land Contamination**

The applicants have undertaken a non-intrusive Geo-environmental and Geotechnical Desk Study, and the Environmental Statement assesses the potential impacts of the proposed development to various receptors, including residents of the proposed development, controlled waters, flora and fauna and the built environment; mitigation, and including more detailed ground investigations, is recommended. No significantly different impacts are identified from those previously considered, and the proposals are considered acceptable in this regard.

### **Proposed Main Town Centre Uses**

The Planning Statement sets out that, as per the previous scheme, the revised proposals include for up to 560sqm retail space as part of two new local centres. There are therefore no material changes from the approved scheme which would indicate that the scheme is no longer acceptable in respect of retail issues.

### **Design**

The proposed scheme is outline only, with all matters other than part access reserved for later consideration. A number of issues were raised by the District Council's Urban Designer in respect of the earlier application and, it is considered, these would largely remain to be addressed in terms of the current application.

As such, as per the view taken at the time that the previous application was considered, whilst further work is required in respect of this issue it is not considered that approval of the outline application would, in this case, unacceptably fetter the prospects of achieving a sound design approach. As per the appeal decision, any approval granted could include appropriate conditions (and including reference to Building for Life 12) and, subject to this, the proposed development is considered acceptable at this outline stage.

It is noted that the proposed access to Nottingham Road would result in the demolition of two semi-detached twentieth century dwellings. It is considered that, whilst forming a relatively attractive pair of dwellings, their loss would be neither significant or unacceptable in the street scene, and would not result in any harmful gap to the detriment of the existing amenity or historical interest of Nottingham Road.

## Other Matters

### 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 proposed infrastructure and other developer contributions / Section 106 obligations are as set out in the preceding sections of this report (including in respect of accessibility / transportation and the River Mease DCS) and as listed below.

In allowing the previous appeal, the Secretary of State had regard to a unilateral undertaking entered into by the appellants. This secured the following which, in the Secretary of State's view, met the relevant statutory and policy tests:

- Affordable Housing (30%, subject to viability)
- Contribution of £219,029 in respect of policing
- Contribution of £201,878.28 in respect of healthcare
- Provision of a community facility building of minimum floorspace 410sqm
- Contribution in respect of River Mease mitigation (sum dependent on the final form of development provided)
- On-site public open space / children's play
- Contribution of £18,260 in respect of libraries
- Contributions in respect of education, including provision of a new on-site primary school (or off-site primary school contribution of £1,756,776.25), high school contribution of £1,081,508.29 and upper school contribution of £1,110,487.18
- Construction traffic routeing
- Provision of travel packs to new residents (or payment of £52.85 per dwelling to Leicestershire County Council to provide them on the developer's behalf)
- Provision of bus passes to new residents (or payment of £650 per dwelling to Leicestershire County Council to provide them on the developer's behalf)
- Contribution of £11,674 in respect of improvements to bus stops on Nottingham Road
- Contribution of £5,000 in respect of implementation of a Traffic Regulation Order



- Contribution of £105,651 in respect of public rights of way improvements
- Enhanced connectivity contribution of £400,000
- Travel Plans / monitoring
- Section 106 monitoring

It is understood from the applicants that they intend to enter into an equivalent Section 106 obligation in respect of the revised application (albeit likely to be in the form of an agreement rather than a unilateral undertaking). Subject to the agreement of the relevant service providers in any subsequent negotiations entered into in respect of the Section 106 obligation and appropriate framing of the obligations, it is considered that this would be an appropriate approach in this case in principle. Insofar as the education contribution is concerned, however, Leicestershire County Council comments that the primary school contribution listed above would be appropriate if the Local Education Authority was to use the funding to extend the school on the Holywell Spring farm site or any other existing school site. In the event that a new school is required on the Money Hill site, however (which, the County Council considers is likely), it would require the Section 106 agreement to either provide sufficient funding to build the core of a 210 place school at a cost of around £3,555,000, or to require the developer to build it. In response, the applicants comment that they cannot be asked to pay more than the sum which policy requires, particularly given that they are also providing a serviced site at no additional cost to the County Council, and are also making what they consider to be significant other education payments. They also comment that other payments expected to be secured in respect of the Woodcock Way and Arla Dairies sites would be available to the County Council for the new Money Hill school. It is not considered that the County Council's favoured approach is necessarily unreasonable, nor is it clear why the applicants consider it to not meet policy requirements. However, it is also acknowledged that the applicant's proposals reflect the position taken on the earlier application, accepted on appeal by the Secretary of State as appropriate, and this matter would therefore appear to require further consideration by the parties. It is recommended, however, that officers be authorised to agree an appropriate contribution through the Section 106 negotiations having regard to the above.

#### *Conclusions*

Overall, therefore, it is considered that the extent of differences between the currently proposed scheme and the scheme approved on appeal is limited, and that those differences that do apply would not indicate that the scheme no longer constitutes sustainable development nor that approval of the revised scheme ought to be withheld. Approval subject to Section 106 obligations and conditions is therefore recommended.

#### **RECOMMENDATION- PERMIT, subject to Section 106 Obligations, subject to no contrary representations being received by 8 July 2016, and subject to the following conditions:**

- 1 Save for the details of vehicular access into the site from Nottingham Road and the A511, details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for the relevant phase (as defined under Condition 5 below) shall be submitted to and approved in writing by the Local Planning Authority before any development begins in respect of the relevant phase.

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

- 2 Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the access save for the details of vehicular access into the site from Nottingham Road and the A511, appearance, landscaping, layout, and scale shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

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

- 3 Application for approval of the reserved matters for the relevant phase (as defined under Condition 5 below) 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 for that phase to be approved.

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

- 4 The proposed development shall be carried out strictly in accordance with the following plans:
- Application Boundary Plan (020 Rev L - 30.04.2015)
  - Site access plans (11-T097\_30 and 11-T097\_40.1)

*Reason - In the interests of certainty.*

- 5 Notwithstanding Conditions 1, 2 and 3 above, the first reserved matters application shall include a masterplan for the whole of the site setting out indicative details of site layout, areas of open space / children's play, landscaping, density parameters and scale, as well as details of any proposed phasing of development. The masterplan shall accord with the principles of the submitted Design and Access Statement. 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 (including where undertaken in a phased manner) takes place in a consistent and comprehensive manner, and to ensure that the proposed development delivers the proposed residential and non-residential development at the appropriate time.*

- 6 A total of no more than 605 dwellings shall be erected on the area shown as "Residential" (17.53 hectares), "Health / Residential" (0.52 hectares) and "Extra Care / Residential / Community Hall" (0.62 hectares) as shown on Parameter Plan 1 - Land Use and Amount (021.1 Rev H 10.06.2015).

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

- 7 No development shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until such time as precise details of all means of mitigation measures as set out in the Environmental Statement, including timetables for their provision in respect of the development (or, in the case of phased development, in respect of that phase), have been submitted to and agreed in writing by the Local

Planning Authority. The measures shall be implemented in accordance with the agreed details and timetables.

*Reason - To ensure the development and associated impacts take the form envisaged in the Environmental Statement.*

- 8 No development shall commence on the site until such time as a Design Code for the entirety of the developed area shown on Parameter Plan 1 - Land Use and Amount (021.1 Rev H 10.06.2015) has been submitted to and agreed in writing by the Local Planning Authority. The Design Code shall substantially accord with the principles and parameters described and illustrated in the Design and Access Statement, and demonstrate compliance with Building for Life 12 (or any subsequent replacement standard issued by the Design Council / CABE or any successor organisation). The development shall thereafter be carried out in accordance with the agreed Design Code.

*Reason - To ensure an appropriate form of design, and to comply with Policies E4 and H7 of the North West Leicestershire Local Plan.*

- 9 Notwithstanding the submitted details, no construction work shall commence on site until such time as intrusive site investigation works in respect of potential risks to the proposed development arising from former coal mining operations together with precise details of any required mitigation and a timetable for its implementation have been submitted to and agreed in writing by the Local Planning Authority. Where the agreed details indicate that mitigation is required, the development shall be carried out strictly in accordance with the agreed mitigation and timetable.

*Reason - To ensure the safe development of the site.*

- 10 No reserved matters applications shall be submitted until such time as a scheme of hydraulic calculations / modelling to confirm actual flood plain outlines from the on-site Money Hill and Falstaff Brooks submitted to and agreed in writing by the Local Planning Authority. The calculations / modelling shall include:
- Assessing the flood extents for the channel capacity, 20 year, 100 year, 100 year plus 20% (for climate change) and 1,000 year (5%, 1%, 1% plus 20% increase in flow, and 0.1%) flood event levels;
  - A comparison of the watercourse, hydraulic and topographic information for the above flood levels to confirm the likely extent and depth of flooding and Flood Zone classification at the site;
  - Topographic survey to GPS Ordnance Datum (adjusted to Ordnance Survey GPS, where traditional surveying methods are used) and any other topographic level information provided corrected to Ordnance Survey GPS; and
  - Appropriate plans and cross-section(s) of the site extending through the watercourse and beyond (where necessary), detailing the site layout and levels and the predicted flood levels, with the above flood event outlines marked on the plan(s) as contour lines.

*Reason - To confirm that no buildings or surface water attenuation areas will be located within Flood Zone 2 or Flood Zone 3; and to reduce the risk of flooding to the proposed development and future occupants.*

- 11 The development hereby permitted shall not be carried out other than in strict accordance with the submitted Flood Risk Assessment (FRA) dated 1 May 2015, ref. 031052 (ES Appendix 14-1) and Drainage Strategy Revision 01, dated 1 May 2015, ref.

031052 (ES Appendix 14 -2) and the following mitigation measures detailed within the FRA:

- Limiting the discharge rate for surface water run-off and provision of surface water attenuation storage on the site, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site - FRA sections 5.3 and 7.4, and Drainage Strategy sections 3.1, 5.1, 7.1 to 7.3.6;
- Management of Silt and the prevention of pollution of the watercourse during the construction phase - FRA section 7.3;
- Provision of safe access and egress within the site - FRA section 7.2;
- Finished floor levels - FRA section 7.1

Unless any alternative programme is first agreed in writing by the Local Planning Authority, none of the dwellings hereby permitted shall be occupied until such time as the mitigation measures have been fully implemented in accordance with the above details.

*Reason - To prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site and to reduce the risk of flooding to the proposed development.*

12 Notwithstanding the submitted details and other conditions, no development shall commence on the site until such time as a surface and foul water drainage scheme for the entire developed area shown on Parameter Plan 1 - Land Use and Amount (021.1 Rev H 10.06.2015) (or, in the case of phased development, for the relevant phase of the development), based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, together with a timetable for its implementation in respect of the development (or, in the case of phased development, for that phase), has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the agreed details and timetable. The scheme shall include:

- Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken;
- Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 20% for commercial, 30% for residential (for climate change) critical rain storm;
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements; and
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

No development shall be carried out (or, in the case of phased development, no development in that phase shall be carried out), nor any part of the development shall be brought into use at any time unless in accordance with the agreed scheme and timetable.

*Reason - To prevent the increased risk of flooding, to improve and protect water quality, to*

*improve habitat and amenity, and to ensure the development is provided with a satisfactory means of drainage.*

- 13 The development hereby permitted shall not be commenced until such time as a scheme to detail each individual watercourse crossing (including pedestrian footbridge and vehicular crossings) demonstrating that no raising of ground levels, nor bridge soffit levels as set will result in elevated flood levels, and that there will be no loss of flood plain storage due to the provision of any new crossing of the Money Hill Brook, has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Environment Agency and Lead Local Flood Authority (LLFA). The scheme shall include, but not be exclusive of:
- Limiting the number of crossings of the Money Hill Brook, and removal/upgrade of any existing crossings;
  - Crossings to be provided as clear span bridges or arches in preference to any culverting (including the upgrading of existing crossings, where upgrading is required or proposed);
  - Bridge soffits set a minimum of 600mm above the modelled 100 year plus 20% (for climate change) flood level applicable at the crossing site;
  - Bridge abutments set back beyond the top of the natural bank of the watercourse;
  - Where necessary, culverts designed in accordance with CIRIA C689 (including up sizing to provide a free water surface and natural bed), and to have a minimum width / length of culvert essential for access purposes;
  - Provision of compensatory flood storage for all ground levels raised within the 100 year flood plain applicable at any crossing sites, including proposed location, volume (calculated in 200mm slices from the flood level) and detailed design (plans, cross, and long sections) of the compensation proposals;
  - Compensatory flood storage provided before (or, as a minimum, at the ground works phase) of the vehicle bridge and any other crossing construction;
  - Detailed designs (plans, cross, long sections and calculations) in support of any crossing;
  - Details of how the scheme shall be maintained and managed after completion; and
  - A timetable for the relevant works.

The scheme shall be fully implemented and subsequently maintained in accordance with the approved details including the timing / phasing arrangements embodied within the scheme.

*Reason - To avoid adverse impact on flood storage, to reduce the risk of flooding to the proposed development and future occupants, to reduce the risk of flooding to adjacent land and properties, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the surface water drainage system.*

- 14 No development shall commence until a construction working method statement to cover all watercourse works (including pedestrian and vehicular crossings and any other works within 8 metres of any watercourse) has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved scheme.

*Reason - To protect local watercourses from the risk of pollution.*

- 15 Notwithstanding the submitted details and other conditions, no development (save for demolition works) shall commence on the site (or, in the case of phased development, in respect of the relevant phase) until a further Risk Based Land Contamination

Assessment has been submitted to and agreed in writing by the Local Planning Authority (or, in the case of phased development, in respect of that phase). The Risk Based Land Contamination Assessment shall identify all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources, pathways and receptors, and potentially unacceptable risks arising from contamination at the site and shall be carried out in accordance with:

- BS10175:2011+A1:2013 Investigation of Potentially Contaminated Sites Code of Practice;
- BS8485:2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and,
- CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004.

*Reason - To ensure that the land is fit for purpose, to ensure protection of controlled waters and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.*

- 16 If, pursuant to Condition 15 above, any unacceptable risks are identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan shall be submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of CLR 11 Model Procedures for the Management of Land Contamination, published by the Environment Agency 2004, and the Verification Plan (which shall identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action) shall be prepared in accordance with the requirements of Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010, and 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 shall cease on the affected part of the site and it shall be reported in writing to the Local Planning Authority within 10 working days. No work shall recommence on that part of the site until such time as a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be undertaken in accordance with the agreed details and thereafter be so maintained.

*Reason - To ensure that the land is fit for purpose, to ensure protection of controlled waters and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.*

- 17 No part of the development hereby permitted shall be brought into use until such time as a Verification Investigation for the relevant part of the site has been undertaken in line with the agreed Verification Plan for any works outlined in the approved Remedial Scheme relevant to either the whole development or that part of the development and a report showing the findings of the Verification Investigation for the relevant part of the site has been submitted to and agreed in writing by the Local Planning Authority. The Verification Investigation Report shall:
- Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
  - Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;

- 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;
- Contain Test Certificates of imported material to show that it is suitable for its proposed use;
- Demonstrate the effectiveness of the approved Remedial Scheme; and
- Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the approved Remedial Scheme have been completed.

*Reason - To ensure that the land is fit for purpose, to ensure protection of controlled waters and to accord with the aims and objectives in respect of pollution as set out in the National Planning Policy Framework.*

- 18 There shall be no infiltration of surface water drainage into the ground at any time other than in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Development shall be undertaken strictly in accordance with the submitted Outline Construction Environmental Management Plan (Revision 02, 1 May 2015, ref. 031052).

*Reason - To protect controlled water receptors.*

- 19 Notwithstanding the submitted details and other conditions, no development shall commence in any phase until such time as a timetable for the undertaking of updated surveys in respect of badgers in the relevant phase (and including the specification of maximum periods between undertaking of surveys and commencement of work on the relevant phase) has been submitted to and agreed in writing by the Local Planning Authority. No development shall thereafter be undertaken at any time in that phase unless the relevant surveys have been undertaken in accordance with the approved details and the results (including mitigation measures and a timetable for such mitigation where appropriate) have been submitted to and agreed in writing by the Local Planning Authority, and the development shall thereafter be undertaken strictly in accordance with the agreed mitigation measures and timetable.

*Reason - In the interests of nature conservation.*

- 20 No hedgerows, trees or shrubs shall be removed during the months of March to August inclusive unless first agreed in writing by the Local Planning Authority. Should nesting birds be found during construction work, all construction work within 5 metres of the nest (which could constitute a disturbance) shall cease immediately, and shall not resume until such time as the young have left the nest.

*Reason - In the interests of nature conservation.*

- 21 Notwithstanding the submitted details and other conditions, the first reserved matters application in respect of the development (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall be accompanied by full details of all measures proposed in respect of the enhancement and / or management of the ecology and biodiversity of the development (or in respect of phased development, that phase), including proposals in respect of future maintenance and a timetable for the implementation of the relevant measures. The development shall thereafter be undertaken and occupied in accordance with the agreed measures and timetable.

*Reason - In the interests of nature conservation.*

- 22 Notwithstanding the submitted details, all reserved matters applications for the erection of non-residential development shall include full details of the proposed buildings' anticipated level of achievement in respect of criteria / sub-categories contained within the Building Research Establishment's Environmental Assessment Method (BREEAM). No building shall be brought into use until such time as an assessment of the building has been carried out by a registered BREEAM assessor and a BREEAM Certificate has been issued for the relevant building certifying that the relevant BREEAM Level has been achieved.

*Reason - To ensure the environmental integrity of the scheme is secured.*

- 23 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any order revoking or re-enacting that Order), the total gross floorspace of uses falling within Class A1 of that Order shall not exceed 560 square metres at any time, nor shall the total gross floorspace of any single retail unit exceed 460 square metres at any time, unless planning permission has first been granted by the Local Planning Authority.

*Reason - To ensure the development takes the form envisaged by the Local Planning Authority, for the avoidance of doubt, and to ensure satisfactory control over the impact of the development on nearby centres.*

- 24 The first reserved matters application submitted pursuant to this permission (or, in the case of phased development, the first reserved matters application in respect of the relevant phase) shall include a detailed Archaeological Mitigation Strategy for the respective area(s). The Strategy shall be based upon the results of a programme of exploratory archaeological fieldwalking and trial trenching undertaken within the relevant area(s) in accordance with a Written Scheme of Investigation (WSI) first submitted to and agreed in writing by the Local Planning Authority. Both the WSI and final Strategy shall include an assessment of significance and research questions, and:
- The programme and methodology of site investigation, recording and post-investigation assessment (including the initial fieldwalking and trial trenching, assessment of results and preparation of an appropriate mitigation scheme);
  - The programme for post-investigation assessment;
  - Provision to be made for analysis of the site investigation and recording;
  - Provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - Provision to be made for archive deposition of the analysis and records of the site investigation;
  - Nomination of a competent person or persons / organisation to undertake the works set out within the Written Scheme of Investigation; and
  - A detailed timetable for the implementation of all such works / measures.

No development shall take place at any time within the relevant area other than in accordance with the agreed Written Scheme of Investigation, Strategy and timetable for that area.

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



- 25 Notwithstanding the submitted details and other conditions, no development shall commence on the site until such time as a scheme of structural landscaping to the A511 (indicating species, densities, sizes and numbers of proposed planting both within and outside of the application site, as appropriate, together with all existing trees and hedgerows on the land including details of those to be retained, and those to be felled / removed), together with a timetable for its implementation, has been submitted to and agreed in writing by the Local Planning Authority. No development shall be occupied at any time unless all measures specified in the agreed scheme required to be implemented by the relevant stage / phase have been undertaken in full in accordance with the agreed details.

*Reason - In the interests of amenity and to ensure that the development is appropriate in its National Forest setting.*

- 26 Notwithstanding the submitted details and other conditions, no development shall commence (or, in respect of a phased development, no development shall commence in the relevant phase) until such time as details specifying which of the proposed tree protection measures shown on drawing no. SJA TPP 15068-01.1a Rev A (Arboricultural Implications Report May 2015, Appendix 3) within the development (or, in respect of a phase development, that phase) are proposed to be implemented in respect of the construction of the proposed accesses / roads (together with a timetable for their implementation) have been submitted to and agreed in writing by the Local Planning Authority. No development (or, in respect of a phased development, no development in the relevant phase) shall be undertaken at any time unless all of the agreed protection measures relating to the relevant stage / phase are in place. 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.

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

- 27 Save for any works associated with the formation of the access as shown on drawing no. 11-T097\_30, no part of the development shall be occupied until such time as the A511 site access junction as shown on drawing no. 11-T097\_30 has been provided in full and is available for use by vehicular traffic.

*Reason - To provide vehicular access to the site, including for construction traffic, and in the interests of highway safety.*

- 28 No development shall commence on the site until such time as a scheme for the provision of a new or diverted bus service serving the development, and providing a connection between the site and Ashby de la Zouch town centre, has been submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall include hours of operation, service frequencies, routeing and provision of necessary on and off site infrastructure (including pole and flag, bus shelter, raised kerbs and information display cases). The scheme shall include any works / measures required for the initial implementation of the scheme, together with a phased programme for the implementation of any measures required by the scheme as the development progresses. No more than 131 dwellings constructed pursuant to this Planning Permission shall be occupied until such time as the whole of the approved scheme is fully operational.

*Reason - To ensure adequate steps are taken to provide a choice in mode of travel to and from the site.*

- 29 No development shall commence on the site until such time as a construction management plan, including wheel cleansing facilities and vehicle parking facilities, site compound(s), materials' storage areas and a timetable for their provision, has been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

*Reason - In the interests of highway safety and to prevent unacceptable on-street parking.*

- 30 No more than 150 dwellings shall be accessed off Nottingham Road.

*Reason - To limit access to the site off Nottingham Road.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 Your attention is drawn to the attached report of the Coal Authority.
- 3 Your attention is drawn to the attached report of Severn Trent Water.
- 4 Your attention is drawn to the attached report of the Environment Agency.
- 5 Your attention is drawn to the attached report of Leicestershire County Council's Director of Environment and Transport in respect of highways and transportation matters.
- 6 Your attention is drawn to the attached report of Leicestershire County Council's Rights of Way Officer.
- 7 Your attention is drawn to the attached report of Leicestershire County Council in its capacity as Lead Local Flood Authority.
- 8 Your attention is drawn to the attached report of Natural England.
- 9 Your attention is drawn to the attached report of the National Forest Company; the applicants are advised to have regard to the advice provided when formulating the detailed proposals at the reserved matters stage(s).
- 10 The applicants are advised that the Local Planning Authority will expect any associated reserved matters application to demonstrate compliance with Building for Life 12 and, in particular, to include have regard to the provision of a suitable gateway to the site from the A511.
- 11 The applicants are advised that the Local Planning Authority will expect any associated reserved matters application to include provision for suitable, robust, boundary treatment and landscaping adjacent to existing residential property in the vicinity of the proposed Nottingham Road access.