

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
A1

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

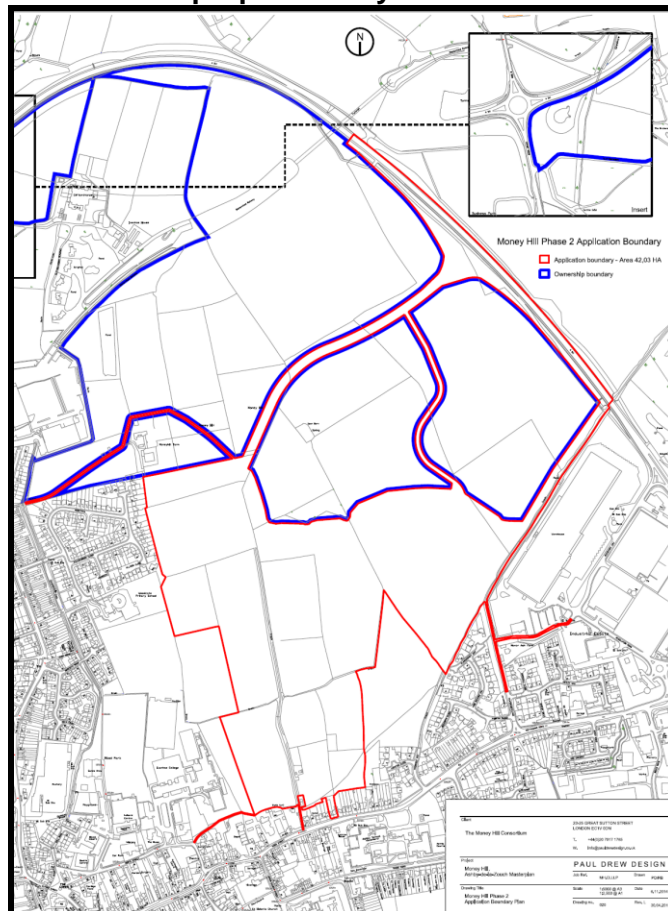
Date Registered
13 May 2015

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. The entire site is allocated for housing development in both the publication Local Plan and the Publication Neighbourhood Plan.

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, remain unchanged. Whilst the Local Highway Authority had previously 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

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. Following amendment of the appeal proposals, the existing planning permission allows access for up to 30 dwellings via Woodcock Way (but does not require it); the remainder of the 605 dwellings would be served via the A511.

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). The applicants' proposed planning obligations (and including the proposed affordable housing contributions) are generally as per those secured under the unilateral undertaking agreed as acceptable by the Secretary of State in respect of the earlier appeal.

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

The application was reported to Planning Committee on 5 July 2016 when it was resolved to be deferred in order to enable officers to negotiate with the applicant with a view to the application being amended so as to provide for all vehicular access via the A511.

In response (and on the basis that the application is resolved to be approved at the Planning Committee meeting of 2 August 2016), the applicants have proposed reducing the maximum number of residential units capable of exiting the site from the Nottingham Road access from 150 to 100. They advise that, in the event that the application is deferred again, or refused, this compromise offer would not be carried forward in any subsequent appeal.

2. Publicity

768 neighbours have been notified (date of last notification 2 June 2015)

Press Notice published 3 June 2015

Site Notice published 1 June 2015

3. Consultations

Ashby De La Zouch Town Council consulted 28 May 2015
Derbyshire County Council consulted 18 June 2015
Ramblers' Association consulted 29 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 Management 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- 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 has no objections subject to conditions and Section 106 obligations

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

90 representations have been received, raising the following concerns:

- Unsafe access onto Nottingham Road
- Nottingham Road / Wood Street already very busy / unsafe
- Exacerbation of existing congestion problems
- 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
- Publication version of the emerging North West Leicestershire Local Plan indicates that no more than 70 dwellings will be permitted from Nottingham Road
- Previous approval was limited to only 30 dwellings from Nottingham Road
- Contrary to Policy H3 of the emerging North West Leicestershire Local Plan
- Council is able to demonstrate a five year housing land supply
- If permitted, the scheme would only substitute 605 dwellings for an existing permission for 605 dwellings, so the contribution to housing supply should not be material to the decision
- No masterplan for the wider Money Hill allocation has been provided
- Transport Assessment and its associated traffic survey data are out of date, and predates signalisation of the Wood Street / Upper Church Street junction
- Limited scope to increase traffic light controlled junction capacity
- No account taken of previous nearby accidents
- Conditions imposed by the previous Inspector should be enforced
- No account taken of on street car parking
- No account taken of impact of road levels on visibility splays
- No turning circles provided (including for emergency vehicles)
- Insufficient assessment of junction capacities
- Validation of LLITM model needs to be confirmed

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)
- Adverse impact on highway safety
- Contrary to emerging Local Plan
- Proposed car park too far from town centre to be of use
- If permitted, the scheme would only substitute 605 dwellings for an existing permission for 605 dwellings, so the contribution to housing supply should not be material to the decision

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

Ashby de la Zouch Civic Society objects for the following reasons:

- District has a five year supply of housing land
- Previous appeal decision limited the number of dwellings served from Nottingham Road

- to 30
- No masterplan as required by emerging Local Plan
- History of accidents in the Nottingham Road area
- Delivery of the site can still be achieved without the access in accordance with the existing permission

Nottingham Road and Wood Street Action Group (NoRAG) objects for the following reasons:

- Leicestershire County Council unhappy with proposals
- Transport Assessment and its associated traffic survey data are out of date
- Contrary to emerging Local Plan
- Insufficient capacity on A511 / Nottingham Road roundabout

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.

Publication Version North West Leicestershire Local Plan

On 15 September 2015 the District Council's Full Council approved a draft Local Plan for consultation. That consultation has now ended and the publication version of the Local Plan was agreed by Council on 28 June 2016 with a view to its submission for examination in September 2016. Given the more advanced stage that has now been reached with agreement of a publication version of the Local Plan it is considered that more weight can be attached to the policies listed below.

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

The following draft Local Plan policies are considered relevant:

Policy D1 - Design of new development

Policy D2 - Amenity

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 Ec8 - Town and local centres: Hierarchy and management of development

Policy Ec9 - Town and local centres: Thresholds for Impact Assessments

Policy IF1 - Development and infrastructure

Policy IF2 - Community and cultural 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 - Flood risk

Policy Cc3 - 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 site lies within Limits to Development as defined in the emerging Neighbourhood Plan. The following draft Neighbourhood 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 Development
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 overall from the position taken by the Secretary of State.

In terms of emerging policy, given the early stages reached in their progress towards adoption, the Secretary of State afforded only very limited weight to the draft North West Leicestershire Local Plan and to the draft Ashby de la Zouch Neighbourhood Plan. As noted under Relevant Planning Policy above, the publication version of the draft Local Plan has now been agreed by Council with a view to its submission for examination in September 2016 and, as such, more weight may now be attributed to its policies.

The site forms part of a wider site allocated for a total of 1,750 dwellings under Policy H3 of the

publication Local Plan (allocation H3a). It is considered that, in principle, the current outline scheme for 605 units has the potential to comply with the majority of the requirements set out in that policy. Whilst explanatory paragraph 7.17 indicates that a third point of access from Nottingham Road (i.e. in addition to accesses from the A511 and Smisby Road) would be allowed, this would, in effect, be the 70 units accessible via Woodcock Way; the publication Local Plan is silent on the issue of whether a fourth point of access would be acceptable. Regardless, however, given the acceptance by the County Highway Authority (as set out in more detail below) that the scheme as submitted would be suitable, it is not considered that a refusal of the scheme on the grounds that the development would result in more accesses than envisaged in the emerging policy could be successfully defended on appeal.

Insofar as the emerging Neighbourhood Plan is concerned, it is noted in particular that Policy H1 of the draft Neighbourhood Plan indicates that the minimum 2,050 new houses to be provided within the plan area by 2031 would be accommodated on, amongst others, the Money Hill site; Policy H2 sets out the requirement for a masterplan. In terms of the weight to be attached to the emerging Neighbourhood Plan, however, it is not considered that any further progress has taken place in respect of that plan since the time the appeal was determined that would warrant materially greater weight being attached to its policies at this time.

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 (100 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 (albeit the Phase 1 arrangements above would enable drivers to access (but not egress) the remainder of the development via Nottingham Road)

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 to Nottingham Road); the means in which this would be achieved would be addressed at the reserved matters stage, however.

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. Following the submission of an amended access plan, however, the County Highway Authority 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.

Insofar as the proposed Nottingham Road access is concerned, the County Council confirms that the design is compliant with the requirements set out in the 6Cs Design Guide and, whilst

this specific layout has not been subject to a Stage 1 Road Safety Audit, previous iterations of the same principle of access have been, and the RSA1 reports did not raise any significant areas of concern.

The County Highway Authority advises that it considers a 6.75m wide site access to be necessary given that the access is proposed for bus use, and as a school is proposed to be provided on the site. Whilst the County Highway Authority advises that it would not wish to encourage the significant intensified use of an access on to Nottingham Road, there are various mechanisms which could be put in place within the layout of the development at the reserved matters stage(s) to discourage this.

Insofar as the proposed traffic management measures within the site intended to limit the level of through traffic between Nottingham Road and the A511 are concerned (and which include a bus gate and a one-way system), the County Highway Authority advises that it has concerns over these proposals as they would be subject to a Traffic Regulation Order (TRO); this TRO would require public consultation, and it could not therefore be guaranteed at this time what the outcome of that process would be. Furthermore, the County Highway Authority notes, there is a risk that any measures could be petitioned in the future by residents for removal, which would result in significant financial cost to the County Council. However, the County Council accepts that such matters cannot be addressed at this outline application stage, and understands that the detailing of any such measures would be considered as part of any subsequent reserved matters applications.

The County Highway Authority has noted that junctions along Nottingham Road currently have ghost island right turn lanes to facilitate the free flow of traffic. However, the County Highway Authority recognises that this section of Nottingham Road is generally between the eastbound queue (towards Tesco) and the westbound queue (towards the town centre) and therefore suffers less from the effects of queuing traffic compared to the rest of the corridor. Whilst the County Council advises that, during site visits undertaken by the County Highway Authority, it was noted that the westbound (town centre bound) queues did extend as far back as the location of the proposed access, this was not a persistent queue throughout the whole peak period.

The County Highway Authority also notes that there is some on-street parking within the vicinity of the proposed site access but that dwellings in the immediate vicinity of the site have off-street parking. As per the previous application, given the constraints around the vicinity of the site access, the County Highway Authority recommends a contribution be sought towards the consultation and implementation of a no-waiting TRO in the vicinity of the site access to facilitate bus movements.

The County Council also advises that the junction capacity assessment provided alongside the proposed site access demonstrates that the junction is likely to operate within capacity, as a simple priority junction.

In terms of road safety, the County Highway Authority draws attention to a fatal accident in the vicinity of the site in January 2016. Whilst the County Highway Authority states that it considers any fatal incident to be regrettable, it advises that there are no accident clusters in the vicinity of the site access with similar accident characteristics and would not therefore advise resisting the proposal for a new site access on the basis of this single incident.

In view of the similarity between the approved and proposed schemes, the County Highway Authority does not consider that there are any significant differences in terms of their respective

off-site traffic and sustainable travel implications.

Having regard to the above, therefore, the County Highway Authority raises no objections to the application subject to conditions and Section 106 obligations. In addition, the conclusions of the County Highway Authority have been independently verified on behalf of the District Council.

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 which has already been accounted for, 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. The Environmental Statement indicates that 87% of the site would constitute Best and Most Versatile (BMV) land (of which the majority would fall within Grade 3a).

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 nor 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 a bilateral 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, the Local Education Authority has concerns that the development of 605 homes on the site will not provide sufficient land and money within the Section 106 agreement to provide an entire school. This is because the development will not generate enough pupils to fill a school, and it is obviously not possible to build part of a school. The applicant used the County Council's formula, when calculating the education financial contribution, which only considers classrooms and does not include other associated support services. This cash sum,

based on the formula, was accepted by the appeal which was allowed in January 2016, with reference to the alternative version of the application that this report refers to. The applicant therefore has a strong fall-back position, in that it can develop 605 homes on the site, and pay the education contribution that is set out in that legal undertaking.

The Education Authority has suggested a number of possible solutions to this funding shortfall, including taking the financial contribution and pooling it with the Holywell Spring Farm development to build a school on that site. The children from the current application site could then attend the new school on the Holywell Spring Farm development. Alternatively, given that the application is in outline, the land that the development will provide towards the school could be located at the edge of the site, to enable additional school land immediately adjacent to it to be provided when the wider site comes forward.

It is the case that the Education Authority has reservations about the inability of the site to provide a whole school by itself, but it is also the case that an existing legal commitment by the developer provides a significant sum, and there is potential for that sum to be pooled with others to provide a whole school. On that basis, it is considered that the proposed education contribution of £1,756,776.25 plus land (minimum 1.5ha) is policy compliant.

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, 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 / CABI 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 relevant access, no construction works shall take place at any time unless either (i) the A511 site access junction as shown on drawing no. 11-T097_30 has been provided in full and is available for use by construction traffic; or (ii) a construction traffic access from the A511 in accordance with details first submitted to and agreed in writing by the Local Planning Authority has been provided in full and is available for use by construction traffic. No more than 100 dwellings shall be occupied within the development 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, in the interests of highway safety, and to comply with Policy T3 of the North West Leicestershire Local Plan.

- 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, routing 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 100 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 100 dwellings shall be accessed off Nottingham Road.

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

31 None of the dwellings hereby permitted shall be occupied until such time as the Nottingham Road site access junction as shown on drawing no. 11-T097_40.1 has been provided in full and is available for use by vehicular traffic.

Reason - To provide vehicular access to the site, to provide for appropriate connectivity to the town centre, in the interests of highway safety. and to comply with Policy T3 of the North West Leicestershire Local Plan.

32 No more than 100 dwellings constructed pursuant to this planning permission shall be occupied until such time as a scheme for the connection between the roundabout access at the A511 and the Nottingham Road access has been implemented in full in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason - To allow for bus penetration through the site, in the interests of promoting sustainable travel.

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

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- 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.
- 12 For the avoidance of doubt, all references within phases of development within the conditions above should be construed as being those phases of development to be set out and agreed pursuant to Condition 5.
- 13 This decision is in accordance with the resolution of the Planning Committee of 2 August 2016 and is subject to a Section 106 Obligation.