

Erection of eight dwellings (access, landscaping and layout included)

Report Item No  
A2

Land To The North East Of Normanton Road Packington  
Ashby De La Zouch Leicestershire LE65 1WS

Application Reference  
15/01051/OUT

Applicant:  
Mr & Mrs B T Moseley

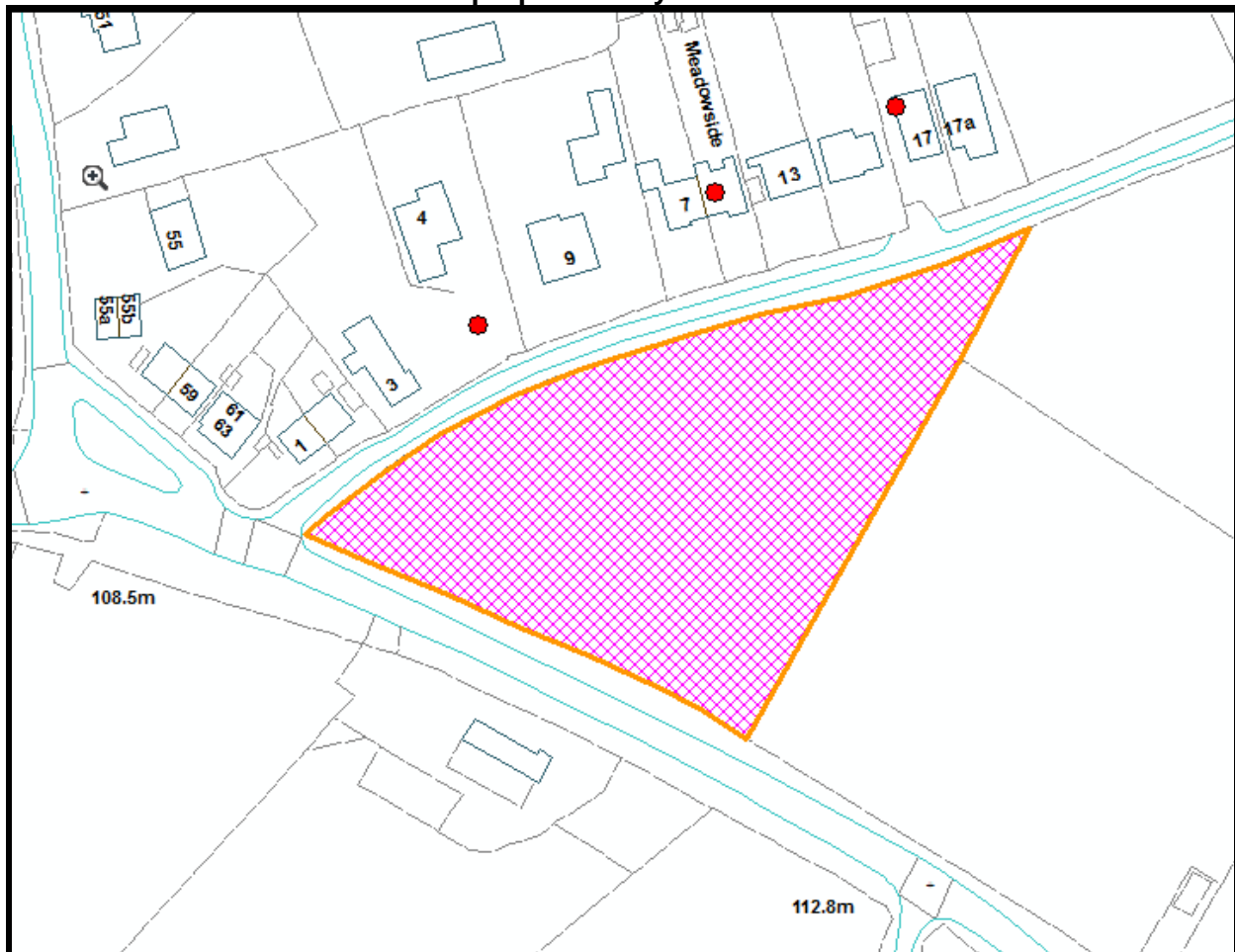
Date Registered  
5 November 2015

Case Officer:  
Jenny Davies

Target Decision Date  
31 December 2015

Recommendation:  
REFUSE

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office  
©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329

## **EXECUTIVE SUMMARY OF PROPOSALS AND REASON FOR REFUSAL**

This application has been called to Planning Committee by Councillor Nigel Smith on the grounds that the site is outside the Limits to Development, the land is agricultural and greenfield, the Council's housing quota has been met, an application for housing on the site has previously been refused and there are strong objections from Packington Parish Council and local residents.

### **Proposal**

Outline planning permission (with access, landscaping and layout included for determination) is sought for the erection of eight detached dwellings on land at Normanton Road/Spring Lane, Packington. Four of the dwellings would front onto Normanton Road with the remaining four dwellings located on the rear of the site, three of which would back onto Spring Lane. Three accesses would be provided onto Normanton Road.

This site forms part of a larger site that was subject to an outline planning application for 42 dwellings (13/00959/OUTM), which was approved. Subsequently the planning permission was challenged by a Judicial Review in December 2014 and quashed. The application was reported back to Planning Committee in June 2015 and refused on two grounds.

### **Consultations**

26 letters of objection have been received from members of the public and Packington Parish Council has raised objections. Three letters of support have been received. No other objections have been received from statutory consultees.

### **Planning Policy**

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

### **Conclusion**

Whilst the site is outside the Limits to Development and constitutes greenfield land, the site would be socially sustainable in relation to distance to services and facilities and appropriate contributions to infrastructure and affordable housing. The development would be acceptable in terms of impacts on highway safety, the character of the area, design/layout and impacts on the historic environment, residential amenities, highway safety, trees/hedgerows, drainage and flood risk and protected species/ecology. However as the site lies outside the Limits to Development, in the context of the River Mease Special Area of Conservation (SAC) the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations. It is therefore recommended that planning permission be refused.

### **RECOMMENDATION:- THAT PLANNING PERMISSION BE REFUSED**

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

## MAIN REPORT

### 1. Proposals and Background

Outline planning permission (with access, landscaping and layout included for determination) is sought for the erection of eight detached dwellings on land at Normanton Road/Spring Lane, Packington. The site is a 0.65 hectares area of pasture land located to the north of Normanton Road and south east of Spring Lane. Open fields lie to the north, south and east with residential development to the north west. Land levels across the site rise by just over two metres from the south western corner of the site in a north easterly/easterly direction.

Four of the dwellings would front onto Normanton Road with the remaining four dwellings on the rear of the site, three of which would back onto Spring Lane. Three accesses are proposed onto Normanton Road. A multi-stemmed ash tree on the front boundary is shown to be removed, along with four stretches of hedgerow. The remaining boundary hedgerows and trees are shown to be retained. A new footway is proposed along the northern side of Normanton Road and an existing access onto Spring Lane would be closed. Amended plans have been submitted to address officer concerns regarding the design/layout and impact on the frontage trees/hedgerow and residential amenities.

The site lies within the catchment area of the River Mease SAC. A tributary to the River Mease lies approximately 60 metres to the west of the site. The Packington Conservation Area lies approximately 200 metres to the north west of the site and the nearest listed building is the Grade 2 listed Packington House lying approximately 157 metres to the north east.

A full application for four self-build dwellings on the site (16/00925/FUL) was submitted in August 2016 and is also brought before this Planning Committee.

This site forms part of a larger site that was subject to an outline planning application for 42 dwellings (13/00959/OUTM), which was approved at Planning Committee in June 2014 and the decision notice issued in November 2014. Subsequently the planning permission was challenged by way of a Judicial Review in December 2014 and quashed by an Order of the Court. The Judicial Review raised six grounds of challenge; the Council conceded one of those grounds, which was that it had raised a legitimate expectation that the matter would be reported back to the Planning Committee prior to the issue of the decision notice. For this reason, the Court Order quashing the planning permission was made with the consent of both parties. The application was reported back to Planning Committee in June 2015 and refused on the following two grounds:

*1. Paragraph 14 of the National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development; Paragraph 7 defines sustainable development (and including its environmental dimension) and also provides that the planning system needs to perform an environmental role, including in respect of protecting and enhancing our natural environment and using natural resources prudently. Paragraph 17 of the NPPF states that planning decisions should recognise the intrinsic value of the countryside. Policy S3 of the adopted North West Leicestershire Local Plan sets out the circumstances in which development outside limits to development would be acceptable. The site is a greenfield site located outside of the limits to development as defined in the adopted Local Plan, and would result in significant harm to the character and rural appearance of the locality and setting of the village in the landscape and any development on this site would appear as an unwarranted and incongruous intrusion into the countryside. Approval of the application would result in the unnecessary development of land located outside limits to development, not constituting sustainable*

*development, and contrary to the policies and intentions of the NPPF and Policy S3 of the North West Leicestershire Local Plan.*

*2. 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. Paragraph 132 of the NPPF states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 133 of the NPPF states that where a development will lead to substantial harm or total loss of significance of a designated heritage asset, local planning authorities should refuse permission. The proposed residential development of this site will have a significant adverse impact upon the setting of the nearby Grade II Listed Packington House, a designated heritage asset, which should be given special regard and weight, and the development would therefore be contrary to the intentions of Paragraphs 132 and 133 of the NPPF.*

## **2. Publicity**

121 neighbours have been notified (Date of last notification 6 October 2016)

Press Notice published 18 November 2015

Site Notice published 13 November 2015

## **3. Consultations**

Packington Parish Council  
NWLDC Tree Officer  
County Highway Authority  
National Forest Company  
NWLDC Urban Designer  
LCC Flood Management  
NWLDC Tree Officer  
LCC Flood Management  
Severn Trent Water Limited  
Head of Environmental Protection  
County Archaeologist  
LCC ecology  
NWLDC Conservation Officer  
Historic England-  
Development Plans  
Manager Of Housing North West Leicestershire District Council  
Highways Agency-

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

### **Statutory Consultees**

**Packington Parish Council** objects on the following grounds:

- that a precedent has been set by the Council when they turned down a small development on Ashby Road, stating that Ashby Road was refused based on the fact that it was development in the open countryside;
- the site is outside the proposed Limits to Development currently being consulted on by the District Council;

- a development on this land was already refused on 10th June 2015;
- there are three proposed accesses on to Normanton Road which will be opposite a thirty house development. Further highway matters therefore need to be considered;
- there is a highways issue in that there are too many accesses onto Normanton Road;
- the development is detrimental to the occupier of 1 Spring Lane in that the size of the property to be built opposite No. 1 will affect their enjoyment of their own property. The size of the proposed property opposite will also have a considerable affect on the natural daylight afforded to No. 1;
- Councillors are also concerned about the sewerage capacity;
- Councillors advise that the sewage works are at capacity;
- Parish Councillors feel that they have received more than their fair share of housing.

**The County Archaeologist** recommends the imposition of conditions.

**The Conservation Officer** has no objections.

**Historic England** does not consider it necessary for it to have been notified of the application.

**The Council's Environmental Protection team** has no environmental observations.

**The Lead Local Flood Authority** recommends the imposition of conditions.

**Severn Trent Water** has no objection subject to a condition.

**The County Ecologist** has no objections subject to conditions.

**The National Forest Company** initially raised concerns regarding the number of access points proposed in the hedgerow along Normanton Road which has been addressed by the submission of amended plans. A request is also made for the securing of National Forest planting.

**The Council's Tree Officer** initially objected on the basis of a detrimental impact on the trees and hedgerow to Normanton Road and advised that the tree survey was not accurate. Following submission of amended plans and a revised tree survey, the Tree Officer has no objections.

**The County Highway Authority** has no objections subject to conditions.

**Highways England** has no objections.

**The Council's Strategic Housing team** advises that it would accept an off-site commuted sum for affordable housing.

**The Council's Urban Designer** has raised concerns regarding the design of the scheme but following some amendments considers that a reason for refusal could not be justified.

### **Third Party Representations**

26 letters of objection have been received which object to the application on the following grounds:

- refusal of previous application for housing on the site;
- site is located outside the Limits to Development, including within the draft Local Plan, and therefore reason for refusal of previous application still applies;

- approval of the proposal would be inconsistent with the Planning Committee's previous decision and would encourage developers to continually submit revised applications;
- there should be a limit on the number of houses allowed outside formally agreed boundaries;
- incorporation of the site into the Limits to Development is a hope and not an argument for the development;
- proposed access drive could be extended into the adjacent field to allow its development for housing in the future;
- the five year housing land supply requirement for future housing has been met;
- limited impact on five year housing land supply;
- no need for further building on greenfield land;
- approval would set a precedent for more applications outside the Limits to Development and on the remainder of the larger site;
- no need for any more housing in the village as the 30 dwelling site is a reasonable number to allow and should satisfy the requirement for the village;
- although there is a national housing shortage, there is not a shortage of large executive homes;
- no need for anymore larger homes in the village;
- smaller properties and bungalows for the elderly and starter homes are needed within the village and so there should be more diversity in terms of size and number of bedrooms;
- the draft Local Plan states that development in Sustainable Villages should be infilling or physical extensions;
- new residents would rely on the car for most of their journeys and use of the bus service would be impractical;
- Section 106 Agreement should include payments of direct benefit to the village, e.g. to the primary school;
- existing services, e.g. doctors, schools are already under pressure;
- previous reason for refusal states that any development on the site would be an unwarranted and incongruous intrusion into the countryside;
- development of a green field site should not be acceptable in the context of the 'environmental' thread of sustainability;
- no over-riding need to develop the site when balanced against need to protect the countryside;
- harmful to the countryside;
- severe impact on appearance of entrance to the village in particular from Normanton Road;
- loss of attractive countryside and impact on rural setting around the village;
- impact on semi-rural character of Spring Lane;
- rural open spaces need to be protected;
- two schemes in South Derbyshire have been dismissed on appeal due to harmful impact on the countryside;
- use of self-build could result in a wild variety of styles of dwellings out of keeping with the village's appearance;
- lack of style guide and common materials;
- impact on setting of Packington House which is a listed building;
- four driveways and an access road onto Normanton Road pose increased traffic risks;
- accesses located opposite access to housing site on southern side of Normanton Road and close to a bend;
- some of the driveways would be outside the 30mph speed limit;
- this approach to the village already has a number of exit/entry points that are difficult to manoeuvre safely which would be exacerbated;
- additional dangers would occur to refuse collections and delivery vehicles stopping on Normanton Road at the new accesses;
- speeding traffic along Normanton Road already is a problem and would create a dangerous hazard due to the number of accesses along this stretch of road;

- additional on-street parking would create a hazard;
- traffic impact would be worse than the previous application due to number of accesses;
- development should be required to fund traffic calming measures and an adjustment to the 30mph zone;
- traffic impact needs to be re-considered;
- increase in traffic levels and congestion within the village;
- more houses will increase congestion and lack of parking in Ashby de la Zouch;
- impact on Spring Lane from extra traffic due to its narrow width;
- Spring Lane is used by walkers, cyclists, horse riders and residents and existing dangers already in place;
- lack of information regarding responsibility for landscaping at junction of Spring Lane/Normanton Road could result in impact on visibility;
- lack of room for a footway at the junction with Spring Lane;
- lack of footway along Normanton Road is dangerous for pedestrians;
- loss of light/overshadowing;
- loss of privacy/overlooking;
- lack of information regarding scale of new dwellings which is required given higher land level of the site;
- surface water flooding and heavy saturation of the site in particular during the winter;
- surface water runs off the site onto Spring Lane which can be hazardous and causes flooding;
- significant risk of increased flooding from run off if the site is developed;
- additional water being added to a combined 150mm pipe could create a capacity issue at the southern end of Spring Lane if it backs up under storm conditions and doubtless the Environment Agency and Severn Trent Water will be commenting;
- it is assumed the developer will want Severn Trent Water to adopt the drainage system and by taking the foul drainage to MH4501 would probably not allow for Severn Trent Water's requirement for an easement;
- maintenance of the hydrobrake chamber may be needed which would be under private driveways and close to a garage;
- there is not enough information within the Drainage Scheme to satisfy that planning permission may not inadvertently be granted on an insufficiently detailed future proof drainage/flood scheme;
- hedgerow and trees along Spring Lane should be retained to provide habitat for bats and screening;
- loss of hedgerows along Spring Lane;
- concerns regarding future ownership/maintenance of hedgerows and trees;
- significant level of landscaping would not be provided within the site;
- lack of landscaping detail;
- erroneous information contained within the application.

Three letters of support have been received which support the application on the following grounds:

- the village has excellent facilities that can absorb eight dwellings;
- the new dwellings can support existing facilities;
- good road links available to Ashby and major towns and cities;
- the government's thrust is for more housing;
- the proposal would not affect the village's rural feel;
- enhancement to the village;
- a balance with the scheme on the opposite side of Normanton Road on the approach to the village;
- no problems with additional traffic;
- no impact on Packington House;

- financial contributions to community projects;
- developer has listened to the views of the village with a much smaller proposal;

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

## **5. Relevant Planning Policy National Planning Policy Framework (NPPF) - March 2012**

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

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

- Paragraph 10 (Achieving sustainable development)
- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 17 (Core planning principles)
- Paragraphs 32, 34 and 35 (Promoting sustainable transport)
- Paragraphs 47, 49, 54 and 55 (Delivering a wide choice of high quality homes)
- Paragraphs 57, 58, 59, 60, 61 and 64 (Requiring good design)
- Paragraph 69 (Promoting healthy communities)
- Paragraphs 96, 99 and 100 (Meeting the challenge of climate change, flooding and coastal change)
- Paragraphs 109, 112, 118, 119, 123 and 125 (Conserving and enhancing the natural environment)
- Paragraphs 129, 131, 132, 133, 134, 137, 138 and 141 (Conserving and enhancing the historic environment)
- Paragraphs 203, 204 and 206 (Planning conditions and obligations)

### **Adopted North West Leicestershire Local Plan:**

Save where stated otherwise, the policies of the adopted 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.

- Policy S1 - Overall Strategy
- Policy S3 - Countryside
- Policy E2 - Landscaped Amenity Open Space
- Policy E3 - Residential Amenities
- Policy E4 - Design
- Policy E7 - Landscaping
- Policy E8 - Crime Prevention
- Policy F1 - National Forest - General Policy
- Policy F2 - Tree Planting
- Policy F3 - Landscaping & Planting
- Policy T3 - Highway Standards
- Policy T8 - Parking
- Policy H4/1 - Housing Land Release



Policy H6 - Housing Density  
Policy H7 - Housing Design  
Policy H8 - Affordable Housing

### **Submitted North West Leicestershire Local Plan**

The publication version of the Local Plan was agreed by Council on 28 June 2016 and submitted for examination on 4 October 2016. The weight to be attached by the decision maker to the submitted Local Plan should be commensurate to the stage reached towards adoption.

Policy S1 - Future Housing and Economic Development Needs  
Policy S2 - Settlement Hierarchy  
Policy S3 - Countryside  
Policy D1 - Design of New Development  
Policy D2 - Amenity  
Policy H4 - Affordable Housing  
Policy H6 - House Types and Mix  
Policy IF1 - Development and Infrastructure  
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 He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment  
Policy Cc2 - Water - Flood Risk  
Policy Cc3 - Water - Sustainable Drainage Systems

### **Other Guidance**

Sections 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990  
National Planning Practice Guidance - March 2014  
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations')  
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)  
River Mease Water Quality Management Plan - August 2011  
The River Mease Developer Contributions Scheme Second Development Window (DCS2) - September 2016  
The Community Infrastructure Levy Regulations 2010  
6Cs Design Guide (Leicestershire County Council)  
Packington Conservation Area Study and Appraisal - 2001  
NWLDC SPD for Affordable Housing - January 2011

### **6. Assessment**

The main considerations in the determination of this application relate to the principle of development and its sustainability, impact on the character of the area, design/layout and impacts on the historic environment, residential amenities, highway safety, trees/hedgerows, drainage and flood risk, the River Mease SAC/SSSI and protected species/ecology and developer contributions.

### **Principle of Development**

#### *Development Outside the Limits to Development*

This site forms part of a larger site that was subject to an outline planning application for 42

dwelling (13/00959/OUTM), which was initially approved, and then following a Judicial Review was refused on two grounds in June 2015, as set out earlier in the report.

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

The application site lies outside the defined Limits to Development of Packington, with residential dwellings not being a form of development permitted by Policy S3 of the adopted Local Plan, or Policy S3 of the submitted Local Plan. The NPPF requires that the District Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The Local Authority is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the submitted Local Plan.

Paragraph 17 of the NPPF highlights the need to recognise the intrinsic character and beauty of the countryside, but does not specifically preclude development within the countryside. Although another scheme for development of the site for 42 dwellings was refused in part on the basis of being located outside the Limits to Development, some of the material considerations to be taken into account in relation to the principle of the development have changed. Also the proposal is for a much smaller development on part of the larger site. Consideration must therefore be given as to whether the proposals constitute sustainable development (inclusive of its economic, social and environmental roles) given the presumption in favour of such as set out in the NPPF. Further consideration of the proposals' compliance with the three dimensions of sustainable development is set out below.

#### *Sustainability Credentials*

The concept of new development being directed to locations that minimise reliance on the private car is contained within the NPPF. Packington provides a range of day to day facilities, i.e. a primary school, shop, church, village hall, a public house, play area/recreation ground and some small-scale employment sites, and there is also a limited hourly public transport service to Ashby, Measham, Swadlincote and Burton (Monday to Saturday).

Below are the approximate distances from the centre of the site to local facilities and services:

Bus Stop (outside the Bull and Lion public house) - 370 metres  
Primary School - 540 metres  
Shop - 630 metres  
Open Space (Measham Road playing field/play area) - 620 metres  
Village Hall - 660 metres  
Public House - 370 metres

The application site is well related to the services/facilities within the village, being within 800 metres (preferred maximum walking distance) of all of the services listed above. The existing highway network within Packington comprises of quiet residential streets and on this basis, it is considered that the quality of the walking experience would be high, which is likely to encourage walking in this location. Furthermore, in order to provide continuous and improved connections to and from the site, it is proposed to construct a footway on the northern side of Normanton Road to link the site with the existing footway network.

Ashby de la Zouch is located approximately 2.2km walking distance from the centre of the site,

where amongst other services, retail, secondary education, a library and GP surgeries can be found. There would be continuous footways available to facilitate pedestrian access to this nearby market town. Furthermore, it is considered that the short distance involved and the relatively low traffic flow along the routes available and local gradients would encourage cycling. Indeed, the distance between the site and Ashby de la Zouch would also be within the average trip length for cycling.

Given the scale of the development, and when taking into account other sites that have recently been granted planning permission or are currently proposed in the village (totalling 60 dwellings), it is considered that the proposal would not result in unsustainable demands on local services and facilities. Additional residents could also support and sustain these services/facilities.

On balance it is therefore considered that occupiers of the dwellings would not necessarily be dependent on the private car. Taking all of these matters into account, it is considered that the site is socially sustainable in terms of distances to services/facilities.

In terms of environmental sustainability the proposal would result in the loss of agricultural land. Best and Most Versatile (BMV) agricultural land is defined as that falling within Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). The ALC maps indicate that the site falls within Class 3 but do not specify whether the land would fall within a 3a (BMV) or 3b (not BMV) classification. The supporting information indicates that the site would not be classified as BMV.

Whilst the NPPF does not suggest that the release of smaller BMV site is acceptable, the magnitude of loss of agricultural land is considered to be low where less than 20 hectares of BMV would be lost. Therefore given the relatively limited extent of the potential loss of the site (0.65 hectares), it is considered that this is not sufficient to sustain a reason for refusal in this case.

Some harm would arise from the loss of greenfield land located within the countryside. However as set out in more detail below, the proposal would not result in 'isolated' dwellings or any unacceptable impacts on the natural, built or historic environment. There would also be limited economic benefits which would include local construction jobs and helping to maintain local services in the area. The securing of an affordable housing contribution and National Forest planting would also contribute to social sustainability.

However in the context of the River Mease SAC, as set out in more detail below, the limited capacity available in the adopted River Mease Developer Contribution Scheme Second Development Window (DCS2) should be directed to the most sustainable locations for new development. Therefore as the site lies outside the Limits to Development, in the context of the River Mease SAC, the proposal does not constitute a sustainable form of development.

In conclusion, whilst the site is outside the Limits to Development and constitutes greenfield land, the site would be socially sustainable, would not have unacceptable impacts on the natural, built or historic environment and would have limited economic benefits. However as the site lies outside the Limits to Development, in the context of the River Mease SAC, the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations.

### **Highway Safety**

Access to and within the site is included for determination at this stage. The Highways Agency has no objection in relation to impact on the strategic highway network (M42/A42). Concerns

have been raised by the Parish Council and local residents, including dangers from the number of proposed accesses and to vehicles stopping on Normanton Road, the speed of traffic, impacts on Spring Lane at its junction and from extra traffic and proximity to a bend, to other road junctions/accesses, to the access to the proposed housing site on the southern side of Normanton Road and to the 60mph zone.

The County Highway Authority has not raised any objections to the original (with five accesses onto Normanton Road) or to the amended scheme (with three accesses). The Highway Authority advises that consideration was given to the speed of vehicles along Normanton Road when assessing the previous scheme for 42 dwellings and it was felt that the provision of street lighting to Normanton Road, the re-location of the 30mph speed limit and appropriate signage would be sufficient to deliver appropriate speeds in the vicinity of the site access. Conditions are proposed to secure these matters, along with a footway to Normanton Road and visibility splays to the new accesses.

The Highway Authority advises that as there would not be any direct accesses onto Spring Lane from the site there is no requirement to improve visibility at its junction. The Highway Authority also advises that the owner of the hedge would be required to prevent the hedgerow from encroaching onto the footway as it would lie within the public highway, and as part of this hedgerow would need to be removed to provide the footway, visibility would be provided at the junction. Furthermore given the lack of a direct access onto Spring Lane it is considered unlikely there would be a significant increase in traffic using this road.

The Highway Authority advises that the residual cumulative impacts of the development can be mitigated and are not considered severe. On this basis it is considered that the proposal would not result in a severe impact on highway safety and safe and suitable access for all could be provided.

### **Residential Amenities**

Given the scale of development and the location of the new accesses, it is considered that the increase in traffic would not be so significant to lead to an adverse impact from noise and disturbance. It is also noted that the Council's Environmental Protection Team raise no objections.

The new dwellings would be at least 29 metres from Nos. 4, 7, 9, 11, 13, 15, 17 and 17A Spring Lane and 16.5 metres from their front garden boundaries.

Plot 1 would be 22.5 metres from No. 1 Spring Lane, 20 metres from No. 2 Spring Lane, and 17 metres from No. 3 Spring Lane, and would be 19 metres, 14 metres and 13 metres respectively from their front boundaries. The garage to Plot 1 would be at least 18 metres from existing dwellings. It is acknowledged that existing dwellings are sited around one metre lower than the site. However it would be the side elevation of Plot 1 facing towards existing dwellings, and the existing hedgerow along the boundary with Spring Lane and the potential for new planting would provide additional screening. The position of Plot 1 has also been amended so that it is angled away from No. 3 to prevent direct overlooking from its likely closest first floor rear window. The impact from the scale, height, design and windows of Plot 1 and its garage on these three dwellings would need to be carefully considered at the reserved matters stage. However it is considered that a dwelling could be accommodated on Plot 1 that would not adversely impact on the occupiers of these three dwellings. As such it is considered that the proposal would not result in significant detriment to the amenities of nearby residents from overlooking, loss of light or creation of an oppressive outlook.

## Design

Based on the proposed footprints, the proposal would provide large detached dwellings. Whilst a more varied housing mix would be preferable these footprints reflect many existing dwellings along Spring Lane. Due to the size of the dwellings and plots, the proposal results in a density of 12 dwellings per hectare, which is well below that sought under Policy H6 of the adopted Local Plan (a minimum of 30 dwellings per hectare). However the NPPF states that authorities should set their own approach to housing density to reflect local circumstances. This density is considered appropriate having regard to the location of the site on the edge of a village and the character of the area.

The Council's Urban Designer has raised some concerns regarding the proposed layout and design of the dwellings. Some minor improvements have been made to the layout, although the layout remains largely unchanged. However the footprint and scale of the dwellings would give opportunities to reflect local character and distinctiveness. A vista would be created in the view along the access road drive towards Plots 3 and 5 and opportunities for surveillance are available. The site can accommodate all of the necessary requirements (private gardens, parking/turning space) without being too cramped. The Council's Urban Designer therefore considers that a reason for refusal could not be justified.

Concerns have been raised in respect of the proposal for the scheme to be 'self-build' which would result in plots being developed individually, resulting in a mix of designs. However agent has confirmed that none of the dwellings on this scheme would be self-build.

Whilst the scheme could be further improved, it is considered that the proposal would be acceptable in terms of its design and layout and a reason for refusal on this ground could not be justified.

## Character of the Area and Visual Impact

As noted earlier in this report, the previous application for 42 dwellings was refused in part in respect of impact on the countryside.

The site lies outside the Limits to Development and is within the countryside. Paragraph 17 of the NPPF sets out the key principles that should underpin planning policy and, amongst other things, requires local planning authorities to take account of the different roles and character of different areas, promoting the vitality of our main urban areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

The application has been accompanied by limited information regarding the existing landscape and character and how the development would assimilate into its environs. Packington is located within an undulating agricultural landscape and the site, along with the adjoining arable fields, provide the rural setting for the village when travelling along Normanton Road. The site is located within a natural hollow within the landscape as land rises towards the east/north-east away from the settlement. The site is bordered on all sides by mature hedgerows interspersed with trees and, therefore, is afforded some existing natural screening and appears as a self-contained field.

Development on the site would be most immediately visible from Normanton Road and Spring Lane (including public vantage points and private dwellings) which abut the site. Longer distance views of the site are available from public footpaths to the south of the village where land levels rise. However, the application site abuts the settlement boundary and development on the site would be viewed against the backdrop of existing development along Spring Lane and alongside the approved 30 dwelling scheme on the southern side of Normanton Road

which is under construction. It is acknowledged that the previous reason for refusal of the 42 dwellings scheme states that '*... any development on this site would appear as an unwarranted and incongruous intrusion into the countryside.*'. However the current proposal would be significantly smaller and would occupy much less land than the previous scheme, occupying one field rather than four and would be of a low density. As such it would not extend any further into the countryside than existing development on Spring Lane or as under construction on the opposite side of Normanton Road and would not appear as an isolated development in the countryside. Furthermore, the site is nestled within a hollow in the landscape which, along with existing landscaping, would help mitigate against the visual impact of built development on this site.

The hedgerows and trees along the roadsides form strong features on the approach to the village on Normanton Road and along Spring Lane. The retention of the Spring Lane hedgerow and the hedgerow bordering the fields to the south east would help to retain this character and screen the development. Additional planting is proposed adjacent to these hedgerows which would separate the hedgerows from garden areas and reinforce the boundaries. Views into the site would be opened up by the removal of stretches of hedgerow. However a replacement hedgerow could be planted and additional landscaping secured at the junction. The most important trees within the frontage hedgerow are shown to be retained and some screening would be provided by the remaining hedgerow. The provision of the footway and visibility splays may require some trimming back of the frontage hedgerow and trees but would not necessitate their removal. The dwellings would largely be set back from the boundaries so they would not create a harsh edge or form a solid block of development adjacent to the countryside. Given the low density of the scheme opportunities exist within the site to secure new landscaping and a more detailed landscaping scheme could be secured by condition. The future maintenance/retention of the Spring Lane and Normanton Road hedgerows/trees and the new landscaping on a more permanent basis could be secured via a Section 106 Agreement.

Whilst reference has also been made to two appeal decisions in South Derbyshire which were dismissed on appeal due to their significant harm to the countryside, it should be noted that each site will be affected by a different set of circumstances and it is a fundamental tenet of the planning system that every application is determined on its own merits.

Therefore, having regard to the above circumstances, it is considered that the visual impacts of the proposal would be reasonable and that, notwithstanding the site's location in the countryside, unacceptable impact on the character and amenities of the surrounding area would not be likely to arise. Overall, the proposal is considered to comply with the provisions of Policy E4 and H7 of the adopted Local Plan and Policy D1 of the submitted Local Plan and the provisions of the NPPF (which would include paragraph 17).

### **Historic Environment**

As noted earlier in the report, the previous application for 42 dwellings was in part refused in relation to impact on a nearby Grade 2 listed building.

Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority, when considering whether or not to grant planning permission for development which affects a listed building or its setting or a Conservation Area, to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest that the building may possess and to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 131 of the NPPF requires, amongst other things, new development to make a positive contribution to local character and distinctiveness. Paragraph 132 of the NPPF stipulates that, when considering the

impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

In terms of designated heritage assets, Packington House, which is a Grade 2 listed building, lies around 157 metres to the north east of the site on Spring Lane. The Packington Conservation Area lies approximately 200 metres to the north west of the site. Therefore the impact of the development on the listed building, its features and setting and the character and appearance of the Conservation Area should be given special regard as required by the Listed Buildings and Conservation Areas Act 1990.

Packington House is a substantial three storey property that is still isolated from the village and largely retains its rural setting. Its listing description states:

*House of late C18 and early C19. Red brick with brick dentilled eaves and plain tile roof with end stacks. Twin span, one of each date. The present entrance front, the earlier, is of 3 storeys, Flemish bond, stone coped gables, and 3 sashes: 3/3 2nd floor and 6/6 below. Stucco lintels and stone sill bands. Early C20 bay to left of central simple doorcase and canopy with part glazed 6-panelled door and overlight. 3 storey 1 window extension to right: attic 4/8 sash with casements below. 1 storey extension to left. The rear front is of 3 storeys of 4 windows grouped vertically in projecting brick sections. 3/6 sashes, flat lintels, to 2nd floor, and 6/6 cambered lintels, below. Stone sills. Centre right section has round arched doorcase: tripartite with narrow 3-pane light either side of 4-panelled door. Right end rendered; on left end extension with casements.*

Part of Packington House's significance is its age, dating from the late 18th and early 19th centuries, that its scale, design and original features have retained its country house appearance and that it still retains its historic relationship with the village as an outlying dwelling within the rural landscape. The significance of the nearest part of the Conservation Area comes from it forming the core of the village along High Street along which many of medieval buildings and historic non-residential uses (blacksmiths, shops, Post Office, pub) were concentrated.

Significant weight is given to preserving the Grade 2 listed building and its setting, and the character and appearance of the Conservation Area. The site is well separated from the Conservation Area by intervening residential development. The site would not be highly visible within views of or from the Conservation Area, although it is acknowledged that some glimpses of the site would be available within views along Heather Lane/Normanton Road. When having regard to the distances involved and the modern nature of the intervening twentieth century development, it is considered that the development of the site for housing would not adversely affect the setting of the Packington Conservation Area.

The built fabric of Packington House and any of its special features would not be affected by the proposed development which lies beyond its curtilage. However consideration needs to be given to the impact of the proposed development on the setting of Packington House. The setting of Packington House is somewhat compromised to the immediate north by the presence of a modern two-storey dwelling but its rural setting survives predominantly to the south and south east, but also to some extent to the west and south west due to the buffer of fields between the listed building and existing development on the edge of the village. There are views towards Packington House from Normanton Road on the approach to the site. However in these views the site would be seen set apart from Packington House against a backdrop of existing development on Spring Lane. In views adjacent to the site the listed building is screened by intervening topography and vegetation. The Conservation Officer raises no objections. Given its distance from Packington House, the intervening screening from

vegetation and topography and the additional landscaping proposed within the site, it is considered that the proposal would not result in significant detriment to the special architectural or historic interest, character or setting of the nearby listed building and would therefore result in less than substantial harm to the significance of the listed building.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal. The less than substantial harm to the heritage assets would in this case be considered on balance to be outweighed by the public benefit of the provision of new dwellings and the provisions of contributions towards affordable housing and National Forest planting.

### **Archaeology**

The Leicestershire and Rutland Historic Environment Record (HER) indicates that the development area lies in an area of archaeological interest, immediately adjacent to the medieval and post-medieval historic settlement core of Packington. Appraisal of the HER indicates that little or no previous archaeological investigation has been undertaken within the development area or in its vicinity. Therefore in the absence of site specific information, the County Archaeologist advises that it is difficult to evaluate the archaeological potential of the development site.

An appraisal of available aerial photographs suggests the presence or former presence of ridge and furrow earthworks within the site, indicating the site lies within the former extent of the openfield system that would have surrounded Packington through much of the medieval and post-medieval periods. The County Archaeologist advises that this indicates that the area has a low potential for significant medieval or later archaeological remains.

Buried archaeological evidence spanning the period from the prehistoric to the earliest evolution of the village (potential yet unidentified heritage assets) could be present within the development area. Paragraph 141 of the NPPF states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development.

Therefore, the County Archaeologist has no objections to the proposal subject to the imposition of conditions for an appropriate programme of archaeological mitigation in order to safeguard any important archaeological remains potentially present on the site. Subject to conditions, it is considered that the proposal would comply with the provisions of the NPPF.

### **Trees/Hedgerows**

The Council's Tree Officer and the National Forest Company initially raised concerns regarding the impact of five new accesses on the hedgerow and trees fronting onto Normanton Road. The proposal has subsequently been amended to show three accesses onto Normanton Road. An ash tree would be removed, along with stretches of hedgerow to provide the footway at the junction with Spring Lane and the three accesses, to which the Tree Officer and National Forest Company has no objection. A replacement hedgerow and additional landscaping would be provided at the junction. The provision of the footway and visibility splays may require some trimming back of the frontage hedgerow and trees but would not necessitate their removal. The most important trees within the frontage hedgerow (field maple, ash and two oak trees) are shown to be retained and the dwellings, driveways and turning/parking areas would be outside the Root Protection Areas to these trees. The hedgerows along Spring Lane and bordering the fields to the south east are shown to be retained, with additional landscaping shown alongside to separate the hedgerows from garden areas. The future maintenance/retention of the Spring Lane and Normanton Road hedgerows/trees and the new landscaping on a more permanent



basis could be secured in a Section 106 Agreement. As such it is considered that the proposal is acceptable in terms of impact on trees and hedgerows.

### **Drainage and Flood Risk**

Concerns have been raised by the Parish Council and residents regarding the capacity of the sewage network and the increased risk of flooding from surface water runoff. The site lies within Flood Zone 1 which is the lowest risk area for flooding from watercourses. The site is identified by the Environment Agency to be at predominantly low risk from surface water flooding although a small area is at medium risk and parts of Spring Lane adjacent to the site are identified as medium to high risk. The submitted Flood Risk and Drainage Statement sets out flood risk management measures including a positive surface water drainage scheme to intercept run-off generated by the development and reduce the incidence of overland flows (through provision of a piped system draining to underground storage units (with restrictive outflows), then into an existing ditch and finally being piped into the nearby watercourse) and provision of a new ditch to intercept overland flows. Surface water discharge into the watercourse would be restricted to greenfield runoff rates (i.e. the rate at which surface water currently discharges from the site when undeveloped). The Lead Local Flood Authority does not consider that the site will be at significant flood risk or the development will increase flood risk elsewhere subject to conditions relating to a surface water management scheme and mitigation measures. Severn Trent Water has no objections subject to a condition requiring submission of the details of foul and surface water drainage. The development does not fall within a category under which the Environment Agency is required to be consulted.

Given the lack of objection from Severn Trent Water and the Lead Local Flood Authority it is considered that a reason for refusal relating to flood risk and capacity of the drainage system could be not justified.

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

The site lies within the catchment area of the River Mease SAC. A tributary to the River Mease lies approximately 60 metres to the west of the site and a ditch that runs along the southern boundary the site appears to discharge into this tributary. The 2010 Habitat Regulations and Circular 06/2005 set out how development proposals within an SAC should be considered. Regard should also be had to national planning guidance in the NPPF. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

Surface water would discharge into a sustainable urban drainage scheme to ensure that it does not discharge to a Severn Trent Water treatment works. The surface water drainage system would have to incorporate pollution prevention measures to prevent substances such as petrol or oil from entering the watercourse. The site is 60 metres from the nearest tributary to the River Mease and although the ditch along the site's southern boundary appears to flow into this tributary, a condition could be imposed requiring submission of a construction method statement for any works to the ditch and formation of the new ditch.

The flows from the eight dwellings need to be taken into account against the existing headroom at Packington Treatment Works, which serves this area. At March 2016 capacity was available for 3368 dwellings but this is reduced by the number of dwellings that already have consent or are under construction at March 2016 (1036) giving capacity for 2332 dwellings. As such it is considered that capacity is available at the relevant treatment works for the foul drainage from the site.

The River Mease Developer Contribution Scheme First and Second Development Windows (DCS1 and 2) have been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). Both DCS1 and DCS2 are considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

Members will be aware that DCS2 was adopted by the Council on 20 September 2016. However there is only limited capacity available for new development until pumping out of foul drainage discharge from the SAC catchment area takes place. It is considered that this limited capacity should be directed to the most sustainable locations for new development within the District as set out in Policy S2 of the submitted Local Plan. Therefore as the site lies outside the Limits to Development in the adopted Local Plan and submitted Local Plan the Authority is of the view that in the context of the SAC and the limited capacity available in DCS2 the proposal does not constitute a sustainable form of development. Development of the site would therefore be contrary to the provisions of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.

### **Protected Species/Ecology**

There are trees, hedgerows, grassland, a building to be removed and a ditch on or close to the site along with large gardens and a watercourse in close proximity, all of which are features that could be used by European Protected Species (EPS) or national protected species. Therefore the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions and to the requirements of the Wildlife and Countryside Act 1981 (as amended).

The submitted Ecological Survey Report found no evidence of protected species on or currently using the site, although there is potential for the hedgerows and trees to be used by bats and breeding birds. The ecology report concludes that the proposal would have no adverse effect on protected species within the immediate and wider area.

There would not be a significant loss of hedgerow, trees or areas of grassland, and other similar vegetation is available on the site and within the locality that could be used by bats and breeding birds, along with additional landscaping. The building to be removed relates to a small timber open fronted stable. The site is approximately 60 metres from the nearest watercourse with hardsurfacing in-between and the existing ditch is shown to be retained.

The County Ecologist advises that the proposal is not significantly different in ecological terms from the application for 42 dwellings, to which she had no objections subject to conditions. The hedgerow along Spring Lane is identified as being species-rich and is shown to be retained. The County Ecologist recommends the imposition of similar conditions, including the provision of a five metre buffer zone adjacent to the hedgerows, a management plan for existing and new habitats (which can be included in the legal agreement to address retention and future management of existing hedgerows and new landscaping), the use of locally native species for landscaping and the timing of vegetation removal. The County Ecologist also requests the imposition of a condition to conserve a rare plant (Deadly Nightshade) (which was also requested in respect of the previous application). However this plant is found on land that is outside the boundary of the current application and therefore such a condition cannot be imposed in this case. On this basis it is considered that the proposal would not adversely impact on protected species or ecological features.

### **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.

#### *Affordable Housing*

Under the Council's Affordable Housing SPD, 30% affordable housing is required on sites of 5 dwellings or more, which equates to 2.4 (three if rounded up) dwellings for the current proposal. The applicant is proposing to provide an offsite commuted sum in lieu of onsite provision. The Council's Strategic Housing Team advises that whilst the planning application asserts that 2.4 affordable homes "is of insufficient scale to attract the interest of a Registered Provider" this is not the case in the Council's rural areas nor is it sufficient reason in itself to move away from on-site provision. However the Strategic Housing Team also advises that local Registered Providers have indicated that reduced capacity in their business plans will result in them seeking units from S106 negotiated sites over the next two years. On this basis the Strategic Housing Team advised it would accept an off-site commuted sum for the equivalent of 2.4 dwellings using the calculation in the SPD.

The agent has suggested an off-site commuted sum of £200,000 using the SPD methodology and the Strategic Housing Team has advised that this is acceptable.

#### *National Forest Planting*

The National Forest Company advises that 0.13 hectares of on-site planting (20% of the site area) should be provided or planting be provided off-site on land within the applicant's control. As it is cannot be guaranteed that such land is or would be available for off-site planting, an off-site contribution towards Normandy Wood and Packington Wood is considered reasonable, which would equate to £2600.00.

#### *Other Matters*

As noted earlier in this report clauses could be included in a Section 106 Agreement to secure the future maintenance/retention of the Spring Lane and Normanton Road hedgerows/trees and the new landscaping. The Highway Authority has requested agreement of a construction traffic route which is considered to be necessary in this case given the site's proximity to residential areas and the village centre. The site is below the 10 dwelling threshold for contributions to be sought for education, libraries, civic amenity sites, healthcare, leisure facilities and police contributions. No requests for contributions have been received from the County Highway Authority for travel packs, bus passes or off-site bus stop improvements.

#### *Summary*

Overall, it is considered that the proposed obligations would comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent appropriate contributions towards the infrastructure and other needs of the proposed development. The applicant has agreed to all of the above obligations in principle and the Council's solicitors have been instructed to prepare and negotiate the legal agreement. The Council would continue negotiations with consultees and the applicants to ensure the appropriate level of contributions that have been sought could be secured through a S106 agreement.

#### **Other Matters**

In respect of the concerns raised in the letters of representation that have not been addressed

above, other sites will be affected by a different set of circumstances and it is a fundamental tenet of the planning system that every application is determined on its own merits. If any further applications are submitted for the adjacent land then they will also be considered on their own merits. In respect of the concerns raised regarding erroneous information in the application submission, the submitted information together with all of the information gathered when undertaking the site visit and assessing the application have allowed for the application to be fully and adequately assessed.

### **Conclusions**

As set out in the main report above, whilst the site is outside the Limits to Development and constitutes greenfield land, the site would be socially sustainable in relation to distance to services and facilities and appropriate contributions to infrastructure and affordable housing. The development would be acceptable in terms of impacts on highway safety, the character of the area, design/layout and impacts on the historic environment, residential amenities, highway safety, trees/hedgerows, drainage and flood risk and protected species/ecology. However as the site lies outside the Limits to Development, in the context of the River Mease SAC the proposal does not constitute a sustainable form of development, which on balance would not be outweighed by the benefits of the proposal or any other material considerations. It is therefore recommended that planning permission be refused.

### **RECOMMENDATION, REFUSE for the following reason:**

- 1 The River Mease Developer Contribution Scheme Second Development Window (DCS2) was adopted by the Council on 20 September 2016 and allows for a limited amount of capacity for new development in the catchment area of the River Mease Special Area of Conservation (SAC). In the opinion of the Local Planning Authority, the limited capacity should be directed to the most sustainable locations for new development within the District as set out in Policy S2 of the submitted North West Leicestershire Local Plan. The site lies outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan and submitted North West Leicestershire Local Plan. Therefore, in the context of the River Mease SAC and the limited capacity available in the adopted DCS2, the proposal does not constitute a sustainable form of development and would therefore be contrary to the provisions of Policy S3 of the adopted Local Plan and Policies S2 and S3 of the submitted Local Plan.