

Erection of four detached dwellings and garaging

Report Item No
A3

Land At Normanton Road Packington Leicestershire LE65
1WS

Application Reference
16/00925/FUL

Applicant:
Mr & Mrs B T Moseley

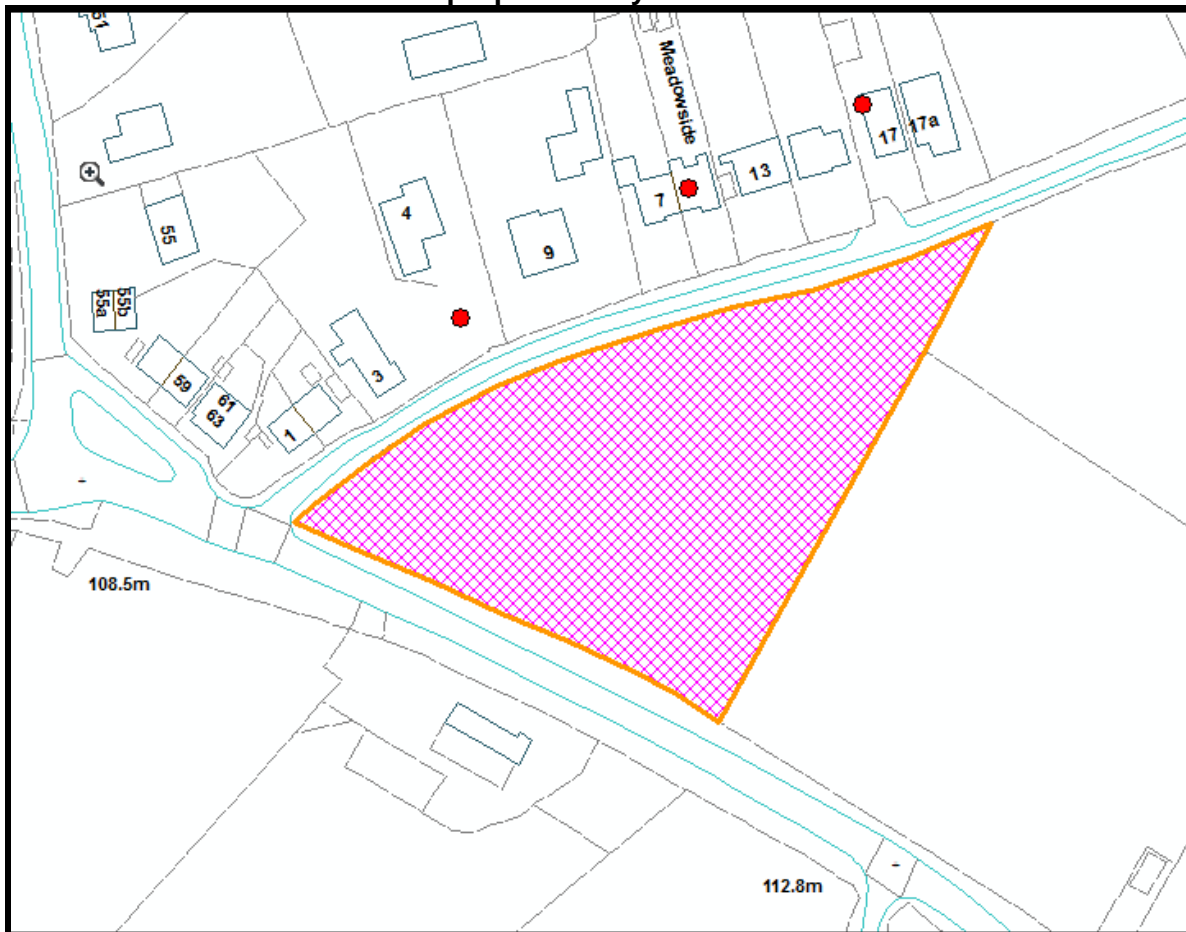
Date Registered
9 August 2016

Case Officer:
Jenny Davies

Target Decision Date
4 October 2016

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS AND REASON FOR REFUSAL

This application is brought before Planning Committee as it relates to the same site as the outline application for eight dwellings (15/01051/OUT) which is also reported on the Agenda.

Proposal

Full planning permission) is sought for the erection of four detached dwellings on land at Normanton Road/Spring Lane, Packington. Three of the dwellings would front onto Normanton Road with the remaining dwelling located on the rear of the site, facing towards Spring Lane. All four dwellings are proposed to be self-build. 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

11 letters of objection have been received from members of the public and Packington Parish Council has raised objections. 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 includes self-build dwellings and 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

Full planning permission is sought for the erection of four 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.

Three of the dwellings would front onto Normanton Road with the fourth dwelling on the rear of the site facing towards Spring Lane. All four dwellings are proposed to be self build. 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.

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.

An outline application for eight dwellings on the site (15/01051/OUT) was submitted in November 2015 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

123 Neighbours have been notified (Date of last notification 6 October 2016)

Site Notice displayed 9 September 2016

Press Notice published 24 August 2016

3. Consultations

Packington Parish Council consulted 16 August 2016

County Highway Authority consulted 16 August 2016

Severn Trent Water Limited consulted 16 August 2016

Head of Environmental Protection consulted 16 August 2016

NWLDC Tree Officer consulted 16 August 2016

County Archaeologist consulted 16 August 2016

LCC ecology consulted 16 August 2016

NWLDC Conservation Officer consulted 16 August 2016

NWLDC Urban Designer consulted 16 August 2016

National Forest Company consulted 16 August 2016

Historic England- Ancient Monument consulted 16 August 2016

Manager Of Housing North West Leicestershire District Council consulted 16 August 2016

Highways Agency- Article 15 development consulted 16 August 2016

Head Of Street Management North West Leicestershire District consulted 16 August 2016

Transco south consulted 18 August 2016

LCC Flood Management consulted 16 September 2016

4. Summary of Representations Received

Statutory Consultees

Packington Parish Council objects on the following grounds:

- this is ribbon development contrary to what is in the Local Plan. It is outside the limit to development into open countryside and as stated is outside of the emerging Local Plan as well as the existing one;
- Councillors have concerns in relation to the highway. There will be seven junctions within around 150 yards. The development is on the very edge of the 30mph limit;
- This land suffers from persistent flooding and is therefore unsuitable for development;
- Planning may have been refused at one larger site on Spring Lane in recent months but with all that is being permitted in smaller developments in various locations around the village, it is adding up to the number of properties that would have been built at the one big project which

was refused.

The County Archaeologist recommends the imposition of conditions.

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

The Lead Local Flood Authority recommends the imposition of conditions.

The County Ecologist has no objections subject to conditions.

The National Forest Company requests the imposition of a condition or an off-site contribution of £2600.

The Council's Tree Officer has no objections.

Highways England has no objections.

The County Highway Authority has requested that additional information be submitted in respect of the details of the proposal. Any further comments from the Highway Authority will be reported on the Update Sheet.

The Council's Strategic Housing team raises concerns regarding the potential for the gross developable area of the proposed dwellings to exceed 1000 square metres.

The Council's Urban Designer has raised concerns regarding the design of the scheme.

No comments have been received from the Council's Environmental Protection team and Severn Trent Water by the date of this report. Any comments received will be reported on the Update Sheet.

Third Party Representations

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

- greenfield site outside the village boundary in the current and proposed Local Plan and has already been refused for development;
- reducing the number of dwellings does not alter this situation;
- approvals for new development are way beyond the village's allocation and there are still infill plots remaining;
- the 30 dwellings approved on the opposite side of Normanton Road renders it more important that a stop be placed on any further development outside the village boundary;
- these 30 dwellings should satisfy the number of houses outside the village boundary that a small village should be expected to absorb;
- the development is not necessary;
- the draft Local Plan sets out that there are already sufficient houses planned within the District to meet the level of development required up to 2031 and the draft Local Plan contains proposals for additional development to cover any shortfall;
- size and style of the development will not address the current housing shortage;
- if more houses are to be built the predominant need is for smaller properties, suitable for young people or the elderly;
- more effort should be made to protect the countryside rather than using greenfield sites for housing;
- Spring Lane has always been considered the edge of the countryside and its amenities would

be impaired;

- loss of attractive countryside and impact on the rural setting of the village;
- intrusion into the countryside;
- self build does not guarantee that the proposed dwellings would be built and therefore conditions need to be imposed to prevent overbearing dwellings being constructed close to existing houses on Spring Lane;
- the proposal would detract from the enjoyment of residents, walkers, cyclists and horse riders along Spring Lane;
- a landscape plan needs to be produced to address the hedge on Normanton Road/Spring Lane as currently it is an unkempt mess and of an uncontrollable height and to avoid possible eventual private landowner negotiations;
- no details of new planting have been provided and nothing to prevent occupiers of the new dwellings planting leylandii or similar trees close to existing dwellings and Spring Lane;
- on other nearby developments hedges have been laid or replaced with a new hedge and railings, which in this case would provide an attractive approach to the village rather than the current overgrown and messy hedgerow;
- new planting can impact on Spring Lane as it is very narrow;
- multiple accesses near to Spring Lane, the nearby 'T' junction, bend on Normanton Road and the new housing development opposite the site will add considerably to dangers on Normanton Road;
- one access onto Normanton Road would be safer;
- there are no pavements along Normanton Road to serve these houses;
- adequate provision is not made for water to run off into the brook/culvert at the rear of properties on Heather Lane;
- great risk of flooding from the culvert that runs under the junction of Heather Lane and Normanton Road, which flows at near capacity or floods during periods of persistent rain;
- flooding of the culvert causes a traffic hazard and floods the gardens of nearby dwellings as well as putting these dwellings at risk;
- the potential run off from the development will only increase the risk of the culvert flooding;
- the new housing development on the opposite side of Normanton Road will also feed directly into the brook;
- flooding is a longstanding problem in Packington;
- if approved, applications could subsequently be made for smaller developments over a period of time, which incrementally would result in permission being granted for a much greater number of houses than the 42 dwellings previously refused.

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 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, 111, 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

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 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 (DCS) - November 2012
The Community Infrastructure Levy Regulations 2010
6Cs Design Guide (Leicestershire County Council)
Packington Conservation Area Study and Appraisal - 2001

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 dwellings (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. Furthermore all four dwellings would be self-build, for which there is support at national level with the introduction of new legislation by way of the Self Build and Custom Housebuilding Act 2015 and guidance published the Department for Communities and Local Government, including the need for the Council to provide a self-build/custom build register. To date 43 people, have registered their interest in such projects within the District of North West Leicestershire. In order to secure the dwellings as self-build properties, a Section 106 Agreement would be required to control the commissioning and construction process of the dwellings and their initial occupation, to which the applicant is agreeable.

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, proposes self-build dwellings that 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

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, proximity to Spring Lane, the nearby T-junction, a bend and to the access to the proposed housing site on the southern side of Normanton Road.

The County Highway Authority has requested that details are submitted in relation to off-site highway works, including a footway and relocation of the 30mph speed limit, in relation to details of the proposed accesses and a Stage 1 Road Safety Audit of the scheme, and advises that if this further information is submitted, it will be able to provide detailed formal advice on the proposal. The Highway Authority has been advised of the agent's response, which is that all of the requested information could be dealt with by planning conditions. Any further comments from the Highway Authority will be reported on the Update Sheet.

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. Whilst the Council's Environmental Protection team has not commented on this

application, it is noted that the Council's Environmental Protection Team raise no objections in respect of the eight dwelling scheme.

The new dwellings would be at least 33 metres from Nos. 7, 9, 11, 13, 15, 17 and 17A Spring Lane and at least 20 metres from their front garden boundaries.

Plot 1 would be 29 metres from No. 1 Spring Lane, 26.5 metres from No. 2 Spring Lane, 20.5 metres from No. 3 Spring Lane and 38 metres from No. 4 Spring Lane, and would be 26 metres, 20 metres, 16 metres and 15.5 metres respectively from their front boundaries. The garage to Plot 1 would be 19.5 metres from Nos. 1 and 2 and 16.5 metres from No. 3. 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 (which does not contain any windows) 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 rear windows to Plot 1 and front windows to Plot 2 would face towards No. 9, which is over 35 metres away. 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 6 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. However their scale and footprints would be similar to those on the eight dwelling scheme and the area is characterised by a mix of property designs along Spring Lane with no over-riding style characterising this part of the village. The dwellings would be well screened by vegetation and set back within the site so would not be overly prominent within the streetscene. The site can accommodate all of the necessary requirements (private gardens, parking/turning space) without being too cramped. As the dwellings would be self-build there will be some variation in their designs. On this basis it is considered that a reason for refusal on the basis of the layout and design could not be justified in this case.

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 for 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, would occupy much less land than the previous scheme, occupying one field rather than four and would be of a very 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 from view. Therefore it is considered that the enjoyment of users of Spring Lane would not be adversely affected. 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 be set back from the boundaries so they would not create a harsh edge to 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 self-build dwellings.

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

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 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. Landscaping details would be secured by conditions. 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 four 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 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 submitted ecology report has been accepted in respect of the two previous applications for the site (for eight and 42 dwellings) and she has no objections. The County Ecologist recommends the imposition of similar conditions in respect of the current proposal, including the provision of a five metre buffer zone adjacent to hedgerows, the use of locally native species for landscaping and the timing of vegetation removal. The hedgerow along Spring Lane is identified as being species-rich and is shown to be retained. On this basis it is considered that the proposal would not adversely impact on protected species or ecological features.

Other Matters

The proposal is below the threshold (more than 11 dwellings or 1000 square metres of floorspace) under which developer contributions can be sought. The Council's Strategic Housing Team has raised concerns that the level of floorspace is only just below (by one square metre) the 1000 square metres threshold and queries whether a Section 106 Agreement could be worded to seek an affordable housing contribution if the scheme exceeded 1000 square metres during construction. The dwellings and garages have been measured and they do not exceed 1000 square metres in total. Furthermore if the dwellings were not built in accordance with the approved plans then this could be dealt with under the Council's enforcement powers.

As noted earlier in this report, the dwellings could be secured as self-build properties in a Section 106 Agreement, along with the future maintenance/retention of the Spring Lane and Normanton Road hedgerows/trees and the new landscaping, to which the applicant is agreeable. 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.

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. The Council does not have any powers in relation to the current state of the hedgerow along Spring Lane or in respect of the planting of trees/hedgerows other than under the High Hedges legislation.

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 include self-build dwellings and 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.