

Application:	<b>2020/0172/OUT</b>	<b>ITEM 2</b>	
Proposal:	<b>Outline Planning Application for the development of up to 66 no. dwellings, public open space and associated infrastructure, with all matters reserved for subsequent approval, other than access.</b>		
Address:	<b>Land To The South Of Stapleford Road, Whissendine, Rutland</b>		
Applicant:	<b>Muller Property Group</b>	Parish	<b>Whissendine</b>
Agent:	<b>Harris Lamb</b>	Ward	<b>Whissendine</b>
Delegated Report Reason:	<b>Contrary to Policy and to consider with other proposals</b>		
Date of Committee	<b>29 June 2021</b>		

## EXECUTIVE SUMMARY

The site is outside the Planned Limits to Development but a small section is allocated for development in the Submitted Local Plan approved by Full Council in February 2020. There have been many objections to the development. Issues of policy, archaeology, highway safety, flooding and residential amenity have been considered but the policy issue is overriding in this instance. There is no justification for the development of this wider site and there are no material considerations in this instance that would justify outweighing the development plan. The applicant has not demonstrated to the satisfaction of the Lead Local Flood Authority that the site can be sustainably drained of surface water.

## RECOMMENDATION

**REFUSAL**, for the following reasons:

The site is outside the Planned Limits to Development for Whissendine where new housing has to be demonstrably essential for a rural worker or similar operational needs. There is no justification in this instance for setting aside the development plan and there is no overriding need for this level of affordable housing in Whissendine. The proposal is thereby contrary to Policy CS4 of the Core Strategy (2011), SP6 of the Site Allocations and Policies DPD (2014) and the advice in the National Planning Policy Framework.

It has not been demonstrated that up to 66 dwellings can be accommodated on the site having regard to appropriate densities, urban design principles, ecology and highway safety. The development would thereby potentially result in a cramped form of development which would be detrimental to the character of this edge of the village, lack adequate open space, be harmful to biodiversity and potentially result in parking and access difficulties. This would be contrary to Policies CS19 and CS21 of the Core Strategy (2011), Policy SP5, SP15 and SP19 of the Site Allocations and Policies DPD (2014), Para 175 of the NPPF.

Its has not been demonstrated that surface water from the site can be drained satisfactorily to prevent additional flooding issues in the village. The proposal is thereby contrary to Policy CS19(d) of the Core Strategy (2011) and the advice in Chapter 14 of the National Planning Policy Framework, particularly paragraphs 160, 163 and 165.

The scheme would result in a net loss of biodiversity, contrary to Policies CS21 and SP19 of the development plan and Chapter 15 of the NPPF.

## Site & Surroundings

1. The site is located on the west side of Stapleford Road, Harborough Close and Willow Close at the north west end of Whissendine. The land is used for grazing and is surrounded by hedges. The land also contains historic ridge and furrow features.
2. A small part of the overall site, 1.03 hectares off Willow Close, has been put forward for allocation as a housing site in the replacement Rutland Local Plan, for 25 dwellings (Site WHI/09a).
3. The site is bounded to the west by open farmland and to the east mostly by existing modern housing. To the north is Stapleford Road, a rural lane leading out of the County into Leicestershire.
4. There is no Conservation Area in Whissendine. There are 3 listed buildings on Stapleford Road, close to the junction with Harborough Close. The GII\* listed Windmill in the village to the south of Melton Road is approximately 250 metres from the nearest proposed house and 200m from the site boundary.
5. The site is outside the Planned Limit to Development (PLD) for Whissendine and thereby in open countryside.

## Proposal

6. The proposal is an outline application for residential development of up to 66 dwellings. Only the proposed access to the north of the site off Stapleford Road is included for full approval, although there is an indicative layout submitted, this has been revised during the life of the application. The agent has latterly deleted the illustrative layout to show just developable areas. **See Appendix 1.**

## Relevant Planning History

None

## Planning Guidance and Policy

### National Planning Policy Framework (NPPF) 2019

Chapter 2 – Achieving Sustainable Development  
Chapter 5 – Delivering a sufficient supply of homes  
Chapter 11 – Making effective use of land  
Chapter 12 – Achieving well designed places  
Chapter 15 – Conserving and enhancing the natural environment  
Chapter 16 – Conserving the historic environment

### Site Allocations and Policies DPD (2014)

SP6 - Housing in the Countryside  
SP9 - Affordable Housing

SP15 - Design and Amenity  
SP20 - The Historic Environment  
SP23 - Landscape Character in the Countryside

### **Core Strategy DPD (2011)**

CS03 - The Settlement Hierarchy  
CS04 - The Location of Development  
CS10 - Housing Density & Mix  
CS11 - Affordable Housing  
CS19 - Promoting Good Design  
CS22 - The Historic and Cultural Environment

### **Other Policies**

#### Rutland Landscape Character Assessment 2003

Whissendine is located in 'High Rutland Area A(ii) – Ridges and Valleys', an area whose description includes:

*'...the sub-area does exhibit a number of historic features, with ridge and furrow and old lanes linking medieval villages still characteristic of this part of High Rutland'.*

The recommended landscape objectives for this area are:

*To sustain and restore the rural, mixed-agricultural, busy, colourful, diverse landscape with regular patterns, straight lines, frequent movement, many large and small historic, stone built conservation villages that fit well with the landform, to protect the landscape setting and conserve and enhance the edges of villages, to increase the woodland cover and other semi-natural habitats whilst protecting historic features and panoramic views from the ridges.*

#### Planning Obligations SPD - 2016

This document superceded Policy CS11 of the Core Strategy in terms of affordable housing contributions.

Other considerations

#### The replacement Rutland Local Plan

This has been through its Regulation 19 consultation and has been submitted for Examination. This plan allocates a small section of this outline site for development of up to 25 dwellings (Policy/site H1.18). Whilst the new plan has some weight due to its current status, it does not promote the development of this wider current site. The policy in the Submitted Local Plan establishes development principles to be followed in achieving development on the smaller allocated site.

#### Whissendine Neighbourhood Plan

The Plan area was designated in July 2020. No draft plan has yet been published.

## **Consultations**

### **Planning Policy**

7. We can confirm that the current five year land supply is as published in the Five Year Land Supply Report published in May 2021. This demonstrates that a 5.2 year supply is in place. A review of the issues raised in support of the proposal does not lead us to believe that the figure should be amended and we are confident that the five year supply can be justified.
8. As you are aware the entire site lies outside the Planned Limit to Development (PLD) in the Development Plan and far exceeds the proposed allocation in our draft Local Plan approved by Council for its Regulation 19 consultation. The plan has been submitted to Government for its public examination following statutory consultation. A number of objections have been made regarding the allocation of the smaller site which will be considered through the examination process. The plan therefore carries some weight at this stage with respect to this site. In light of both the five year land supply and the stage reached with the new Local Plan it is considered appropriate to determine the application in light of the Adopted Development Plan policies set out below:
9. Core Strategy Policy CS3 - The Settlement Hierarchy identifies Whissendine as a “smaller service centre” and Policy CS4 - The location of development indicates that only minor scale development on previously development land would be acceptable within these settlements. The proposal is not minor in scale and is on a greenfield site. Minor is identified in para 2.19 of the Core strategy as being an individual development of up to 5 units or infilling with up to 2 units. In exceptional circumstances a small scale development may be allowed on a brownfield site.
10. The Site Allocations and Policies DPD expands on these policies with Policy SP5: Built development in the towns and villages supporting sustainable development within the Planned Limits of Development only. The applications site is outside the PLD and therefore contrary to this policy – the site therefore constitutes open countryside where Policy SP6 - Housing in the countryside would be relevant. This policy restricts housing development in the countryside to a number of limited circumstances – none of which are proposed by this application. I therefore consider the proposal is contrary to RCC’s adopted policies.

### **Urban Designer**

11. The main issue I would stress is that the scheme needs to respond better to the context, particularly the existing landscape features and assets on the site – exploiting and making features out of them, rather than hiding them away behind houses. The layout should be outward facing (fronting green edges, green features and adjacent streets).
12. A site and contextual analysis plan / series of plans is needed and then a plan showing the response to the context is required. This should then lead to a plan showing the strategic layout – key green spaces and green corridors, containing both green and blue infrastructure, pedestrian and cycle routes based on desire lines, perimeter blocks of development etc. This would be sufficient at the Outline stage, rather than a detailed plan with each dwelling on it.

13. The (first) revised illustrative plan submitted does not address these issues, making only minor cosmetic changes to the scheme. The agent has suggested that the illustrative Masterplan is excluded from consideration to concentrate on the principle of development.

## **RCC Highways**

14. Aspects to keep:
- In general I like the design of the site, the long sweeping bends will help to keep vehicle speeds to a minimum
  - The site has been designed to an adopted standard
  - The 30mph limit is to the west of the site access on Stapleford Road and therefore only requires a visibility splay of 2.4m by 43m in both directions. This can be achieved.
  - The developer has shown a link on foot from the development to the village centre. This is idea as it will enable residents to be able to walk to school/village shop.

### Additional info required

- The TRICs ratio used in section 5.3 are very low. A lot of TRICs sites are not similar to Rutland as they either have good local transport or are close to town centre locations. I would suggest the developer look at other sites in Rutland where planning permission has been granted and use a similar ratio.
    - The sites close to Oakham have used a TRICS rate closer to 0.5/0.6, whereas this development has used 0.3 and 0.1
    - These are too low for a village location with only an hourly bus service
15. Junction improvements may need to be looked at with the additional vehicle movement such as Main Street/Stapleford Road junction

## **Lead Local Flood Authority**

16. I can appreciate the residents' concern as the road in Whissendine does flood. The river backs up in Whissendine due to a capacity issue further downstream out of county. No properties have flooded and the highway is only impassable for a period of time.

### LLFA concerns

- The LLFA have concerns about the proposed method of surface water discharge as not enough information has been provided. The developer has advised the infiltration is not possible within their site and therefore are proposing to outfall into the surface water sewer which discharges into the watercourse in Whissendine.
- During heavy rain fall this watercourse bursts its banks and floods the highway. No properties have been flooded due to their own flood defences. Therefore the LLFA would have concerns about an increased flow into this watercourse as properties may flood
- The developer has suggested that the greenfield run off is currently 9l/s. The LLFA advise that any run off from this site should be restricted to 5 l/s for the whole site

- The developer needs to design a sustainable drainage scheme. Even though infiltration is not possible there are a range of other methods that the developer could explore to improve the water quality before it enters the surface water sewer.
  - To conclude not enough information has been provided at this stage and there has not been enough assessment of what actually happens on site
17. The applicant has stated that if infiltration is not possible, they will look to connect into the watercourse to the west, not sure how, and only to the SWS as a third option.
  18. However, we need more information for the outline application. At present they have not provided enough information to clearly show that one of the 3 options is available.
  19. They have also advised that their greenfield run off rate is 9l/s. I would be concerned that if we approved this outline application on that basis it would fix the 9 l/s discharge, however this is not acceptable. Greenfield run off must be restricted to 5 l/s for the whole site.
  20. As there is a history of flooding issues in Whissendine I think we need them to clearly show what form of surface water drainage they are going to use and how they will mitigate any risk to the neighbouring properties
  21. The LLFA require a full drainage strategy for this site before it moves forward. The development may not be physically possible to construct due to surface water, and flooding is a real cause for concern in Whissendine

### **Historic England**

22. Following concerns expressed by residents about the status and rarity of the ridge and furrow on site, Historic England was specifically consulted. The response was:
23. *I have spoken to colleagues and we consider that if you were to consult us on this application, we would not provide detailed comments but refer you to your specialist conservation advisors, including Archaeology at Leicestershire County Council.*
24. In other words HE was not overly concerned about the ridge and furrow such that it wanted to get involved. It is not a 'designated' area of any kind.

### **Conservation Officer**

25. I leave the matter of the significance of the ridge and furrow to the Archaeological Advisor but I would be interested to see their comments.
26. I agree with the analysis of the nearby heritage assets and the conclusions reached as to the likely impact of the proposed development on those assets.
27. As the HIA states, there is some inter-visibility between the site and the Grade II\* Listed windmill to the southwest. It is important that views to the Windmill are retained in order to maintain sense of place.

28. There do not appear to be any views across the site from surrounding public vantage points to heritage assets that need to be preserved due to mature trees and hedgerows on the site's perimeter.

### **Public Rights Of Way Officer**

29. In principle, all looks good (based on Masterplan 103 Rev J). However, as far as I can tell details of works to the existing public footpath (E8), such as surface treatment, are not described and must be submitted to the highway authority for approval prior to work commencing (on the footpath). Please make the applicant aware that if permission is granted they must ensure that:
- (a) There is no diminution in the width of the right of way available for use by members of the public
  - (b) No building materials are stored on the right of way
  - (c) No damage or substantial alteration, either temporary or permanent, is caused to the surface of the right of way
  - (d) Vehicle movements are arranged so as not to interfere with the public's use of the way
  - (e) No additional barriers (e.g. gates) are placed across the right of way, of either a temporary or permanent nature
  - (f) No wildlife fencing or other ecological protection features associated with wildlife mitigation measures are placed across the right of way or allowed to interfere with the right of way
  - (g) The safety of members of the public is ensured at all times

### **Archaeology**

30. In the current circumstances and based upon the available information, we recommend the application lacks sufficient archaeological information in order to determine the implications of the scheme. We therefore recommend the determination is deferred pending submission of the additional information outlined below. We also advise in taking forward the application, due consideration is given to the significant harm the proposals will have upon the historic landscape, due to the truncation of the presently well-preserved and coherent ridge and furrow earthworks.
31. It is noted that the application is accompanied by a desk-based Heritage Assessment (ref.: AAL2019107) and a supporting geophysical survey (ALL2019131). Both are in themselves adequate reports, respectively detailing the known archaeological resource and results of a geophysical survey of the application site. The former indicates the site lies in an area of significant archaeological interest, on the western edge of the historic settlement core of Whissendine, in close proximity to the known site of prehistoric and early medieval archaeological remains recovered from excavation in 2000/2003. There is every reason to suspect that a continuation of these features or of the related remains, will occur within the current application area.
32. The applicant has supplemented this assessment with a site-specific geophysical and LiDAR survey of the development area. The former suggests continuation of features into the site, as well as the presence of discrete anomalies, possibly indicative of sub-surface archaeological remains. However, the dominant feature of the survey is evidence of the well-preserved ridge and furrow landscape, the latter encompassing the entirety of the site. This has the effect of masking the potential

for earlier and less detectable remains. It should also be noted that geophysical survey is less effective at picking up earlier prehistoric and Early Medieval (Anglo-Saxon) remains.

33. Finally LiDAR survey, supplemented by photographic evidence (Heritage Assessment and Geophysical Survey) and appraisal of aerial photography of the wider area, demonstrates that the site contains high quality ridge and furrow earthwork remains of the medieval and post-medieval agricultural landscape. The evidence suggests the earthworks comprise the remains of at least two separate furlongs (sub-units of the openfield system), the most intact being that adjacent to Stapleford Road. At the north east corner of the site, there appears to be a fragmentary holloway, with individual 'lands' (ridges) aligned east-west across the application site to a probable headland boundary at the western edge of the site. A seam in the ridge and furrow, coinciding with the east-west section of the later enclosure boundary, appears to mark the division between two furlongs, the southern of which extends further westward and has been truncated to the east by development the Sherrard Close.
34. The current evidence indicates the application area has a significant archaeological potential warranting further archaeological investigation. This should take the form of archaeological trial trenching targeting the potential for subsurface features, including further investigation of the identified geophysical anomalies. Without the information provided by this further work, it is unlikely that a clear understanding of the impact of the development could be established, nor that any positive recommendation could be offered to the planning authority (NPPF Section 16, para 189 & 190).
35. Considering the earthwork remains, the submitted masterplan makes no allowance for preservation of the surviving features. As such the currently coherent historic earthwork landscape, which encompasses much of the western edge of Whissendine will be significantly truncated. The submitted Heritage Assessment suggests that this can be addressed in part by an earthwork survey. While this will indeed record the presence of the effected features, it will not compensate for their destruction as a tangible component of the landscape, nor off set its fragmentation.
36. It is recommended that the loss of these significant and increasing scarce remains is given due consideration, taking into account the harm their destruction will cause to the historic environment (NPPF Section 16, para 197).
37. The preservation of archaeological remains is, of course, a "material consideration" in the determination of planning applications. The proposals include operations that may destroy any buried archaeological remains that are present, but the archaeological implications cannot be adequately assessed on the basis of the currently available information. Since it is possible that archaeological remains may be adversely affected by this proposal, we recommend that the planning authority defer determination of the application and request that the applicant complete an Archaeological Impact Assessment of the proposals.
38. This will require provision by the applicant for:  
A field evaluation, by appropriate techniques including trial trenching, if identified necessary in the assessment, to identify and locate any archaeological remains of significance, and propose suitable treatment to avoid or minimise damage by the



development. Further design, civil engineering or archaeological work may then be necessary to achieve this. This information should be submitted to the planning authority before any decision on the planning application is taken, so that an informed decision can be made, and the application refused or modified in the light of the results as appropriate.

39. Without the information that such an Assessment would provide, it would be difficult in our view for the planning authority to assess the archaeological impact of the proposals. Should the applicant be unwilling to supply this information as part of the application, it may be appropriate to consider directing the applicant to supply the information under Regulation 4 of the Town and Country Planning (Applications) Regulations 1988, or to refuse the application. These recommendations conform to the advice provided in DCLG National Planning Policy Framework (NPPF) Section 16, paras. 189 & 190).
40. Should you be minded to refuse this application on other grounds, the lack of archaeological information should be an additional reason for refusal, to ensure the archaeological potential is given future consideration. The Historic & Natural Environment Team (HNET), Leicestershire County Council, as advisors to the planning authority, will provide a formal Brief for the work and approve a Specification for the Assessment at the request of the applicant. This will ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority, in a cost-effective manner and with minimum disturbance to the archaeological resource. The Specification should comply with relevant Chartered Institute for Archaeologists "Standards" and "Code of Practice", and should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable. Information on suitable archaeological organisations to carry out this work can be obtained from HNET. Should you have any further queries please do not hesitate to contact us.
41. Further comments Dec 2020 (after Field trenching undertaken)
42. Thank you for the report and while it is an interim report, there is enough information within to make a decision on the below ground archaeological remains. Could the applicant please ensure that the final copy of the report is forwarded to us when complete. The trial trenching evaluation undertaken by Trent and Peak Archaeology showed that the ridge and furrow earthworks disguised archaeological features on the geophysical survey. Archaeological features were found across the site with only a handful of blank trenches. These remains are prehistoric, although there is the potential for some Saxon remains, and consist of pits, ditches and postholes.
43. We would like to reiterate our previous comments regarding the destruction of the ridge and furrow earthworks:

*'Finally LiDAR survey, supplemented by photographic evidence (Heritage Assessment and Geophysical Survey) and appraisal of aerial photography of the wider area, demonstrates that the site contains high quality ridge and furrow earthwork remains of the medieval and post-medieval agricultural landscape. The evidence suggests the earthworks comprise the remains of at least two separate furlongs (sub-units of the openfield system), the most intact being that adjacent to Stapleford Road. At the north east corner of the site, there appears to be a fragmentary holloway, with individual 'lands' (ridges) aligned east-west across the*

*application site to a probable headland boundary at the western edge of the site. A seam in the ridge and furrow, coinciding with the east-west section of the later enclosure boundary, appears to mark the division between two furlongs, the southern of which extends further westward and has been truncated to the east by development the Sherrard Close.*

*Considering the earthwork remains, the submitted masterplan makes no allowance for preservation of the surviving features. As such the currently coherent historic earthwork landscape, which encompasses much of the western edge of Whissendine will be significantly truncated. The submitted Heritage Assessment suggests that this can be addressed in part by an earthwork survey. While this will indeed record the presence of the effected features, it will not compensate for their destruction as a tangible component of the landscape, nor off set its fragmentation. **It is recommended that the loss of these significant and increasing scarce remains is given due consideration, taking into account the harm their destruction will cause to the historic environment (NPPF Section 16, para 197).***

In line with the National Planning Policy Framework (NPPF), Section 16, paragraph 190 and Annex 2)., the planning authority is required to consider the impact of the development upon any heritage assets, taking into account their particular archaeological and historic significance. This understanding should be used to avoid or minimise conflict between conservation of the historic environment and the archaeological impact of the proposals.

44. Paragraph 199 states that where loss of the whole or a material part of the heritage asset's significance is justified, local planning authorities should require the developer to record and advance understanding of the significance of the affected resource prior to its loss. The archaeological obligations of the developer, including publication of the results and deposition of the archive, must be proportionate to the impact of the proposals upon the significance of the historic environment.
45. As a consequence, it is recommended that to prior to the impact of development upon the identified heritage asset(s) the applicant must make arrangements for and implement an appropriate programme of archaeological investigation. **This will involve an earthwork survey and archaeological excavation of the impacted areas of archaeological remains.**
46. The Historic & Natural Environment Team (HNET) will provide a formal Brief for the work at the applicant's request.
47. If planning permission is granted, the applicant should obtain a suitable written scheme of investigation (WSI) for the necessary archaeological programme. The WSI must be obtained from an archaeological organisation acceptable to the planning authority, and be submitted for approval to both the LPA and HNET as archaeological advisers to your authority, before the implementation of the archaeological programme and in advance of the start of development.
48. The WSI should comply with the above mentioned Brief and with relevant Chartered Institute for Archaeologists' (CIfA) "Standards" and "Code of Practice". It should include a suitable indication of arrangements for the implementation of the archaeological work, and the proposed timetable for the development.

49. We therefore recommend that if any planning permission be granted they should be subject to the following planning conditions (informed by paragraph 37 of Historic England's Managing Significance in Decision-Taking in the Historic Environment GPA 2), to safeguard any important archaeological remains potentially present:

***No demolition/development shall take place/commence until a written scheme of investigation (WSI) has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and***

- ***The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works***
- ***The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI***

***Reason: To ensure satisfactory archaeological investigation and recording***

50. The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.
51. The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

#### **Clarification from Team Manager (Heritage) LCC**

52. We are recommending a need for more archaeological work (in addition to the field work already carried out), however this should be **secured by condition on any approved planning application**. There is no need for any further work in advance of a planning decision. Chloe has outlined the scope of the archaeological work in her email above.
53. Apart from the conditioned archaeological work, the only issue the planning authority needs to consider in determining the application is the residual effect of the proposals on the significance of the historic landscape and specifically the ridge and furrow earthwork landscape. I addressed this in my original advice and it is repeated in Chloe's comments below, as follows:

*Considering the earthwork remains, the submitted masterplan makes no allowance for preservation of the surviving features. As such the currently coherent historic earthwork landscape, which encompasses much of the western edge of Whissendine will be significantly truncated. The submitted Heritage Assessment*

*suggests that this can be addressed in part by an earthwork survey. While this will indeed record the presence of the effected features, it will not compensate for their destruction as a tangible component of the landscape, nor off set its fragmentation. It is recommended that the loss of these significant and increasing scarce remains is given due consideration, taking into account the harm their destruction will cause to the historic environment (NPPF Section 16, para 197).*

54. As discussed, based on previous experience, I do not feel that a reason for refusal could be sustained on the grounds of the impact to the ridge and furrow earthworks alone. This is due to the non-designated status of the earthworks, their lack of association or direct link to a separately designated asset/assets (e.g. a scheduled monument, listed building or conservation area), and the significance of the impact upon the earthwork remains (a continuation of the earthworks will survive outside the development area, with related earthworks to the north and southwest). That is not to say the impact is negligible, undoubtedly the development will have a detrimental impact on the surviving remains, and the only viable form of archaeological mitigation – recording the earthworks before they are lost – represents a poor substitute to their physical retention.
55. With this in mind the planning authority, as guided by the NPPF para 190 and 197, should assess the significance of impact on the particular significance of the affected heritage asset and take a balanced judgement as to the scale of any harm or loss upon those remains. Where in the view of the planning authority, the public benefit of the scheme outweighs the significance of the impact to the historic environment, the NPPF para 199 requires that the developer should be 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 the scheme. The results of this work and any archive generated, should then be made publicly accessible. The latter can be addressed by the imposition of a suitable condition on any planning approval.

## Conclusion

56. I can confirm from our perspective the impact of the development upon the historic environment (buried archaeological remains and surface earthworks) does not constitute a reason to refuse the application. However, this is subject to the applicant accepting the imposition of suitable pre-commencement conditions on any approved scheme. Were they to refuse to accept such conditions, to allow for the necessary additional archaeological investigation and recording of the site, in advance of the development taking place, that would be a reason to refuse the scheme. The conditions are required in respect of all six tests (NPPF Para 55), the particular focus in this case being test 3, relevant to the development to be permitted.

## Ecology Unit

57. This application is supported by an Ecological Appraisal (Woolley Ecology, January 2020). This report identifies that the site comprises semi-improved grassland, with some diversity but the site would not meet Local Wildlife Site criteria. The site is bounded by hedgerows and a small spinney is present within the middle of the site. The proposed development will result in the loss of all of the grassland currently present. The woodland and hedgerows are being retained, but they do not appear

to be buffered from the development. Our standard advice is that hedgerows should be buffered by a minimum of a 5m buffer and woodlands by a 10m buffer. This helps to ensure that they are managed as one feature and also prevent problems of overhanging branches being removed, resulting in the hedgerows/woodland slowly being eroded.

58. I would therefore recommend that the layout is amended to provide adequate buffers.
59. The habitat survey identifies the presence of *Tilia cordata* (small-leaved lime) within the woodland. This is a rare plant in Leicestershire and Rutland (noted as 'scarce' in *The Flora of Leicestershire and Rutland*, Jeeves, 2011) and is therefore worthy of retention and protection. It would therefore be helpful to know the exact location of this species, with a conservation plan in place to ensure that it is retained and protected throughout the development.
60. No evidence of protected species was recorded on site. A number of mature trees had potential to support roosting bats, should these be impacted by the development they should be surveyed for the presence of bats, as recommended in section 6.13 of the report. The site was also identified as having potential to support great crested newts (GCN) in their terrestrial phase, with GCN presence being confirmed in ponds to the north of the site. Whilst the nearby ponds were surveyed and presence was established, no detailed surveys were completed to establish population size and no mitigation has been provided. This information should be submitted upfront with the planning application, in accordance with paragraph 99 of the ODPM Circular 06/2005 (Biodiversity and Geological Conservation).
61. I am concerned that this proposed development does not appear to provide any opportunities for net gain, more habitat appears to be lost than will be created as a result of the development. Paragraph 174 of the NPPF states 'to protect and enhance biodiversity and geodiversity plans should:'. b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.' At the present time Rutland do not have a policy for managing net gain, but it does not appear that this development has sufficient habitat creation to demonstrate this.
62. In summary, I would place a Holding Objection on this application, pending the satisfactory resolution of the points raised above. Following the receipt of the GCN mitigation plan and potential changes to the layout to accommodate hedgerow and woodland buffers and net gain I would be pleased to make further comments and recommendations on this site.

#### On revised Masterplan

63. The masterplan has improved, with 10m buffer zone to the central woodland, which supports the locally rare Small-leaved Lime, and 5m corridors along retained hedges, both as requested earlier this year by my colleague.
64. The ponds to the north have been surveyed for great crested newts, and a small-medium population was discovered in one pond, some 250m away from the site boundary. The ecologist has proposed licensed mitigation for impacts on GCNs –

an offence is likely without mitigation – in the form of trapping and translocation.

65. The GCN pond is some distance from the site, separated by a lane, and with limited connectivity to the site, and therefore I feel that risks are low. Although I do accept the ecologists proposals, an alternative approach does exist, which may be more acceptable to the applicant. This to follow NE's 'flexible' approach by taking precautionary working and reasonable avoidance measures, coupled with habitat improvements aimed at GCNs. Some habitats improvement along the northern boundary is proposed, but the proposed wetland is an attenuation pond (or two? The plan is not clear) and therefore not ideal for GCNs. If the flexible approach was followed, specific GCN habitat creation along this edge would be needed; I recommend that this include a purpose-made pond, surrounded by c 25m of tussocky grassland, and a wider corridor or rough grassland alongside the northern hedge. If this is not possible, then the trapping/translocation approach is acceptable, as proposed by the ecologist. Either approach needs to be subject to a planning condition.
66. The applicant may be aware that NE are proposing District-level licensing for GCNs in Rutland. This is not finalised yet, but it is anticipated that it may be in place next year.(2021) If so, this could provide an alternative method of mitigation for impacts on GCNs, involving payment of a set tariff sum to NE to fund an appropriate level of pond creation elsewhere.
67. The revised masterplan also shows creation of another pond in the southern part of the site, within the open space. Although this is welcomed, it is unlikely to benefit GCNs, being separated from the known population by the housing development, with little to no habitat connectivity. It would be better if this additional pond was located in the northern part of the site.
68. When my colleague commented on the application earlier this year, she highlighted the requirement for biodiversity net-gain as a result of development. She felt, as I do, that the proposals were in net loss. Although there has been some change to improve the situation, I feel this is still in net-loss. The compensatory measure proposed are welcome but relatively minor, and are unlikely to compensate for losses of moderately species-rich grasslands.

## **RCC Transport Strategy**

- Site permeability: We request that the developer ensure any future proposals on the site have good permeability for pedestrians and cyclists – helping to minimise dependency on car travel. Pedestrian and cycle links should be provided through to both Stapleford Road and Harborough Close and if viable consider cut through's to Sherrard and Willow Close.
- Site accessibility: Outside of the site, it is requested that a pavement is provided up to Willow Close and consideration given to how pedestrians continue into the village centre as parts of Stapleford Road have no footway. As such, the developer should investigate the viability of providing a footway here or if not possible, put forward an alternative proposal to enable pedestrians to safely access the village centre.
- Electric charging: Information on electric charging provisions could not be found within the supporting documents of the application. We would request that future plans include such provision to ensure the development is able to cater for future

vehicle technology.

- Cycle parking: Should any flats be proposed we request that cycle parking is provided in line with Council policy.
- Road safety: Suitable measures must be taken to remove conflict between site vehicles and any pedestrians or cyclists in the vicinity.
- Encouraging active travel: We request that the developer prepare a site travel plan for new residents.
- Lighting: Suitable lighting should be provided to enhance safety and encourage walking and cycling from/ to the new development.
- Cycleway/ footway provisions: It is requested that any pavements within and adjoining the site are of suitable width and design to enable upgrade to a joint cycleway footway in the future. At present the transport assessment stated pavement widths of 2m. Where possible it is requested that pavements are 3m wide.
- Transport assessment: We would ask that the Transport Assessment is updated to take in to account the Council's Local Transport Plan 4, Passenger Transport Strategy and once published, RCC's forthcoming Local Cycling and Walking Infrastructure Plan (which will set out the gaps in our existing walking and cycling network).

### **Housing Strategy Officer**

69. There is insufficient affordable housing need from Whissendine for a development of this size to justify provision to meet Whissendine's needs only, as evidenced by the Whissendine housing needs survey report 2014. I will leave it to colleagues to address other issues such as sustainability. If approved, this application would be expected to meet needs from a wider area within Rutland including the 30% requirement for affordable housing under the Planning Obligations SPD 2016. There is a net need for 44 additional rented affordable homes per year in Rutland as a whole (Strategic Housing Market Assessment 2019, Figure 3.10). There is also a need for up to 10% of housing overall to be forms of low cost affordable homeownership (preferably shared ownership, see paras. 3.71 to 3.74 of the SHMA 2019), which would form part of the 30% requirement. A section 106 agreement would need to be drafted to ensure any required provision is delivered; discussion would need to take place regarding this with the developer regarding an appropriate mix of dwelling types, tenure and mechanisms for inclusion, etc.

70. If approved, the following applies:

There's a proposed 66 dwellings, which would mean 20 affordable dwellings and working on the basis of one-third shared ownership would mean 13 for rent and 7 shared ownership. I note though that the Masterplan seems to be drawn up as what looks like 20 identical family houses, so I'm not sure what is actually proposed. I would suggest the following mix for the rented affordable properties, meeting a broad range of needs (subject to planning), from both Whissendine and a wider area of Rutland.

- 2 no. 1 bed (2 person) houses for social or affordable rent;
- 2 no. 2 bed bungalows (3 person) for social or affordable rent;
- 5 no. 2 bed (4 person) houses for social or affordable rent;

3 no. 3 bed (5 person) houses for social or affordable rent;  
1 no. 4 bed (7 person) house for social or affordable rent.

71. Rents not to exceed the Local Housing Allowance and more detailed provisions would be in an appropriate section 106 agreement.
72. Shared ownership properties
73. I am mindful of market conditions for shared ownership houses in Rutland villages and would recommend the following:  
  
4 no. 2 bed (4 person) houses  
3 no. 3 bed (5 person) houses
74. All to be available from a 25% share, but it is understood that RPs may sell at a higher share under their rules if the purchaser can afford it.
75. An appropriate section 106 agreement with more detailed terms would be needed

### **Forestry Officer**

76. Properties are situated close to the woodland, within the centre of the site, this will increase pressure on the removal of the woodland due to shade issues. Consider revising the layout.
77. The planning proposal, as it currently stands, will see the loss of approximately one tree by the main access point, within G6 (of the consultant's report). So the proposal is one that will retain nearly all the trees, however; there are some threats that are less obvious.

### **Shade**

78. The shade of the trees will be excessive in some areas. The following trees will pose shade issues to the following properties:  
  
W29 on properties 36-39. This will be at its worse when the trees are at their highest value in terms of landscape, ecology and arboriculture.
  - T10 on property 32.
  - T11 and T12 on properties 28-30.
  - T26 will cause shade nuisance.
  - G27 will cause shade on many properties.
79. The shade issue will become worse in future years as most of the trees are only in their semi-mature stages and have many more metres of growth, (in some cases double), to develop. Shade can be accepted by some residents but unlikely to be accepted by all. The pressure to have the trees removed on the grounds of shade is highly likely.

### **Flood Attenuation Pond**

80. The flood attenuation ponds are situated in areas where roots are highly likely to be. The most significant areas of damage will be to T8, and G2, but also potential for



T7 and T9. The ponds will require deep excavation currently proposed within the RPA of some trees, and thus an arboricultural impact is accepted as highly likely.

#### Future Management

81. I appreciate that this proposal is preliminary, however; the future management and ownership of the trees, and hedges will be significant in terming the risk of loss. If the trees are managed by the residents' then the loss of trees on the grounds of shade, perceived risk, and obstructing views would be high.

#### Conclusion

82. The current proposal presents a very low risk to the trees in terms of the construction phase. It is the ownership phase that is the concern. Therefore the serving of a TPO is recommended as this will protect the trees after the properties have been sold to customers but should not unreasonably interfere with the construction phase.
83. The flood attenuation ponds need only minor alterations to ensure that the roots of the retained tree stock are adequately protected.
84. The distance of properties to woodlands and hedges made by Ecology are valid.

#### **Rutland Local History & Record Society**

85. We are in agreement with the correspondence from the Parish Council regarding the impact of the development taking place outside the village envelope, more importantly we believe that Ridge and Furrow is considered a "heritage asset" as noted in the publication by Historic England in 2018, "Field systems - Heritage Assets" and as such the Society believes that destruction should be avoided.

#### **Severn Trent Water**

86. With reference to the above planning application the Company's observations regarding sewerage are as follows:

#### Condition

87. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use. Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.
88. Reason: To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

## Suggested Informative

89. Severn Trent Water advise that although its statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

## Public Protection

90. To address the potential geo-environmental issues outlined above, a Phase II investigation is considered necessary for design purposes. It should address the following issues:
- characterise nature of near-surface natural soil/groundwater beneath the site;
  - assess soil contamination and include a site-specific assessment of risk to human health;
  - establish soil-gas regime at the site;
  - provide geotechnical design parameters for foundation design purposes.
91. The report identified a low risk so I think this could be for reserved matters.

## Whissendine Parish Council

92. The Parish Council met on 2 March to consider this application.
93. The Parish Council would be pleased to see this application rejected because: it is outside the village envelope, it is historically important; the increased risk to road safety the pressure on limited infrastructure and the increased risk of off-site flooding that is likely to result from a development of this scale in this location.
94. In the absence of the formal adoption of the draft Local Plan 2018 to 2036 by the Minister this field falls outside the envelope of the village. The draft local plan 2018-2036 includes part of this field as a development site (H1.18) for 25 dwellings. This outline application includes an area considerably larger and outside the envelope of the village. The Parish Council have serious concerns about use of this site for development as its been listed as historically important as a unique example ancient ridge and furrow.
95. From road safety view-point it is considered that the increase in traffic flow arising from a development on Stapleford Road could reduce road-safety. This development accesses a country-road with no street-lighting that enters the main housing area via a sharp bend on a narrow stretch with a junction with other lanes, and with restricted visibility. It is also a stretch affected by the congestion at school start/finish times and acts as a short-cut to Melton Mowbray for through traffic.
96. This site acts as a holding site for rain water, with increased surface area due to ridge and furrow. The village is vulnerable to flooding in the centre from the Whissendine Brook and the Parish Council would wish to see as much water-holding land as possible retained to reduce the time it takes the water to reach the flood plain and cause the brook to back up. Any drainage schemes that rely on use

of local water courses will exacerbate the flood problem.

97. The infrastructure and services that exist within the village are not believed to have capacity to cope with a large development in this location.

### **Neighbour Representations**

98. There have been 62 individual letters of objection, albeit some of these are from the same objectors who have written more than once.

99. The objections can be summarised as follows:

- Site is outside the PLD/Greenfield/Contrary to CS3 and SP6
- Over-development of the site
- Impact on Ridge & Furrow
- Flooding issues in the village will be made worse – site acts as a sink to rainfall
- Narrow roads in and out of the village are inadequate
- Harborough Close is blocked with school traffic already
- Village drains are overloaded
- Schools are full
- No Doctors in the village - Oakham MP is over crowded
- Too many additional cars
- Nuisance to Harborough Close residents from use of footpath
- Impact on views
- Transport surveys carried out during school holidays so not accurate
- Impact on wildlife
- Sufficient housing land is available at St Georges
- New housing should be in a new settlement with all its amenities
- 18% increase in dwelling in the village

### **Planning Assessment**

100. The main issues are planning policy, urban design, highway safety, flooding, archaeology, ecology and provision of affordable housing.

101. There was no pre-application enquiry for this development as recommended by the NPPF.

### **Planning Policy**

102. In terms of planning policy the current situation regarding the status of the site and the Councils ability to demonstrate a 5 year HLS is set out in the consultations above.

103. On this basis there is no justification for this scale of development in this location. Whissendine is a Smaller Service Centre in the adopted Local Plan where a modest amount of new development can be accommodated. This is described as 5 units or infill. This scheme does not comply with that criteria. There are no material considerations or other public benefits such as a local demand for Affordable Housing on this scale that would warrant setting aside development plan policies in

this case so the proposal should be refused, contrary in particular to Policies CS4 and SP6. The 5 year HLS depends on the sites in the Submission Draft Local Plan. If any of those are refused or the Plan is delayed or modified again, this site may need to be considered again.

104. In terms of landscape impact, the 2017 Local Plan Landscape study concluded that this land is of medium sensitivity to new development, of low to moderate landscape value and of medium to high capacity for development. The impact of the development on the landscape is not therefore a valid reason for refusal.

### **Urban Design**

105. The comments of the Urban Design Officer are as set out above. This is an outline application with only access included for full approval. The illustrative masterplan has been revised twice as part of the application process, most latterly to remove the illustrative layout from the plan, but this does not materially alter the concerns set out in terms of the quality of the design of the layout and the way it responds to its context. It is not therefore demonstrated that the site could satisfactorily accommodate 66 dwellings whilst achieving good quality urban design and place making. The comments of the Housing Strategy Officer are also pertinent to this issue in that there does not appear to be provision for any affordable units in the illustrative layout. This could again have an impact on numbers achievable on the site.
106. The proposal is unacceptable in principle therefore as it has failed to demonstrate that 66 dwellings could be satisfactorily be accommodated on site in a way that respects its context and achieves good urban design principles, contrary to NPPF Chapter 12 and development plan policies CS19 and SP15 in addition to acknowledged Government guidance on design and established good practice.

### **Highway Safety**

107. The highway authority has no objections in principle to the site being accessed as proposed in the application. It is noted that residents have expressed concern about traffic and parking in the locality, but the scheme would have a satisfactory access form Stapleford Road and would need to demonstrate that it can provide satisfactory parking and access to each property as part of a reserved matters scheme, bearing in mind the potential limitations of the layout as set out under urban design above. There is no reason therefore to refuse planning permission on highway safety grounds under Policy SP15.

### **Flooding**

108. Whilst there is an acknowledged issue of flooding in the village, this is mainly limited to the Main Street adjacent to the Whissendine Brook. Flooding only occurs in periods of heavy rain and soon disperses. Some of this is caused by issues out of County.
109. If the development was demonstrated to be drained by a workable Sustainable Urban Drainage scheme it would be acceptable from the point of view of the Lead

Local Flood Authority. However, such a system has not been demonstrated so it is not clear that a development of this size can be adequately drained on this site and not cause more issues further downstream. Downstream of this site is to the north as the watercourse runs away from the village to the north so impact on the centre of the village is less likely.

## **Archaeology**

110. Your Archaeological advisors have requested that a condition is imposed on a planning permission to require more investigative work to be done. In relation to the ridge and furrow on site, the advice is that it is not of sufficient rarity or connected with other heritage assets such that it could be used as a reason for refusal in its own right. Further advice is awaited as to whether this can be a reason for refusal based on the fact that there is no public benefit to be gained by the scheme therefore any 'less than substantial harm' is not justified. This will be updated in the Addendum.

## **Ecology**

111. The Council's Ecology advisor considers that the scheme would result in a net loss of biodiversity. The Environment Act will require a 10% increase in biodiversity on new sites when it comes into force. The submission has failed to demonstrate that there would be any biodiversity benefit from the proposal. This makes it contrary to Policies CS21 and SP19 of the development plan and Chapter 15 of the NPPF.

## **Affordable Housing**

112. The Housing Strategy Officer states that there is no demand for affordable units on this scale in Whissendine. This could have been a material consideration in favour of the scheme had there been so, (although not overriding) but, coupled with the pure policy issues set out above, there is no public benefit in the scheme that would outweigh the development plan, or indeed the emerging plan.

## **Conclusion**

113. Taking all of the above into account it is considered that the site is outside the Planned Limits to Development for Whissendine where new housing has to be demonstrably essential for a rural worker or similar operational needs. There is no justification in this instance for setting aside the development plan and there is no overriding need for this level of affordable housing in Whissendine. The proposal is therefore contrary to Policy CS4 of the Core Strategy (2011), SP6 of the Site Allocations and Policies DPD (2014) and the advice in the National Planning Policy Framework.

114. In addition it has not been demonstrated that up to 66 dwellings can be accommodated on the site having regard to appropriate densities, urban design principles, ecology and highway safety. The development would thereby potentially result in a cramped form of development which would be detrimental to the character of this edge of the village, lack adequate open space, be harmful to biodiversity and potentially result in parking and access difficulties. This would be contrary to Policies CS19 and CS21 of the Core Strategy (2011), Policy SP5, SP15 and SP19 of the Site Allocations and Policies DPD (2014), Para 175 of the NPPF.

115. Insufficient evidence has been provided to demonstrate that surface water from the site can be drained satisfactorily to prevent additional flooding issues in the village. The proposal is thereby contrary to Policy CS19(d) of the Core Strategy (2011) and the advice in Chapter 14 of the National Planning Policy Framework, particularly paragraphs 160, 163 and 165.