

**PLANNING COMMITTEE: 6<sup>th</sup> January 2015**  
**SUPPLEMENTARY INFORMATION**

The “Supplementary Information” report supplements the main Planning Agenda. It is produced on the day of the Committee and is circulated at the Committee meeting. It is used as a means of reporting matters that have arisen after the Agenda has been completed/circulated, which the Committee should be aware of before considering any application reported for determination.

**Correspondence received is available for inspection.**

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General update: The Council published its interim five year housing land supply position 19<sup>th</sup> December 2014. It shows a 3.99 five year housing land supply.

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14/01090/FUL	Business use development (Class B1a), with associated infrastructure, including means of access, open space, landscaping and sustainable drainage features. Land North of Lutterworth Road, Lutterworth, Leicestershire
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14/01388/OUT	Erection of fifty dwellings including scout hall, land for new pre-school or other school use, provision of allotments, public open space, access and associated landscaping (all matters reserved) (revised scheme of 10/01579/OUT), Land Off Crowfoot Way, Broughton Astley Leicestershire
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**Amended refusal reason:**

The recommended reason for refusal is amended from:

Planning Permission is **REFUSED**, for the following reasons:

The application site is not allocated for housing development within the Broughton Astley Neighbourhood Plan (BANP), and the proposal therefore fails to accord with Policy H1 of the BANP. In addition, the application site is in a relatively inaccessible location, over 2km from the nearest post office, library and GP surgery, and 1km from the nearest public house. The proposal therefore fails to accord with Policies CS5, CS9 and CS11 of the Harborough District Core Strategy. Notwithstanding the extant consent at the application site, and that the relevant policies in the development plan related to housing supply are to be considered out-of-date, very substantial negative weight should be afforded to the proposal's conflict with the BANP. The proposal's identified harm in this regard would significantly and demonstrably outweigh the benefits of delivery of housing, including affordable housing, when assessed against the policies in this Framework taken as a whole.

To

Planning Permission is **REFUSED**, for the following reasons:

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**Summary explanation for the change**

Officers have regard to the conclusions of the Secretary of State (SoS) in dismissing the appeal against refusal of a development at the adjacent site for 111 dwellings, in which the SoS adjudged that that site was "sufficiently accessible", though "the

allocated sites are significantly better located than the appeal site in terms of walking distance to facilities at the village centre”.

Officers also note that the Inspector’s decision and in turn the SoS decision were made on the basis that the nearest public house and post office were “within 800m of the site boundary” (para 39 of Inspector’s decision). As a matter of fact, both are 1km away from the site. Therefore, whereas the Inspector adjudged that the site was within 800m of at least four key amenities, it is instead the case that both the adjacent site and the application site are within 800m of only two key amenities. A further two amenities are 1km away, and a further two are 2km away. The distance to the nearest post office is actually 1km, not 2km as stated in the agenda.

In addition, the Inspector adjudged the appeal site was deliverable (para 41), whereas two years later the picture with regard to deliverability is demonstrably different, as well as being further in the Neighbourhood Plan process than at the time of the Inspector’s recommendation.

Paragraphs 39 and 41 of the Inspector’s decision letter are crucial to his conclusion on accessibility, and by inference, the SoS’s also.

Officers’ view is that the discrepancies cited above, the fact that the Neighbourhood Plan has now been adopted, and that this is a new planning application, and that the Council’s legal advice that the extant consent does not carry particular weight, mean that the Council is justified in mentioning accessibility in the refusal reason, though given the SoS’s conclusion it should not be a reason to refuse the application.

#### **Legal submission for the applicant:**

The applicant’s legal representative, Birketts, has submitted a request that, “the Application is deferred until the March Planning Committee to allow time for the Council’s legal advice to be fully and reasonably considered by all parties.”

Birketts’ submission makes comments in respect of (1) the principle of development, (2) the fallback position, in respect of (i) the implementation of the original approval, (ii) deliverability and (iii) the Counsel’s advice, (3) accessibility and (4) the Neighbourhood Plan.

#### **Officers’ response:**

Birketts’ letter raises no new planning issues, and nothing of substance other than a point with regard to accessibility which officers had already spotted (see the amended refusal reason and accompanying explanation above).

The Council’s legal advice is clear that very substantial negative weight should be accorded to this proposal’s conflict with the BANP, and that whether or not certain works have been undertaken within the site to ‘make a start’ is not significant.

Officers’ view, informed by internal legal advice, is that a delay in the determination of the application is not justified, and that the planning application should continue to be heard by Planning Committee this evening.

Officer’s view is that a decision must be taken on the basis of the conflict with the Neighbourhood Plan, and that there is no benefit in delaying that decision, which is expected of HDC. The application has attracted great local interest, and that there are many speakers registered for the application this evening is indicative of this.

### Amendments to report

Paragraph 6.2 should read as follows:

The application site is outside (but adjacent to) the Limits to Development, in open countryside. A permitted application would introduce residential development into the open countryside, beyond the Limits to Development. The site is moderately accessible to public transport and to a limited number community facilities and services – taking the centre point of the site as an average it is within approx. 600m walking distance of a food shop and primary school. However, **the site is approx. 1km (0.6 mi) from the nearest public house and post office, and approx. 2.1km from the library and GP surgery in the village centre.** The site is therefore a relatively inaccessible location, and this weighs against the proposal. The Parish Council's comments suggest this inaccessibility was one of the main reasons for its exclusion from the BANP.

Paragraph 6.10 should read as follows:

Policy H1 of the BANP allocates land for housing development, providing for 500 dwellings within the Plan period. The two allocated sites are projected to deliver 509 dwellings. Factoring on completions **and commitments** between 2006 and 2014 (approx. 69), approx. 578 dwellings would be provided over the Plan period, which is 44.5% more than the minimum of 400 required by the Core Strategy (Policies CS1, CS2 and CS16).

14/01411/FUL	Erection of 6 dwellings (revised scheme of 13/010508/FUL), Land off Drayton Road, Medbourne.
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14/01438/FUL	Erection of one detached dwelling (revised scheme of 14/00488/FUL), 1 Andrews Close, Leire, Leicestershire LE17 5ER
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### **Three additional representations**

#### Representation #1, 30/12/2014

We are writing to draw your attention to the fact that there are a number of errors and omissions in the Officer report that recommends approval for Application No 14/01483/FUL to the Planning Committee on 6th January 2015.

We attach a copy of that report on which we have indicated in red the amendments that we would like to see in the report. These can be summarised as follows:-

- Incorrect orientation details
- Footprint of previously refused Application 14/00488 is 132 square metres.
- Footprint of this Application is 145 square metres, nearly 10% greater (9.85%)
- No details or dimensions of the old railway embankment have been given to indicate whether or not the proposal conflicts with the toe of the embankment, despite the fact that it extends deeper into the site than the previous application that was refused.
- Attached garage to the north of 1 Andrews Close has not yet been demolished.
- LCC Highway comments refer to the work potentially having an effect on the integrity of the historic railway bridge.
- The proposal is directly over 2 public sewers, which are not shown on the submitted plans or application form.
- Paragraph 6.3 refers to Policy CS2 and appears to say that if the identified harm of this proposal significantly and demonstrably outweighs the benefits then planning permission should be granted .

We trust that these corrections and amendments, together with the inconsistencies in applying National and Local policies to this Application in comparison with other Applications before the Committee which have been raised, will enable you to recommend this Application for refusal.

#### Representation #2, 28/12/14

We are writing to draw your attention to the fact that there appears to be a significant disparity in the “detailed points of consideration” particularly in respect to their relevance to National and Local Policies on sustainable development provided in the Planning Officer reports for Applications that are on the agenda for consideration by the Planning Committee on 6th January. (an accompanying 2 page attachment makes comparisons to agenda item 14/01388/OUT Crowfoot Way including comment on location accessibility, Strategic Housing Market Assessment (SHMA), providing sustainable housing, primary care trust and lack of assessment against Core strategy policies CS1, CS5, CS8, CS9, CS11 (heritage assets particularly) and garden development.)

#### Representation #3, 01/01/15

I note that the letter submitted by the developer from Diamond Wood & Shaw Limited states "The presence of a detached house and garage on an adjoining site suggests that ground conditions will prove favourable for the construction of foundations."

Based on that assumption the author then concludes that the new dwelling will not adversely affect the stability of the disused embankment.

Unfortunately the structural engineer was not made aware of all the facts. One fact is that there are two public sewers crossing the site, the details of which I have already submitted to you. A second fact is that the existing garage shows signs of subsidence where it is built over those public sewers. The two attached photographs show this damage, which has been put forward by the developer in the past as a reason for demolishing the garage (which he has not yet done) and building a new one on the other side of the property.

If the structural engineer had been made aware of these material facts he would have mentioned them in his report. The statement in the last paragraph of his report cannot therefore be relied upon, as the reasoning behind it does not take into account all the relevant facts.

**Further comments from Applicant in response to points raised: (05/01/15)**

"The professional, currently practicing, structural engineer met me on site and we discussed the proposals and he was shown the plans for the build.

When I met him I made him aware that there were drains under the proposed development it would have been difficult for him to complete the survey without that information. These are two 150mm drains, the smallest residential type. Severn Trent have no objections to the build.

With regards to the subsidence of the garage, this garage sits on a concrete slab with no foundations. This would of course not be the case with a house. There has been no issues with the adjoining property, Number 1 Andrews Close.

As always, any construction would be subject to Building regulations and Severn Trent insist on CCTV footage of the drains prior to and in completion of any building works above their drains.

In conclusion this is not an area that is required to be considered during the process of planning permission, it is in fact the role of Building regulations once planning permission has been granted. These matters do not constitute grounds to not approve this application."

**Councillor Bannister (received 04/01/15)**

Would wish to re-iterate the points made in my letter to you dated the 12th June 2014 in relation to 14/00488/FUL save to note that the height of the proposed house has been reduced. The scale of the development is still a dominant one in relation to the land available. I consider that the remaining points in my letter are still valid as to this revised application as to the original application.

The plans do not show the slope or scale of the adjoining embankment and would be grateful if you can confirm details of the embankment will be made known to members of the planning committee as they deliberate upon this application at Tuesday's meeting.

(NB. Plan submitted by objector to illustrate extent of embankment is available to view).

Previous comments referred to in letter dated 04/06/14:

I am concerned as to the scale of this proposed development. In my view it is too large and too dominant for the proposed plot. This is a three story house on a small plot contained within a small close of two storey houses. The proposed building will dominate and be of an overbearing nature.

I refer to the Council's Core Strategy document and in particular CS/17 and CS/11.

Any rural development should be located and designed with a view to it being sensitive to its landscape setting retaining and where possible enhancing the distinctive qualities of the landscape character of the rural setting. It is submitted that the scale, density and design of this application will be damaging to the amenities of the existing neighbourhood including the streetscape of Andrews Close.

There is a concern that the development leaves so little room for a garden that the applicant may be tempted to dig into the large railway embankment bordering the property which in turn is likely to affect the stability, not only of the embankment but also of the adjacent railway bridge (a unique feature of the village).

The proposed development may well be further affected by the LCC Highways comments as to the proposed garage doors having to be set back 6.1 meters from the Highway and for there to be sufficient space on the driveway to ensure adequate off road parking. The proposal is for a substantial 5 bedroomed property with a large office. There will no doubt be off road parking associated with this site which will affect the occupiers of Andrews Close.

It is likely that the dominance of the proposed building will affect any easement of light enjoyed by the occupiers of the neighbouring property at 1 Andrews Close. I note the applicant currently owns no.1 Andrews Close and is currently letting the property. This may cause the current tenant to feel constrained about making any objection as to how the development may affect any rights he enjoys but the Council should be mindful that the easement of light is nonetheless going to be affected.

I understand the proposed development will be built over public sewers which will inhibit Severn Water in any maintenance issues.

A resident of Andrews Close has shown me details of the village boundary (HDC map Inset 22 – Leire) and it does appear that the proposed building extends beyond the village boundary. This may be contrary to Policy CS/2 (Delivering New Housing - limits to development) where boundaries around settlements should be used to shape any future development.

**Officer comment:**

The proposal is significantly different to 14/01388/OUT Crowfoot Way and the agenda reports and considerations therefore differ. Whilst Leire is not a Selected Rural Village Core Strategy policy CS17 does not preclude development. As stated in the report at para 5.11, Policy CS17a) states that villages not identified, but with limits to development, may be suitable to receive small scale limited infill development. In previously refusing 14/01438/FUL at this site for reasons of siting, design and layout the Council has not objected to the site being unsustainable in locational terms. Considerations of the SHMA (which does not refer to Leire),



primary care trust (the application is too small to require and contributions towards health care or others) and other policies do not alter that assessment. No conflict with heritage assets is identified. The Council cannot reasonably refuse permission on the suggestion that Diamond and White were unaware of facts, nor that public sewer prevent development or have caused damaged. Planning officers do not identify demonstrable harm from the proposal; though recognise that there is a balanced judgement to be made as to whether the proposal is considered in keeping with the street scene. The lack of a 5 year supply of housing land is an important consideration in support with regard to paragraph 14 of the Framework.

**Officer Report clarifications:**

The site orientation is as shown on the plan opposite page 67.

The footprints of the dwellings are: refused dwelling was 138.5 square metres and new footprint is 145 square metres. Full dimensions are quoted in paras 2.3 and 3.1. As can be seen, the height (including a second floor) and length of refused scheme was greater and the design was more dominant and considered out of keeping. The footprint is just one aspect and lower dwellings, including bungalows, often have a larger footprint but lower, less dominant height. The overall impact on the street scene is key.

The attached garage on the host property has not yet been demolished despite the erection of the new garage.

Severn Trent Water have confirmed no objection and have made the following comment (05/01/15)

“Our response in regard to planning would be the same. For one dwelling, there is little we can say in regard to Planning. However, Under Building Regulations, we would advise no new building over an existing sewer (whether we have record of it or not), so we will write to Mr Chapman to that effect.”

The Highways Officer recommended the note 3 on page 77:

The proposed dwelling and associated groundwork's could potentially have an effect on the integrity of a highway related structure (I i.e. the historic bridge over Broughton Lane). The Bridge owner should be contacted by the LPA. All the bridge is over a Highway, The Highway Authority are not the owners; the dismantled railway and its embankments do not form the part of any Highway either.

This is a precautionary note.

Para 6.2. Confirmation of typing error should read” Policy CS2 is considered out of date in terms of housing figures, therefore if the identified harm of this proposal significantly and demonstrably outweighs the benefits, planning permission should **not** be granted.

14/01441/OUT	Erection of 3 chalet bungalows, with associated access and hard and soft landscaping (means of access to be considered only) (revised scheme of 14/00342/OUT). Land Rear Of 118 And 124, Station Road, Broughton Astley, Leicestershire
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14/01476/OUT	Erection of two dwellings (means of access and layout to be considered) (resubmission of 14/00394/OUT). 36 Dunton Road, Broughton Astley, Leicestershire LE9 6NB
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14/01485/FUL	Erection of a single storey dwelling; 38 Main Street Great Glen Leicestershire LE8 9GG
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Member/Officer Site Visit Observation

During the site visit undertaken by Members on 05.01.14, it was observed that some of the foliage along the boundary of No.28 Higher Green with the application site (within the No.28 plot) has been reduced the height. This has occurred approximately within the last 2 weeks. This matter is not considered to greatly alter the assessment of the application; the proposal is not judged to lead to significantly adverse impacts to the amenities of No.28 Higher Green, or other properties in the locality.

Further Representation comments from Mr Jeff Stevenson

Officer Report P.114 / Para 4.9 clarification: It must be noted on the public record that the two owners of 28a [Higher Green] do not own or have any interest in the property 28 [Higher Green]. The owner of 28 does not own or have any interest in the property 28a. 6 letters of objection have been received from the two addresses combined (all letters and comments therein have been reviewed and considered).

Officer Report P.123 / Para 6.3 / 2. Design / final paragraph correction - Marrons have a contract with the owner of 28 Higher Green (the next door neighbour to the site) and the objection is submitted on behalf of 28 and not 28a.

14/01497/FUL	Erection of a detached dwelling and detached outbuilding containing fuel store and cycle store, 37 Eastgate, Hallaton, Leicestershire LE16 8UB
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1 further letter of objection from The Old Tannery, Crow Alley raising the following further objections, 1) Would like a question to be answered by Planning Committee in relation to planning regulations. The proposed plans will involve deep and extensive excavations, especially as the house will be set about 1m below present ground levels. Our house, 18 Eastgate, has no foundations. Has this been factored into the plans by the architects? If not, then we are in a perilous and dangerous position from this construction process. A response would be greatly appreciated to allay our fears.

#### Supporting information

Information received from the agent further to the letter of objection above. This states that they have noted the concerns relative to foundation conditions. Whilst not strictly a planning matter understand their concerns and have submitted the following for their assurance. RDC are retained as the overarching Project Managers to control the anticipated new dwelling construction and the improvements to 37 Eastgate, including the shared external works. RDC carry 5 million Professional Indemnity cover for the associated professional supervision and project certification. The construction process has to be conducted in full accordance with all technical standards, including Building Control, NHBC and Party Wall. These standards ensure that the new development is carried out in full compliance with all technical and structural requirements. It is very common for any infill development or development within an established area, to have to consider adjacent buildings and structures. It is generally normal for more historic buildings to have foundations that do not meet with modern day standards. The associated new remedial works and foundation constructions have to respect fully this influence and ensure that there is no impact upon the existing dwellings. This is dealt with via a robust technical and structural process, including supporting drawings and documentation that have to be approved by the associated Statutory Authorities. Furthermore, this is supervised closely during construction works to ensure that all works are carried out in compliance with the approved drawing set and the associated technical standards.

#### Additional Consultation

The Planning Officer asked the advice of Building Control and referred them to the supporting letter submitted. They responded,

#### Building Control

Agree with the comments contained in the applicant's supporting information.

#### Additional Information

##### The Party Wall Act

The Act covers different kinds of excavation work which could possibly affect the adjoining owner's property, where any work that is intended to be carried out is within 3 metres of an adjoining property, and where the work will go deeper than the foundations of the adjoining neighbour's property.

#### Additional Condition:

Following observations on site by Members, an additional condition is recommended regarding the location of the gates to the existing property and the ability for vehicles to turn within the site. As such, the following condition is recommended:

- 15: Notwithstanding the plans hereby approved, prior to the commencement of development, either a scheme indicating the revised location of the gates to the land to the rear of 37 Eastgate to enable provision for the turning of vehicles within the area indicated on Drawing RDC897/100; or a plan demonstrating that turning can be adequately achieved within the turning area shall be submitted to and approved by the Local Planning Authority.

Reason: To ensure that vehicles may leave the site in a safe manner and not cause problems or dangers within the highway and to accord with Harborough District Core Strategy Policy CS11

14/01554/VAC	Removal of Conditions 14 and 18 (access provision and surfacing) of 12/00916/FUL, Lloyds Chemist, 8 Station Street, Kibworth Beauchamp, Leicestershire
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Representations

1 letter of objection raising the following concerns – 1) Not happy with the proposed changes, 2) Also feel that there will not be enough access for an emergency vehicle to turn around.

Supporting information

Supporting information was submitted by the applicant by way of a letter to them from EMW Law. This letter states that,

“I note you have had a request for some further information...how you can guarantee that the access will remain to the new houses?

8 Station Street owns around one third of the width of the access and 10 Station Street the remainder. Both properties and the bungalow to the rear, as well as other properties on Station Street with rear accesses, have used the access road for over 20 years and therefore various prescriptive vehicular rights of way exist over the whole access meaning that in practical terms there will always be someone with a right to use it meaning it will have to be kept as an access road. 8 Station Street has a prescriptive right of way over the part of the access road you do not own to get to the car park at the rear of the chemist, which is the area to be developed”.

## Planning Committee Speakers List – 6<sup>th</sup> January 2015

<b>Application No.</b>	<b>Parish</b>	<b>Speaker</b>	<b>Type</b>
14/01090/OUT	Lutterworth	Mr G Stephens	AG
14/01388/OUT	Broughton Astley	Stuart Oliver Peter Chaplin Clive Grafton-Reed Mrs Maureen Stell Rachel Padfield Cllr Graves	O O PC PC AG WM
14/01411/FUL	Medbourne	Bill Barrie Martyn Wilkinson Richard Windley Stuart Sowerby Lynn Easton Mary O'Donnell Sheelagh Shane-Carter Peter Hales Pat Potter Nickie Philbin Mike Rickman Ian Dunckley Ian Reid Jeremy Ward	O O O O O O O O O O O S AG A
14/01438/FUL	Leire	Mrs Debbie Morgan Mr Alan Bennett Mr Paul Rayner Mrs Kay Atkinson Mrs Jane Rayner Mr Alan Stephens Mr Nick Cotton Mrs Elaine Chapman	PC O O O O O PC A
14/01441/OUT	Broughton Astley	Christopher Page Clive Grafton-Reed Mrs Maureen Stell	O PC PC
14/01476/OUT	Broughton Astley	Mr M Needham Mrs Maureen Stell Clive Grafton-Reed Mr David Clarke	O PC PC A



14/01485/FUL	Great Glen	Mrs J Pearson Jeff Stephenson Graham Price Shirley Ellis Miles Stephenson Mr Lance Wiggins	O PC O O O S
14/01497/FUL	Hallaton	Lisa Bell Ms C Ford Adrian Stevenson	O O AG

**Key to Speaker Type: O = Objector, S = Supporter, A = Applicant/on behalf of applicant,  
AG = Agent, PC = Parish Council, WM = Ward Member**