

EXTRAORDINARY COUNCIL: 10th January 2018
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.

15/01531/OUT	Hybrid Planning Application comprising: 1) Outline application for the demolition of Lodge, Emmanuel and Bittesby Cottages and erection of up to 419,800 sq m Storage and Distribution (B8) with ancillary offices (B1a), up to 3,700 sq m for a Logistics Institute of Technology (D1) with associated playing field, up to 9,000 sq m small business space (B1a, B1b), change of use of Bittesby House barns to exhibition centre (D1), the creation of a Country Park, other open space and landscaping works on land to the north of Mere Lane, formation of access road from Magna Park, creation of roundabouts, partial realignment of Mere Lane, upgrading of A5 to dual carriageway, creation of roundabout access on A5, creation of SuDS facilities and associated infrastructure and landscaping works (siting, extent and use of the defined parcels, the maximum quanta and height of buildings, the restriction on the siting of yards, demolitions and means of access to be considered only); and 2) Detailed application for the creation of a 137 space HGV parking facility, associated gatehouse and HGV Driver Training Centre, vehicle wash and fuelling facilities, and a rail freight shuttle terminal, with associated hardstanding, landscaping works and SUDS facilities on land adjacent to Asda George Headquarters, A4303
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MEMBERS ARE ADVISED THAT ALL OF THE SUPPLEMENTARY INFORMATION LIST RELATING TO 15/01531/OUT AND PRESENTED TO PLANNING COMMITTEE ON THE 23RD NOVEMBER STILL STANDS AS PUBLISHED IN THE AGENDA PAPERS FOR THIS MEETING. THIS ADDITIONAL SUPPLEMENTARY INFORMATION LIST REPORTS ALL ADDITIONAL INFORMATION RECEIVED SINCE THAT MEETING.

Additional Consultee Comments:

HDC Environmental Health:

As a point of clarification in connection with the air quality impact assessment relating to the Magna Park applications, the Environment Team can confirm there have been a number of air quality reports submitted as part of the application process . The Air Quality Officer has

reviewed all Magna Park air quality reports submitted with application 15/01531/OUT and the reports submitted in conjunction with the applications 15/00919/FUL and 15/00865/OUT. When the application was originally received in 2015, the applicant's air quality consultant predicted that the air quality objective would be exceeded at 2 properties in Wibtoft which required further investigation. As a result and to verify the applicant's findings, the Council installed 2 air quality monitoring tubes, 1 in Wibtoft and 1 along the A5. The monitoring results from these tubes has found that the consultant's modelling had overestimated the levels of air quality pollutants predicted as the annual results for the tubes in 2016 (latest full year corrected results) were approximately 30 $\mu\text{gm-3}$ and 19 $\mu\text{gm-3}$ compared to the national objective annual average level of 40 $\mu\text{gm-3}$.

In addition in November of 2015 the Council employed an independent consultant (WSP Parsons Brinckerhoff) to review the air quality reports including the cumulative impact all the developments of

- 15/00865/OUT symmetry park, Lutterworth
- 15/00919/FUL Magna Park Extension, Lutterworth
- 15/01531/OUT Magna Park Extension, Hybrid Application, Lutterworth

The consultant identified a number of issues with the various reports which officers highlighted with the relevant applicants. The issues raised have since be addressed in subsequent submissions.

With regards to the current application, Officers met with the applicant's air quality consultant to discuss the requirements of the most recent Regulation 22 submission (The Town and Country Planning (Environmental Impact Assessment) Regulations) (submitted in July 2017) to ensure it addressed all of the Air Quality Officer's concerns. The applicant's most recent submission used the Council's monitoring data for model verification and in the opinion of the Air Quality Officer is a more realistic estimation of the likely impacts of the development and the cumulative impacts of the other 2 applications as such and assuming the permission is subject to the same HGV routing agreement, monitoring and enforcement requirements within the section 106 agreement as 15/00919/FUL and 15/00865/OUT the officer has no concerns regarding air quality impacts of the development.

LCC Highways:

Leicestershire County Council (LCC) as the Local Highway Authority (LHA) responsible for the highway network within Leicestershire has provided highways observations in response to several planning consultations from Harborough District Council (HDC) as the Local Planning Authority (LPA) on the above planning application. This position statement provides a summary of the observations.

In order to provide advice to the LPA, the LHA has undertaken a detailed and comprehensive review of the relevant documents in the planning application, in particular the Transport Assessment (TA) and Travel Plan (TP) submitted by the applicant.

The TA deals with the impact of the proposed development using the Leicester and Leicestershire Integrated Transport Model (LLITM). The assessment also took in to consideration the approved planning applications for the DHL development (15/00919/FUL) and the Symmetry Park development (15/00865/OUT) which requires a S106 agreement to be finalised following the Planning Committee decision on 23 November 2017 before the planning permission can be issued. Following a comprehensive review of the TA information, the LHA concluded that the TA presented a robust evidence base and adequately identified the highway impact of the development. In addition to this, the LHA undertook a number of its own sensitivity tests to verify the conclusions of the TA.

The TA (supported by the LLITM analysis) identified that a significant proportion of the traffic generated by the Magna Park development would be routed on to the Strategic Road

Network (SRN) – i.e. the A5 and M1 – which is managed by Highways England (HE). HE has therefore provided their observations to HDC. The main impact within the Leicestershire highway network was found to be at the A4303/A426 Whittle Roundabout. The development would increase traffic going through this junction to cause severe impact, in the form of increased delays and queues, at this location. Consequently, the LHA has advised for a planning condition to require a scheme of works at this junction which would mitigate the impact of the development.

A number of representations were received by the LHA with regard to the A5/A426 Gibbet Hill roundabout. This junction is part of the SRN and also is within Warwickshire. The LHA therefore is unable to comment on any impact or necessary improvements at this junction.

The LHA understands that there are local concerns relating to an increase of traffic through both the surrounding villages and Lutterworth town centre. Traffic surveys undertaken as part of the TA, as well as the additional TA work required by the LHA demonstrated that only a very small proportion of additional traffic would use routes through the villages and Lutterworth. Furthermore, the level of existing and additional traffic would still be substantially less than network capacity available on those routes. On this basis, the CHA does not consider the use of these routes to adversely impact on highway network operation. The LHA notes concerns in relation to noise and air quality issues arising from increases in traffic. These considerations fall under the responsibility of HDC (Environmental Health).

The LHA considers that there are adequate Traffic Regulation Orders (TROs) restricting HGV uses of rural roads in the vicinity of Magna Park. However, it is understood that Warwickshire County Council have raised concerns over HGV routeing through villages within their boundary. In order to mitigate any impact in Leicestershire following measures taken within Warwickshire, the LHA has requested a contribution of £200,000 to identify and implement a package of schemes. It is also understood that the Applicants are considering the use of a Transport Working Group, which forms a possible alternative to the contribution, subject to acceptable terms.

The LHA requires a number of measures to promote the use of sustainable travel to the site. The Applicant has agreed to support/fund car sharing and enhanced bus services, including services to Leicester, Hinckley and Nuneaton at times to coincide with shift changes seven days a week. These are included in the TP and which the LHA has advised to be secured through S106 Planning Obligation.

In conclusion, the LHA's position is that the significant highway impact of the development can be mitigated as stated in Paragraph 32 of the National Planning Policy Framework subject to appropriate planning conditions and planning obligations recommended by the LHA.

The LHA through its Highways Development Management staff has worked closely and collaboratively with HDC's planning officers and the Applicants Highways consultants. Given the clear LHA position that the highway impacts can be mitigated and that therefore highway reasons to refuse the Magna Park application do not exist LHA officers will not be in attendance at the reconsideration by HDC Members of this application at the HDC Full Council Meeting on 10 January. This is standard LHA practice and accordingly no disrespect is intended.

Additional Representations:

Now Planning (on behalf of Applicants)

Now Planning (on behalf of Applicants)

Now Planning have submitted two supplemental statements, the first summarises in brief form the facts of Gazeley's application to extend Magna Park 15/01531/OUT (See **Appendix A**). The second responds to the reasons for the referral of the Application from Planning Committee to Council. (See **Appendix B**)

Nicholas Pearson Associates (on behalf of Applicants):

Landscape Maturation Sections and Bank

The additional Sections 1 to 4 and the plan view provided (See **Appendix C**) illustrate the following:

- Orchard Lodge already has substantial existing tree and shrub planting along its boundary and intervening around the adjacent paddock area which restricts views to the site and new roundabout.
- Given the orientation of Bittesby Stables and properties to the north, a key mitigation feature is the protection of the principal open views out from habitable rooms at Bittesby Stables over a boundary hedgerow and between garden trees, to the north east and east. These views are conserved in the proposed Hybrid application layout over a retained open meadow area.
- In views to the south east from the garden of Bittesby Stables, where there are already existing Magna Park buildings visible in a gap in existing enclosing mature vegetation, new advanced shelterbelt planting alongside garden boundary hedge would increasingly and effectively filter views to existing/consented Magna Park buildings, construction activities, and to new buildings.
- A planted earth bank located on intervening land, within the control of the applicant, is also now indicated. This would be installed a minimum of 5 years in advance of the construction of Parcel L and Sections 1 to 3 demonstrate the effectiveness of this bank and associated advanced planting, as an additional buffer. This feature would provide effective visual mitigation during construction works and would provide permanent screening in a short timescale, when building on Parcel L is in operation.
- The elevated nature of Bittesby Stables at 120.05m AOD, relative to the finished floor level parameter of the building on Parcel L (115.7m) also will have the notable effect of reducing the new buildings dominance in addition to the building height restriction and the distance to the building of a minimum of circa 125m.
- There would be no potential for overlooking given the blank façade of the northern elevation of the building on Parcel L. Privacy would also be maintained to properties by their garden boundary hedgerows, the proposed planted bank, the additional advanced planting along the field hedge boundary and the location of the diverted public footpath and new building, which would be beyond these features.
- At night, there would be no lighting at upper levels on the northern building façade, all yards and activities and office components are restricted by committed parameters (on submitted Parameter Plan 2 of 2) to the southern side of the building, where they would be shielded. A car parking area on the western side of the building would also be enclosed by proposed planted banks, shown in Section 4 and would already be shielded by the substantial existing intervening mature tree planting belts between this area and Orchard Lodge/Bittesby Stables. The proposal would include low glare and spill LED lighting and the detailed scheme lighting would be secured by a planning condition.

For the above reasons Parcel L would not have an overbearing effect or result in the loss of privacy to residents at these properties. Direct trespass of light would be controlled and the existing and potential impacts of sky glow addressed through the lighting design and improvements within the existing Magna Park. Also, a further reserved matters approval for Plot L will be required and the Parameters Plan sets maximum floor space and building height limits, only.

Malcolm and Lynne Stringer (Bittesby Stables)

I have just been reading through the overview report for the full Council meeting on 10 January. There are a couple of points which I feel are relevant to the case and should not be ignored.

When describing the layout of accommodation for our house (Bittesby Stables) you have shown the original plans rather than the ones which were subsequently agreed by HDC Planning. These show better the layout and the relationship to the orientation of the property. I have attached a copy of the relevant plan for Bittesby Stables (see **Appendix D**).

Secondly you refer to the removal of a hedgerow on the southern side of Bittesby Stables. There has never been a permanent hedge in the location you refer to, rather there was a group of willows which by the time we moved into the house were very ancient and had become diseased. Removal was recommended by an arborist.

Also I note there is no attempt at Conditions 9 and 10 to retain the suggestion by the Planning Committee for the construction of a bund as part of structural landscaping in the attenuation process. Unless plans 3657-34-29 and 3657-36-07, which I cannot find, show otherwise.

Dr Susan Tebby (Ullesthorpe Resident)

Dr Tebby has submitted a number of reports and papers to the Council with regards the proposals. The below text forms Dr Tebby's objection to the application which refers to her submissions. Councillors have previously been made aware of the submissions by Dr Tebby.

I wish to object to the above application and the proposed buildings off Mere Lane, Bittesby, Leicestershire, in the strongest possible terms because of the irretrievable damage and destruction that will be caused by the location of the warehouses, access routes and ancillary buildings, to the setting of the heritage assets in the vicinity. HARM. Historic England defines 'Harm' as "Change for the worse", here primarily referring to the effect of inappropriate interventions on the heritage values of a place. Any development close to the scheduled site which might damage its setting is also a material consideration in the planning system.

1. Bittesby Deserted Mediaeval Village (DMV) was listed as a Scheduled Ancient Monument (SAM) in 1954. This gives Bittesby DMV a status of national importance. The site is accessible and 'reads' well within its setting: the boundary is partially contiguous with the stream which was the primary reason for the village's location, together with its proximity to the Watling Street (A5) and other local villages: Bitteswell, Ullesthorpe, Claybrooke Parva. The outlines of house-platforms and other related buildings can be detected with 'streets' or ways between. The village was bisected by the railway in 1840 and part of the western site is under the grazing field to the west. Many documents assert to the villagers and their life in the village until their eviction in 1494 by the 4th Earl of Shrewsbury. The farm lands of the villagers remain as they always have, the landscape changing very little in 500 years.

2. Bittesby House is about 500 metres to the south east of the DMV. The house has been closely related to the DMV for centuries within its farming land and landscape. The present house on the site is a late Georgian building with many fine details (and later additions) and is shown on maps from at least 1777: Joseph Whyman, for John Prior; and discussed by John Throsby, 1790, in Leicestershire Views, with a map engraved by John Cary, 1792, and discussed at length by Rev. A. Macaulay in The History and Antiquities of Claybrooke, 1791. The history of Bittesby House and its inhabitants, including the well-known London and Leicester surgeon, Sir Charles John Bond (see letter from S Tebby to Mark Paterson with

appendices, December 2015) who grew up there has been traced through many Indentures and other deeds (samples already provided in December 2015) which provide an exceptionally clear idea of the development and growth of both house and farm buildings. A fine example and remarkable survival of a triple barn arrangement is seen to the north east: coach house, barn and pigsties with granary over, where a rare example of reed and gypsum lime ash ceiling still exists in the pigsties with the granary above. The construction of this ceiling is identical to that of the Ullesthorpe Subscription Mill, a Grade II listed building close-by. This cluster of buildings - House with related farm buildings - should be listed on their own merit. The collection is patterned on those recommended by William Marshall in the 1780s, more often seen in the east of England, rarely in the midlands.

3. The immediate landscape to Bittesby House is that of previous gardens and orchards as well as the ridge and furrow field immediately to the south west, as evidenced in the western avenue of splendid mature chestnut and lime trees, each tree deliberately planted in each furrow for landscaping effect as one approaches Bittesby House, by George Simpson, in the 1880s, and later JP. The ridge and furrow field whilst somewhat de-graded to the south, compared with the 2003 photograph, is still discernible and only requires careful tending for its partial restoration. See attached photograph.

4. The wider farm land and landscape is a remarkable survival of that that existed even before the 1680s as evidenced in surveys carried out for Charles, 12th Earl of Shrewsbury when he was reconsidering the re-purchase of the entire Bittesby parish in 1680. The document: A Particular of the Lordship of Bittesby, January 1680 has been transcribed with notes (S Tebby, 2015). Sample sheet included in letter to HDC 31 st December 2015. Fields with their names from 1629, 1677 and 1680, as well as from the 18th and 19th centuries, have been superimposed on to a recent Google map to demonstrate how little the elements of landscape have changed. That this is not merely a farmland that takes its characteristics from the existing topology is exemplified in several Indentures from the early 18th century onwards and from the circumstances of the times in which each successive landowner lived and adopted the then current philosophy with regard to landscape.

Each Indenture made clear the terms on which the leasehold was granted by listing exactly the manner in which the landscape was to be maintained. If this was not carried out then the tenant was forfeit of money or goods to the value for others to carry out the work precisely to maintain an aesthetic ideal. It is the manner in which the Indentures change the wording that shows how much the landowners were concerned with not only the viability of farmland but also the aesthetics of landscape. This was in tandem with the developing philosophy prevalent in England and driven by Capability Brown, for example, and then Humphrey Repton. The preservation and development of Bittesby House was also subject to similar stringent repair and extensions. All these developments and requirements are part of the setting of the deserted mediaeval village, enhancing the setting within the landscape.

The proposed DHL warehouse and its roads will impact on the setting and the DMV and Bittesby House and its farm buildings. There is almost no position or height that could render such a warehouse ineffectual in relation to the scheduled ancient monument. The proposed roads and ancillary buildings will destroy the virtually untouched landscape that has existed in this form for well over 500 years and be impossible to re-create (even if circumstances were to cause the demolition of the warehouse in the future). Thus the Harm will be permanent and the sense of place and identity lost and impossible to recreate no matter how many 'country parks' and artificial banks of trees are somehow built. The loss of identity of the parish of Bittesby will directly affect the identity of the three closely related villages and ruin their setting as well.

Furthermore I ask again that you consider the ruling in the recent cases of application for developments which in each case the balance of weighting afforded to the heritage asset resulted in each proposal being refused:

- Barnwell Manor Wind Farm - 2012 - landscape setting for a heritage asset (see judicial review on appeal)
 - Lyveden New Bield - 2014 - landscape setting for an historic building (see judicial review on appeal)
 - Forest of Dean - 2016 - landscape setting (see judicial review on appeal)
- And many other cases in law in the last five years.

The irreversible harm done to the Deserted Mediaeval Village (DMV) - which is a Scheduled Ancient Monument (SAM) in an historic setting in the landscape, in itself historically significant and in relation to the heritage assets which significantly benefit the adjoining villages of Bitteswell, Ullesthorpe and Claybrooke Parva - has to be balanced against any possible benefits.

Proposed Benefits

There is no proposed benefit offered by IDIGazeley that does not already exist: such as the countryside areas and walks. There are already facilities in the surrounding areas that would be duplicated by the proposal. There is virtually no unemployment in the villages, and little in Lutterworth, to justify the figures and salaries offered: the scale of rents and properties are in excess of the bulk of the jobs on offer. Job numbers of these are likely to fall due to automation as they have done elsewhere in the Midlands. There are no benefits to the three villages, only further harm in terms of hugely increased traffic (the side roads in the villages, now on Satnav routes, are impassable by HGVs due to bends, narrowness and parking of residents vehicles), pollution from hundreds of proposed travel journeys, and loss of a close-knit identity and sense of place that has existed at least since William 1st survey of 1086.

There is little benefit to Lutterworth in terms of employment where unemployment figures are very low. Lutterworth has its own gym, park space and logistics college (opened recently adjacent to Lutterworth College). The cost of local rents and properties again, do not allow for the majority of wages on offer at Magna Park. Personnel from Magna Park come in the main from other counties, particularly Northamptonshire, Warwickshire and Staffordshire (information from a number of employees over the last three years).

The only possible benefit comes from a small percentage of the business rates that are paid to Leicestershire County Council/Harborough District Council. There are no figures that can possibly be proposed at this stage; everything proposed by IDIGazely is hypothetical. The actual amount that might accrue to the villages, after the County, the District Council, and Lutterworth Town Council has had its share, would be too small to outweigh the considerable damage done by the scheme itself.

The locality does not directly benefit in any way from the proposed DHL warehouse, while at the other end of the scale is directly harmed by the removal of the benefits of a mature countryside with undulating landscape and walks. Most of all, the significant heritage assets of the DMV/SAM, Bittesby House and its farm buildings are directly harmed by the proximity of the proposed warehouse. Huge sheds, tarmac and concrete, traffic congestion and pollution, together with loss of eminently viable farmland are nothing short of being in direct conflagration of current legislation

Dr Susan Tebby (Ullesthorpe Resident) (Further representations received 08/01/17) (Full copy of submission is available for inspection):

I wish to object in the strongest possible terms to the above application on the grounds of the substantial harm that will be cause to the historic landscape selling 10 the deserted mediaeval village. a scheduled monument. and to Bittesby house and its farm outbuildings.

In particular I wish to draw your attention to the issue of hedgerows, hedges and watercourses which directly affect the topography of the setting and which is also the reason for the existence and specific locations of the heritage assets.

I enclose information in the form of written research, sketch maps and photographs on 18 sides of paper.

Lutterworth Museum:

On behalf of Lutterworth & District Museum, I am writing in support of the proposal of a Magna Park Heritage Centre.

We are an independent museum, staffed and run entirely by volunteers (at present we have 38 volunteers). The museum's aim is to collect and preserve the documents and artefacts which chart the history of Lutterworth and its surrounding network of villages from earliest times to the present day. We collect and preserve the history of the local area and local people and make it available for all to see, as well as giving talks all over the country on various subjects and providing access and opportunities to schools.

We are very proud to announce that we recently achieved full accreditation. We are one out of only 51 Independent Museums in the East Midlands, who have achieved this level of accreditation.

This is the first accreditation that the Arts Council England accrediting body has given Lutterworth & District Museum. By pursuing and achieving accreditation Lutterworth & District Museum has demonstrated that it meets standard for quality and is committed to pursuing excellence.

The accreditation decision represents the highest level of accreditation that can be given to a Museum and shows the organisation substantial conformance to the Arts Council England standards.

The Museum receiving a Three-Year Term of accreditation has put itself through a rigorous peer review process. It demonstrated to the accreditation assessors during the on-site visit commitment to offer programs and services that are measurable, accountable and of the highest quality.

Having reviewed and discussed the expansion proposals by IDI Gazeley, we welcome the inclusion of a Local Heritage Centre (LHC) on site. This aspect of the proposals is of particular interest to the museum and could form the basis for a form of partnership. The LHC presents a unique opportunity to showcase what is already an interesting archive from the archaeological works to date - and one that will grow significantly once the excavations on the wider site are underway. Allowing local people to experience their own heritage on their doorstep is invaluable. In addition it is hoped that the history of Bittesby – the understanding of which has grown immeasurably over the last 2 or 3 years can be built on by encouraging a budding new generation of historians to engage with its fascinating past.

Furthermore the proposed expansion will bring new businesses and further investment to Magna Park and will provide valuable employment opportunities. All of which is to be welcomed.

Alberto Costa MP:

I am writing to you in regard to the proposed expansion of Magna Park, more specifically in relation to IDI Gazeley's planning application (ref 15/01531/0UT) which I understand has now been 'called in' to be considered at an extraordinary Harborough District Council planning meeting on Monday 11th December 2017.

As you may be aware, I have previously outlined my objections to the proposed expansion of Magna Park on several occasions, including in a prior letter to Harborough District Council, dated 23rd July 2015, a further copy of which I have attached for your reference.

While I do appreciate that planning matters are rightfully devolved to the responsible local authority, I feel compelled on this occasion, given the depth of feeling concerning this proposal, that I should like to take this opportunity to once again reiterate my objections to the application in question.

The proposed expansion of Magna Park has long been a source of considerable concern and upset for my constituents as it is their belief, a belief which I also share, that this expansion is both unneeded and unwarranted. I am proud that my constituency of South Leicestershire has one of the lowest rates of unemployment in the UK, and as such, I fail to recognise the economic importance, in terms of employment, that this expansion would bring to the local area. Further to this, my constituents have rightly highlighted the detrimental effect these proposals would have in terms of further traffic and light pollution, two existing issues which would be greatly exacerbated as a result of this proposed expansion.

While I do appreciate the difficulties and complexities posed to the Council in their deliberating upon an application of this nature, I should be very grateful if they could please take full account of the level of objections from my constituents who have stressed their well-reasoned and rightful concerns regarding the proposed expansion in question.

I would like to wish the Council well in considering this application and I look forward to seeing the result of their reasoned and informed decision in this case.

Local Representations:

6 additional letters of objection have been received since the application was considered by Planning Committee on the 23rd November. These additional letters raise similar issues to those previously reported as well as the following:

- Planning permission has been given for Storage and Distribution Buildings for DbSymmetry, to create a new complex Symmetry Park, next to Magna Park (15/00865/OUT). Planning permission has also already been given for a new Storage and Distribution Centre at Mere Lane, linked to Magna Park (15/00919/FUL). These two developments together will add a huge area of storage and distribution warehousing.
- This application, 15/01531/OUT, proposes a further massive area of storage and distribution warehousing, that would be far in excess of what is required. This proposed warehousing along the A5 would extend an already massively enlarged Magna Park plus Symmetry Park concentration of warehouses, and would be built on what is currently unspoilt green countryside.
- The development proposed in this planning application is not needed, and the proposed site should not be built on. This planning application should be rejected.

Amended Conditions:

Further to a request from a local resident, and agreement from the applicants, Members of the Planning Committee who considered the Planning Application on the 23rd November included additional wording to secure a landscaped bund between Bittesby Stables and Parcel L of the development. Additionally, the applicants have committed to provide the landscaping of this area (now to include the proposed Bund) to coincide with the first phase of development of the site. Furthermore, subsequent to the meeting of the 23rd, the Applicants have continued to work on this issue and have provided a series of indicative

plans and cross sections to illustrate how such a bund could be provided and the additional benefits it would provide. Officers concur that such a condition would further reduce the impact of the proposal upon the amenity of this property, and consider the condition to be reasonable and fair, and as such, would recommend that Members include the amended condition as set out below as part of the Officer recommendation.

Condition 9

- v. Landscaped bunding in Zone A2 (broadly in accordance with the plan numbers MPL410-AL-SK047 Rev 01, MPL410-AL-SK048 Rev 01, MPL410-AL-SK049 Rev 00, MPL410-AL-SK050 Rev 01 and MPL410-AL-SK051 Rev 00) providing screening between Bittesby Stables and Parcel L of the hereby approved development

Condition 10

The landscaping buffer to White House Farm shall be laid out in accordance with the Landscape Phasing Plan (Drawing MPL410-AL-SK038-**05L**), with implementation to coincide with the commencement of development on the first Parcel shown on Parameter Plans 1 and 2 (Drawings 3657-34-29 and 3657-36-07).

REASON: To ensure that the proposed landscaping is afforded adequate opportunity to become suitably established so as to perform its required purpose in the interests of amenity and the character and appearance of the area and to accord with Core Strategy Policy CS11

APPENDIX A: Now Planning Supplemental Statement

Now Planning

Supplemental 15/01531/OUT: Clarifications for the 11 December Full Council Meeting 6.12.17

This Note

This note summarises in brief form the facts of Gazeley's application to extend Magna Park 15/01531/OUT. The references are to the officers' Application Report (AR).

Clarification

1. Gazeley's planning application is in two parts: Zone 1 is in outline; and Zone 2 is in detail (AR paras 1.2, 3.1-3.16 and Figure 3).
2. Zone 1 covers 230 ha (including land in the public highway). Just under half of the site is proposed for publically accessible green infrastructure, including the 70 ha Country Park and Meadow and 33 ha of other green space (AR para 6.2.20). The overall development density is 18%.
3. The built development in Zone 1 is located on Parcels E-L.
 - i. Up to 419,800 sq m is for strategic distribution floorspace on Parcels G-L which, together, total 82.24 ha:
 - Parcel G (21.86 ha) plus a further 33 ha of the 15/01531/OUT application site, already has planning permission to provide a 100,844 sq m building for DHL Supply Chain.
 - The same planning permission also provides for the demolition of Emmanuel and Lodge Cottages (AR para 6.1.34).
 - ii. Parcels E and F (9.26 ha) contain the following further uses. These uses are proposed both individually and in combination to meet other pressing needs of the logistics sector and to increase the 'knowledge-intensity' of Harborough's economy (AR paras 6.4.22, 6.4.33-6.4.34, 6.4.50, 6.4.51 bullet three and 6.4.83):
 - Logistics Institute of Technology (LIT), with buildings up to 3,700 sq m together with playing fields for dual use with the community (AR paras 3.7-3.10 and 6.4.32-6.4.36);
 - Magna Park Innovation Centre (MPIC), with a building up to 2,325 sq m to provide easy-in, easy-out small business space (AR paras 3.11 and 6.4.48-6.4.53); and
 - Holovis's new HQ in a building up to 7,000 sq m (Holovis is a rapidly growing immersive technology business and one of the partners of LIT (AR paras 6.4.54-6.4.58).
 - iii. Parcels C and D (70 ha) for a country park and meadow (the latter has the further advantage of removing from damaging agricultural use a significant area of archaeology related to the Scheduled Monument (AR paras 6.11.22-6.11.24).
 - iv. Bittesby House and its principal outbuildings and grounds are to be retained and restored: Bittesby House is to be used for conference facilities and a marketing office (AR paras 6.2.48 and 6.14.1-6.14.6); and the outbuildings for the Local Heritage Centre and a toilet block to support the Country Park (AR paras 6.14.7-6.14.11).
 - v. Although the Zone 1 part of the application is in outline, planning permission is sought for these details:
 - the siting, maximum extent and use of each Parcel (AR Figure 22);
 - the maximum built quantum in each parcel;

Now Planning

- the maximum height of buildings in each parcel; and
 - in Parcels G-L for strategic distribution, restrictions on the siting of yards, HGV circulation and parking.
- vi. Reserved matters applications will be required for the details of how each Parcel in Zone 1 will be laid out and developed, up to the maximum building heights and floorspace for which planning permission is sought.
4. The **Zone 2** site occupies land which already benefits from a planning permission to provide Magna Park with a truck park. The Zone 2 application is for (*AR Figure 73*):
- i. 137 space HGV park with facilities for all of Magna Park's existing and new occupiers (*AR para 6.14.12*)
 - ii. Fuelling station – LPG, CNG and electric charging points (*AR para 6.11.20 and the context for this aspect of the proposal at AR paras 6.14.13-6.14.25*).
 - iii. Railfreight Shuttle and Terminal – on demand service to DIRFT with temporary storage of up to 88 containers. Magna Park already accounts for 16% of all trips in and out of DIRFT (*AR paras 6.4.37-6.4.47*)
 - iv. Driver training centre (*AR para 6.11.17*).

Delivery

5. **The delivery of all of the non-warehousing uses would be secured by legally binding obligations on Gazeley** (*AR paras 6.10-6.19*), including for the phasing of their delivery (*AR Figure 78*). The heads of terms of the S106 agreement is provided in full in AR Appendix D.

Correction

6. **Planning permission for the demolition of Emmanuel and Lodge cottages has already been granted** (15/00919/FUL) to allow for the dualling of the A5 as part of the works to extend Magna Park for the DHL Supply Chain facility (*AR para 6.1.34*). The grant of that planning permission is significant in judging the scheme's environmental impacts (*AR para 3.41*).

Therefore:

- AR paras 6.8 and 7.3 should make clear that the Council considered the benefits of the DHL Supply Chain scheme (alone) to be sufficient to justify the demolition of the Emmanuel and Lodge cottages, both non-designated heritage assets.

To those benefits must be added the still greater benefits of the Hybrid application 15/01531/OUT, including the heritage benefits (*AR para 4.3.17*).

APPENDIX B: Now Planning Supplemental Statement

Now Planning

Application to Extend Magna Park 15/01531/OUT (the Application)

This supplemental note provides a brief account of a legal opinion we sought from David Elvin QC following the Council's decision, and the reasons for it, to call in Gazeley's planning application 15/01531/out (the Application) for reconsideration by the Council. It had previously been considered that both the Application and the db symmetry applications should be considered together and not, as is now the case, separately.

We trust that Members will understand our concerns – notwithstanding our aim of supporting the Council procedurally in its reconsideration of the Application in line with due process.

We have appended the legal opinion we received to this note, and hope that you find it helpful as we have.

In brief:

1. We think (supported by the legal opinion) that the four reasons given to satisfy the Council's constitutional provisions for a call-in are either misconceived in planning terms and/or legally flawed.
2. We also consider (supported by the legal opinion) that the officers' report follows a legally unimpeachable approach in reaching its conclusions and recommending that Gazeley's application be permitted. Of course, Council Members are entitled to depart from their officers' recommendation where they have good reasons. Those reasons must be capable of articulation and open to scrutiny. For applications that are EIA development, such as the Application, there are special duties in respect to those reasons.
3. While we accept that the Council must act in accordance with its Constitution, we still consider it unfair to Gazeley that the Application should be called in and not the db symmetry application. This is particularly so given it was thought appropriate for them both to be considered together. Moreover, as we also explain below, three of the four reasons given for reconsidering the Application would apply equally to the db symmetry application (i.e., 'prematurity' in determining the emerging Local Plan, the conflict with Core Strategy Policy CS7h and the impact on the local landscape).
4. The Application constitutes sustainable development in line with national policy. Social, economic and environmental benefits are pursued jointly because they are mutually dependent and reinforcing. The Application will deliver:
 - an additional 318,956 sq m of high specification, energy-efficient, strategic distribution floorspace targeted at the blue chip logistics market (100,844 sq m is already permitted by 15/00919/FUL), creating the critical mass at Magna Park needed to deliver the efficiencies and other benefits of a logistics cluster locally as well as more widely;
 - 5,800 gross additional FTE jobs across the whole occupational spectrum (a further 4,570 jobs in addition to the DHL scheme and including 458 jobs in the non-warehousing uses), with a good match to the district's qualifications and occupational profile, providing the local job choices needed to reduce the high levels of out-commuting for work;
 - Logistics Institute of Technology (LIT), 3,700 sq m and campus, giving the district its first further and higher education institution and applied research facility with sports

Now Planning

facilities for dual use with the community, meeting the industry's pressing needs for higher level skills, professional qualifications and the innovations needed to reduce both the supply chain's costs and the industry's environmental footprint;

- Magna Park Innovation Centre (MPIC), 2,325 sq m, modelled on the Harborough Innovation Centre, linked to LIT, Holovis and the Park's occupiers, to stimulate the creation and growth of small businesses locally and increase the knowledge intensity of the local economy;
- A 7,000 sq m HQ for Holovis, a local high tech firm with a global market, to allow the business to expand locally and create at least another 220 jobs;
- Local Heritage Centre (LHC) to exhibit and interpret the site's history and archaeology and enrich the experience for users of the Country Park;
- 70 ha Country Park and Meadow, supported by two public car parks, toilet facilities in a restored Bittesby House barn, with shared access for visitors to the LIT and MPIC cafés, that will preserve the scheduled monument and archaeology underlying the Meadow in perpetuity and will significantly increase the public's access to the site via enhanced public rights of way and permanent, now only permissive, footpaths and bridleways;
- A 140 space HGV Park to serve all of Magna Park's occupiers, existing and new, helping to pressure on laybys in the area;
- A driver training centre to raise the professionalism of the sector and address the industry's acute shortage of drivers;
- A low and no carbon fuelling station (LPG, CNG, electric);
- A rail freight shuttle to provide an on-demand service to DIRFT and other nearby rail terminals plus a temporary container storage facility, both aimed at making it easier and more cost-efficient for road-based operators to increase the share of their supply chain that is rail-borne;
- A net reduction in carbon emissions across the site achieved through the change of use from agriculture and the increase in trees and other vegetation that will sequester carbon emissions, making a substantial contribution to HDC's carbon reduction targets;
- A very substantial increase in the site's biodiversity, soil quality, surface water management and resilience to climate change;
- Highways improvements at Whittle, Cross-in-Hand and Gibbet Hill junctions that will make conditions better with the development, including in combination with db symmetry's application, than they would be without the development.

The Council's Reasons for Call-in

For the reasons briefly outlined below, we think it very unlikely that any one of the four reasons would be capable of defence by the Council at appeal:

Reason 1: The Application will predetermine the outcome of the emerging Local Plan (ELP).

Quite apart from the inconsistency entailed in claiming that the Application, but not the db symmetry application, is premature, it is nonetheless the case that the tests for refusal on grounds of 'prematurity'

that are set by national planning practice guidance (PPG) and case law are not satisfied. They only permit refusal on prematurity grounds in very limited cases.

Moreover, though the impact on local housing need is not a prematurity matter in PPG or case law, the evidence in support of the ELP provides no foundation for the claim made in Reason 1. The grant of planning permission for the Application, either alone or in combination with the DBS application, would have no impact on the housing numbers proposed by the ELP.

Reason 2: Development Plan Policy CS7h and ELP Policy BE2

There is no legal justification for the criticisms of the officers' report that are implicit in Reason 2. The officers' report takes full account of and properly applies policy CS7h and finds the Application in conflict with this policy. But the report also correctly concludes that this policy cannot be determinative, or given its full weight, as it is inconsistent with national planning policy and out of date in respect to the evidence on the need for distribution floorspace in the area. The officers' report concludes, having regard to all of the material considerations in line with Section 38(6) of the Act, that the weight of evidence in favour of the Application justifies the grant of planning permission.

The officers' report also goes to great pains to point out (even stating it in bold script) that ELP Policy BE2 can be given very little weight.

The dbS application is, of course, also in conflict with CS7h but in accordance with ELP BE2, and thus there is inconsistency between the treatment of the two applications on this reason for call in too.

Reason 3: Landscape Impact

This reason misconstrues the officers' report. As the officers' report explains, there are no landscape designations, the impact is of local and not wider significance and there is substantial mitigation.

The officers' report explains and accounts the benefits of the Application with regard to all of the relevant factors and does not, as the reason for call in would have it, rely solely on the Application's economic benefits. The officers' report references the full range of the Application's social and environmental benefits and, in particular, refers to the needs for the distribution space, education facilities and business space that the Application proposes.

Were landscape effects a robust reason for reconsidering the Application, those effects as a reason for call in would again apply equally to the db symmetry application.

Reason 4: Para 132 and 134 NPPF – impact on heritage assets

It is a matter of planning judgment, and not law, as to whether the Application's benefits in the public interest outweigh the less than substantial harm caused to the Bittesby Deserted Medieval Village. Nonetheless, that judgment must have reference to the evidence and follow the process laid out by policy and case law. The officers' report, in leading counsel's view, is legally unimpeachable in that respect.

The Obligation to Give Reasons for a Planning Determination

Whilst it is open to the Council to reach a different conclusion than that advised by its professional officers, the Council, however, has a duty to give reasons for doing so. These duties are greater still in the case of EIA development. Lord Carnwath JSC (Dover DC v CPRE Kent [2017] UKSC put it like this (32): 'Where an EIA application is determined by a local planning authority, the authority must inform the public of the decision and make available for public inspection a statement, containing [amongst other things] the main issues and considerations on which the decision is based....'

Compliance with the EIA Regulations further obliges the LPA to have regard to the ES, including any representations on it by those who must be invited to make such representations. As Lord Carnwath JSC stated in the same judgment (60), 'Members are of course entitled to depart from their officers' recommendation for good reasons, but their reasons for doing so need to be capable of articulation, and open to public scrutiny.'

The Fairness of the Call in

The Application and the DBS application were subject to legal advice and decision by the Council that both applications should be considered at the same time. The reasons were that both applications seek to extend Magna Park, raise similar issues and are EIA development.

As EIA developments, both applications are supported by an Environmental Statement (ES) in accordance with the EIA Regulations. Neither ES was found to fall short in providing the information required for determination, neither by the Council's professional officers, its advisors or the relevant statutory consultees. Nor have the Council's professional officers or its advisors or any of the relevant statutory consultees found reasons to object to either application on environmental grounds, whether individually or cumulatively.

Both applications were also the subject of an officers' report that recommended that planning permission be granted and did so with full regard to the local development plan, national planning policy and practice guidance, the EIA regulations and case law.

The officers' report on the Application specifically found, on balance and notwithstanding the conflict with the development plan (the same conflict as existed with the DBS application), that the benefits of the Application 'very significantly outweigh' the harm (Main Report, para 7.16).

As referenced with the legal opinion, the Council has a general duty of fairness, yet the Council has decided to call in the Application and only the Application. The Council, however, has offered no reasons for the inconsistent approach taken to the two applications.

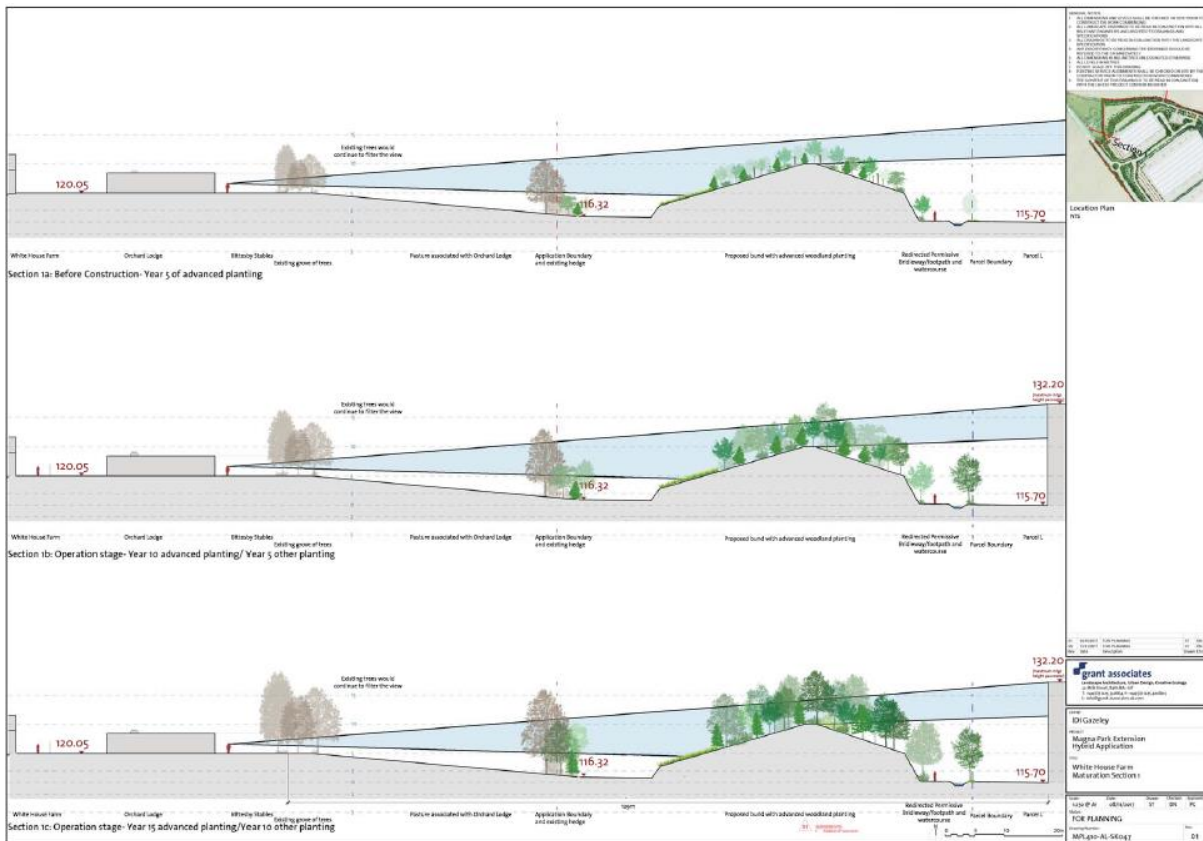
Conclusion

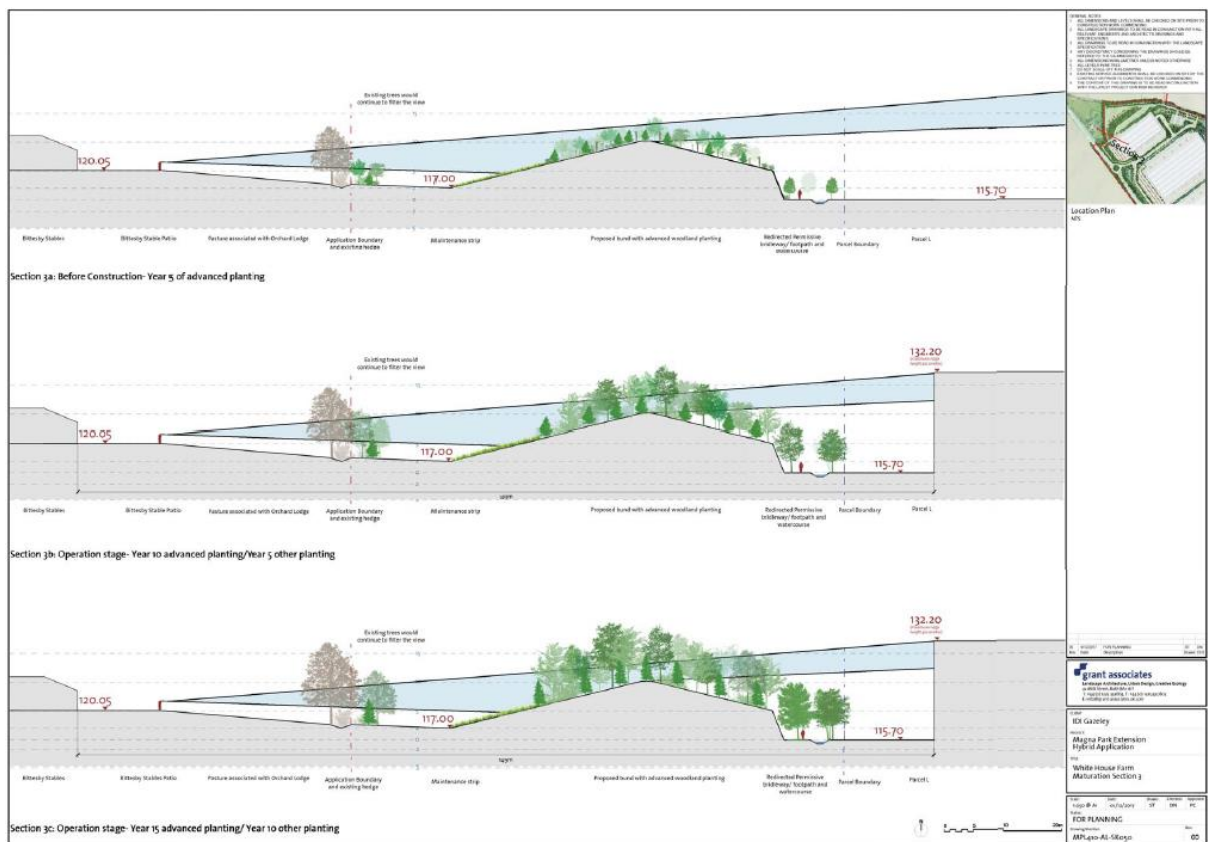
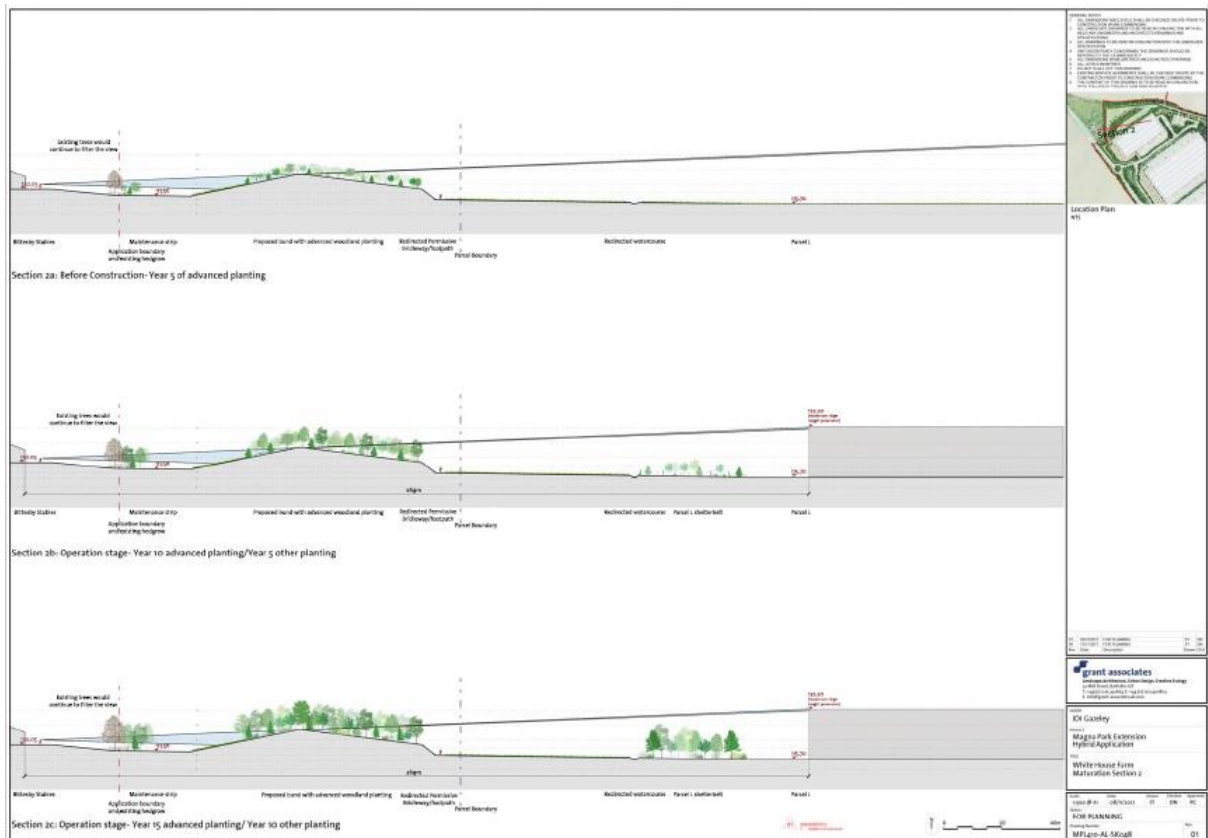
In the light of this letter and the legal opinion attached, together with the Officer's Report, we very much hope that the Council will decide to act on the advice and take the recommendation of its professional officers and permit the Application.

If, however, the Council decides to reject its officers' advice and recommendation and refuse the Application, the Council will need to provide full reasons to explain why. In doing so the Council will need to explain exactly why and where it has decided to override the views of the evidence on the Application's environmental effects and sustainability benefits that are provided by its professional officers, their advisors and statutory consultees and has rejected the advice from each that follows. It will also be necessary in that context to make it clear on rational grounds why the db symmetry application is acceptable but this one not. Fairness requires that like cases should be decided alike and, if not, to make clear why a relevant difference is considered to exist.

We understand and accept that the Application has attracted substantial local opposition, but also stress that the officers' report has had full regard to the representations achieved (e.g., Main Report paras 6.16-6.17). We also stress that every significant point of objection is addressed either by the substance of Gazeley's Application or by the conditions proposed in the Officers' Report, and – additionally – that every item of benefit promoted by the Application is to be secured by the legally binding obligation offered by Gazeley.

APPENDIX C: Landscape Maturation Sections and Illustrative Bund Plan





Extraordinary Council Speakers List – 10th January 2018

Speakers please note that the Council's constitution requires evening meetings to end at 9.30pm, unless the Committee votes to continue the meeting. If a meeting does adjourn at 9.30pm, remaining business will be considered at a time and date fixed by the Chairman or at the next ordinary meeting of the Committee and the existing speakers list will be carried forward.

Application	Parish	Speaker / Organisation	Type	Subject Area
15/01531/OUT	Bitteswell	Edmund Hunt - MPISBE	O	Localisation
15/01531/OUT	Bitteswell	Tim Ottevanger - MPISBE	O	Need
15/01531/OUT	Bitteswell	Chris Faircliffe – (MPISBE)	O	Alternatives
15/01531/OUT	Bitteswell	Sheila Carlton - MPISBE	O	Employment and skills
15/01531/OUT	Bitteswell	Matt Noakes	O	Labour Shortages
15/01531/OUT	Bitteswell	Nick Reseigh - MPISBE	O	Air Quality
15/01531/OUT	Bitteswell	Edmund Hunt - MPISBE	O	Highways
15/01531/OUT	Bitteswell	Nicholas Jenkins - MPISBE	O	Countryside
15/01531/OUT	Bitteswell	Claire Gill - MPISBE	O	Sustainable Development
15/01531/OUT	Bitteswell	Chris Faircliffe – MPISBE (obo Bitteswell PC)	O	Heritage
15/01531/OUT	Bitteswell	Nick Reseigh – MPISBE (obo Claybrooke Magna PC)	O	Impact on Villages
15/01531/OUT	Bitteswell	Tim Ottevager – (MPISBE) (obo Ashby Parva PC)	O	Strategic Framework
15/01531/OUT	Bitteswell	Kerry Munton – MPISBE	O	Neighbourhood Impacts
15/01531/OUT	Bitteswell	Maggie Pankhurst – Magna Park is Big Enough (MPISBE)	O	Overview
15/01531/OUT	Bitteswell	Ian Robertson – MPISBE (obo Claybrooke Parva PC)	O	Impact on Village
15/01531/OUT	Bitteswell	Simon Smith – MPISBE (obo Ullesthorpe PC)	O	Impact on Village and Flooding
15/01531/OUT	Bitteswell	Dr Susan Tebby	O	Heritage Assets and Landscape
15/01531/OUT	Bitteswell	David Gair	O	Mainly traffic and air pollution
15/01531/OUT	Bitteswell	Roger Brooks	O	Lack of Highways infrastructure
15/01531/OUT	Bitteswell	Malcolm Stringer	O	Neighbour impacts
15/01531/OUT	Bitteswell	Bill Piper	O	Overall planning and joined up thinking
15/01531/OUT	Bitteswell	Tim Washington – Monks Kirby PC	O	Infrastructure of adjoining roads
15/01531/OUT	Bitteswell	Sheron Cummings	O	Impact on the present labour market
15/01531/OUT	Bitteswell	Tony Gillias – Rugby Town Council	O	Highways issues and traffic flow
15/01531/OUT	Bitteswell	Rob Bevin	O	Impact of increased traffic

15/01531/OUT	Bitteswell	Nora Galley (Now Planning)	A	Planning
15/01531/OUT	Bitteswell	Dave Lawrence (CAG Economics)	S	Cluster effect
15/01531/OUT	Bitteswell	Professor Edward Sweeney (Aston University)	S	Logistics
15/01531/OUT	Bitteswell	Paul Fletton	S	North Warks and South Leics College
15/01531/OUT	Bitteswell	Stuart Hetherington	S	Holovis
15/01531/OUT	Bitteswell	Paul Fennell	S	Syncreon
15/01531/OUT	Bitteswell	Chris Hobson	S	East Mids Chamber of Commerce
15/01531/OUT	Bitteswell	Steve Moorcroft (Air Quality Consultants)	EC	Air Quality
15/01531/OUT	Bitteswell	Simon Mortimer (CGMS)	EC	Heritage
15/01531/OUT	Bitteswell	Andy Cooper (NPA)	EC	Landscape
15/01531/OUT	Bitteswell	John Ashcroft (AECOM)	EC	Highways
15/01531/OUT	Bitteswell	John Baird (Osbourne Clark)	EC	Legal
15/01531/OUT	Bitteswell	Gwyn Stubbings (Gazeley)	A	Overview
15/01531/OUT	Bitteswell	Cllr Rosita Page	WM	

Key to Speaker Types:

**A = Applicant/on behalf of applicant; AG = Agent; EC = Expert Consultant;
O = Objector; PC = Parish Council; S = Supporter; WM = Ward Member,**