

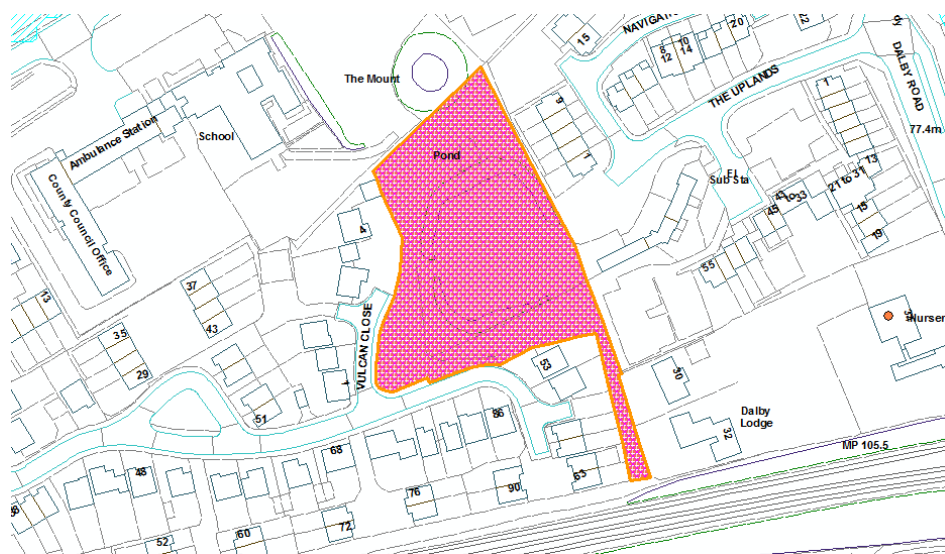
**Reference:** 15/00148/OUT

**Date submitted:** 30.03.2015

**Applicant:** Mr T Abdel-Khalek

**Location:** Land South of The Mount Leicester Road, Melton Mowbray

**Proposal:** Construction of 6 x 3 bed detached houses, 2 x 4 bed detached houses and 1 x 2 bed detached bungalows. Re-location of playground.



**Proposal :-**

This application seeks planning permission to relocate the existing equipped play area and build 9 no. dwellings on land previously set aside as public open space for the development of the site for 122 dwellings. The area is currently a landscaped open space containing a local equipped area of play (LEAP) for use of the residents on the estate and forms an area of biodiversity providing a habitat for protected species. The site has been split in to two areas and this proposal would be phase 1 of 2. Phase 2 is not known and sits to the rear of the site. Immediately to the north of the site is a Schedule Monument: The Mount, with residential development to the west, south and east. Access to the site would be off Valiant Way.

**It is considered that the main issues arising from this proposal are:**

- **Compliance or otherwise with the Development Plan and the NPPF**
- **Impact upon the character of the area and loss of open space**
- **Impact upon residential amenities**
- **Highway safety**
- **Impact upon Ecology**
- **Impact upon designated Heritage Assets.**

The application is required to be presented to the Committee due to the controversial nature of the application.

## History:-

- 00/00888/OUT - Proposed outline application for residential development. Granted 30.10.02  
01/00766/OUT - Proposed outline application for residential development. Withdrawn 03.02.03  
03/00905/REM - Proposal for 122 residential units. To include a mixture of 4, 5 and 6 bed detached units, 3 bed semi-detached houses, 2 and 3 bed terrace low cost units, 2 bed flats, public open space and landscaping. Approved 07.10.04  
07/00003/FUL - Minor elevation amendments to Plots 47-49, 54-55 and 60-65 (11 Plots). Approved 07.03.07  
07/00061/FUL - Substitution of house types for Plots 47-53. Approved 30.0.07  
07/01079/FUL - Substitution of house types for Plots 1-3 and 8-10. Approved 30.11.07  
09/00199/REM - Change of house type Plots 31-33 of outline permission 00/00888/OUT. Approved 15.05.09  
09/00384/FUL - Substitution of house types on Plots 1-13. Approved 21.07.09  
09/00566/FUL - Substitution of house types on Plots 85-89 and addition of Plots 88A and 89A. approved 24.09.09  
**10/00244/DIS - Discharge of condition 10 relating to Planning approval 03/00905/FUL. Granted 11.06.10**  
10/00262/DIS - Discharge of conditions relating to the land quality on Planning Approval 03/00905/REM. Approved 19.01.11  
**10/00717/DIS - Discharge of condition 8 - levels and open space of planning approval 03/00905/REM. Approved 11.10.10**  
  
10/00936/DIS - Discharge of condition 3 of permission 00/00888/OUT and 09/00199/REM - materials for plots 29-33. Approved 18.01.11

## Planning Policies:-

### Melton Local Plan (saved policies):

**Policies OS1 and BE1** allow for development within the Town Envelope providing that:-

- the form, character and appearance of the settlement is not adversely affected;
- the form, size, scale, mass, materials and architectural detailing of the development is in keeping with its locality;
- the development would not cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing dwellings in the vicinity; and,
- satisfactory access and parking provision can be made available.

**Policy C13:** states that planning permission will not be granted if the development adversely affects a designated SSSI or NNR, local Nature Reserve or site of ecological interest, site of geological interest unless there is an overriding need for the development.

**Policy C15:** states that planning permission will not be granted for development which would have an adverse effect on the habitat of wildlife species protected by law unless no other site is suitable for the development and the development is made for the transfer of the species to an alternative site or equal value.

**The National Planning Policy Framework introduces a ‘presumption in favour of sustainable development’ meaning:**

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

**The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that whilst the NPPF does not automatically render older policies obsolete, where they are in conflict, the NPPF should prevail.**

It also establishes 12 planning principles against which proposals should be judged. Relevant to this application are those to:

- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- recognising the intrinsic character and beauty of the countryside
- promote mixed use developments, and encourage multi benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

**On Specific issues it advises:**

#### **Promoting sustainable transport**

- Safe and suitable access to the site can be achieved for all people
- Development should be located and designed (where practical) to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities.
- Create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians
- Consider the needs of people with disabilities by all modes of transport.

#### **Delivering a Wide choice of High Quality Homes**

- Housing applications should be considered in the context of the presumption in favour of sustainable development.
- LPA's should identify land for 5 years housing supply plus 5% (20% if there is a history of under delivery). In the absence of a 5 year supply housing policies should be considered to be out of date.
- deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand

#### **Require Good Design**

- Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- Planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

#### **Conserving and Enhancing the Historic Environment**

- Recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness, and;
- Opportunities to draw on the contribution made by the historic environment to the character of a place.

#### **Conserving and enhancing the natural environment**

- Encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value
- Aim to conserve and enhance biodiversity by taking opportunities to incorporate biodiversity in and around developments

This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. (NPPF para. 12)

**Consultations:**

<b>Consultation reply</b>	<b>Assessment of Head of Regulatory Services</b>
<p><b>Highways Authority: Objects</b></p> <p>The site layout as submitted is considered unsuitable as it does not provide a safe vehicular access due to the potential conflict with an existing vehicular access and the site does not provide sufficient off street usable car parking spaces to cater for the likely demand and as such could create dangers for highway users to the detriment of highway safety.</p>	<p>An access would be created from Valiant Way on the outer bend which is considered to be interfering with the driveway of number 53 adjacent to the site. This could be resolved by relocating the access road, so that it does not affect the access to No. 53.</p> <p>The site lacks adequate provision for off street car parking for each property and does not accord to Highways current standards. To accord to standards car parking spaces should have a minimum width of 2.4 metres and minimum length of 5.5 metres and where bounded by a wall or fence should have a minimum clear margin of 0.5 metres. Garages should have minimum internal dimensions of 3.0 metres width and 6.0 metres in length with minimum width doors of 2.3 metres. Furthermore properties with 3 bedrooms should have a minimum of 2 parking spaces each and properties with 4 bedrooms should have 3 parking spaces. The proposal only proposes 1 space per semi-detached dwelling and is therefore considered that it would likely lead to indiscriminate car parking within the site which could also spill into the highway causing problems for highway users.</p> <p>Whilst the matters raised could be address no amended plans have been received.</p> <p><b>The proposal in its present form is not considered to be acceptable in highway terms and would lead to unacceptable impacts upon highway safety.</b></p>
<p><b>Ecology:- Objects</b></p> <p>The Badger survey submitted in support of the application (Arbtech, September 2014) identified 6 badger setts on the application site. Given that these setts are all within about 20 meters of each other, it is considered appropriate to view this as one sett with multiple entrances. The camera surveys suggest that at least 6 badgers (likely 8) are using the sett, suggesting that it is a main sett. It is active and there is no evidence in the report that badgers are moving between this and other setts. The proposed development would destroy this sett. There is no mitigation proposed within the badger survey report and it is not considered that the loss of this sett can be mitigated for. Ecology would not recommend closing a main sett, or the further loss of foraging habitat. It is likely that this sett is already isolated and badgers rely only on the application site and space to the north for foraging. Loss of this foraging habitat is likely to leave the badgers without food, making</p>	<p>The application site was part of the former planning application for redevelopment of the former Police Station site and this part of the site contributed to the developer’s provision of public open space (in line with the development plan policy H10 and H11) and sought the net biodiversity gains to safeguard the protected species on site. Extensive discussions took place between LCC Ecologist and the developer to ensure that badgers were safeguarded. Some of the setts were relocated and Natural England was involved. A corridor was provided which would allow badgers to move to and from the site to the railway cutting.</p> <p>The proposal would involve the removal of small trees and shrubs which is fenced affording protection of the wildlife and protected species. Whilst a protected species survey has been submitted no mitigation has been proposed. The report highlights that it <i>is not possible to</i></p>

<p>the population of this sett unsustainable.</p> <p>LCC are aware that The Mound, to the immediate north of the application site is a Scheduled Monument. Any displacement of badgers to the north of the site may impact on this historic site and any proposed mitigation for the badger sett must take this into account, with discussions with English Heritage and the County Archaeologist as appropriate. It is recommended that, based on the current information provided, this application is refused, due to the unmitigated loss of a badger sett.</p>	<p><i>adequately manage or exclude the risk of harm to badgers without the need for a disturbance/exclusion licence.</i> The proposal as presented would destroy the habitat in favour of building 8 no. dwellings. The developer has also indicated that there would be further development on the site by indicating on the plans that there is a phase 2 to the north of the site adjacent the Schedule Monument. It is unlikely that the badgers could be accommodated on the site and they would be lost to this area. The NPPF paragraph 109 advises that the planning system should contribute to enhance the natural and local environment. This is to be achieved through minimising impacts on biodiversity and providing net gains where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.</p> <p><b>It is not considered that the proposal would achieve these aims. It is acknowledged in the submitted report that it would not be possible to adequately manage or exclude the risk of harm to the badgers without the need for a distributions/exclusion licence. Even if phase 2 was left undeveloped for the relocation of the badgers as part of any mitigation this would have potential harm on heritage assets (see below)</b></p> <p><b>The applicant has been made aware of the need for adequate mitigation in order to satisfactorily compensate any loss/harm of biodiversity on the site. Without the information the Council is unable to establish if the development could be made acceptable and therefore the proposal should be refused.</b></p>
<p><b>Heritage England: Objects</b></p> <p>(NHLE ref.: 1010666; HER ref.: MLE3958-9)</p> <p>Motte castles are medieval fortifications introduced into Britain by the Normans. They comprised of a large conical mound of earth or rubble, the motte, surmounted by a palisade and a stone or timber tower. In a majority of examples, an embanked enclosure containing additional buildings, the bailey, adjoined the motte. Motte castles and motte-and-bailey castles acted as garrison forts during offensive military operations, as strongholds, and, in many cases, as aristocratic residences and as centres of local or royal administration. Built in towns, villages and open countryside, motte castles generally occupied strategic positions dominating their immediate locality and, as a result, are the most visually impressive monuments of the early post Conquest period surviving in the modern landscape.</p>	<p>The application is bounded by a Scheduled Monument which sits to the north of the application site. The monument is categorised as a Motte Castle (that is a Norman era earthwork castle formed of a mound but without evidence of a bailey or enclosed yard) and is one of six of the known sites in the County. Historic England considered the Schedule Monument to be well-preserved and as such retains potential for the survival of original structures within the upper part of the mound. The mound is thought to have been surrounded by a ditch (as both defence and quarry) and probably a timber palisade hence the protected area extends out approximately 5 metres from the foot of the earthwork, this means an overall extent of around 7 metres at maximum point of arc into the phase 2 development area. It is also advised that other related features, deposits and scatters of artefacts may lie in the areas surrounding the monument, which could extend</p>

<p>In line with NPPF paragraphs 128/129, any scheme of development (ie either or the proposed phases) would need to be supported by a sound heritage assessment including archaeological investigations of the non-protected area (focusing on the significance of the existing topography, any evidence of medieval or civil way military activity and other matters of archaeological interest following the advice of the County Council Archaeologist as well an assessment of the significance of the scheduled motte and the impacts upon this significance as a result of development in its setting. Your authority should also give serious thought to how the proposed scheme might undo the planning balance achieved in previous development which resulted in this apparently being amenity space.</p> <p>Historic England has significant concerns in respect of planning consent (in addition to and direct impacts upon the monument). The application as submitted does not provide the Local Planning Authority with sufficient information or analysis of impacts upon the significance of designated and undesignated heritage assets. The decision maker cannot in Historic Englands view make a safe determination of this application (in line with National Planning Policy Framework paragraphs 128 and 129). The partition of the application into phases 1 and 2 in no way effectively addresses the wholly inadequate information base presented.</p>	<p>in the application site for phase 1.</p> <p>It is recommend that the applicant should procure suitable heritage studies (in line with the advice of the County Council Development Control Archaeologists) by professional archaeological contractors so that the local planning authority can look at what (if any) options for development might be sustainable in the context of this site which is a nationally important designated heritage asset.</p> <p>The NPPF advises that applicants should describe the significance of any heritage assets affected, including any contribution made by their setting. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. NPPF paragraph 129 advises that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. This assessment should then be taken into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.</p> <p><b>The Council is not able to determine what the potential impacts may be upon the designated Heritage Asset as insufficient information has been submitted. Without a full and comprehensive heritage assessment it is not known what/if any mitigation from the proposal would be required or if the development could be made acceptable in relation to impacts upon designated heritage assets and therefore the scheme should be refused.</b></p> <p>The applicants are aware of the Councils position in relation to impacts upon designated heritage assets and at the time of writing no further information has been submitted.</p>
<p><b>Archaeology: Object</b></p> <p>The Leicestershire and Rutland Historic Environment Record (HER) notes that previous archaeological investigation to the south of the current site identified the presence of important prehistoric archaeological remains. These comprise a large quantity of Mesolithic 'blade technology' flint (over 160 pieces), suggesting the area was utilised as a flint working or „knapping“ area (HER ref.: MLE16139), and secondly, an</p>	<p>Noted. Please see commentary above in relation to the designated Heritage Asset and impact upon protected species.</p> <p><b>Insufficient information has been submitted to in order to establish if the harms identified can be successfully mitigated against. It is not considered that the proposal meets the objectives of sustainable development as advised within the NPPF and should be refused.</b></p>

Early Neolithic site consisting of three elongated pits forming a possible mortuary enclosure, or the remains of a long barrow (burial mound); again a substantial artefactual assemblage was recovered including a large quantity of pottery and flint (MLE9229).

The application proposes development of the area to the north of the above sites, previous investigation has shown that the southern edge of the site has been extensively quarried, the boundary of this extracted area remains uncertain and has been further obscured by the dumping of an extensive pile of modern building waste occupying much of the proposed development area. Where undisturbed by quarrying and potentially beneath the 1960's mound/platform, it is likely that significant archaeological remains will survive.

Development affecting these remains will have a damaging effect and it is recommended that the developer is required to undertake a post-determination programme of archaeological investigation and recording commencing with a phase of exploratory trial trenching. In accordance with National Planning Policy Framework (NPPF), paragraph 129, assessment of the submitted development details and particular archaeological interest of the site, has indicated that the proposals are likely to have a detrimental impact upon any heritage assets present.

NPPF paragraph 141, states that developers are required to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact of development. In that context it is recommended that the current application is approved subject to conditions for an appropriate programme of archaeological mitigation, including as necessary intrusive and non-intrusive investigation and recording.

Following on from discussions with Ecological colleagues, displacement of the badgers could impact upon The Mount, Schedule Monument (NHLE ref.: 1010666; HER ref.: MLE3958-9) and this raises significant additional concerns. This relates specifically to the impact of the development proposals on the resident badger population and the potential knock on risk of impact to the archaeological significance of The Mount, to the north of the development area.

In the present context it is recommend that the planning authority require the applicant to prepare a mitigation strategy to address the impact of the development upon the badger population. This strategy should give due consideration to the

<p>implications of their proposals on the archaeological significance of The Mount (both direct, indirect and setting impacts), and to any associated archaeological remains.</p> <p>The strategy should allow for consultation with Historic England and LCC as your authority's archaeological advisors; it should only be deemed acceptable in the context of a positive outcome to those discussions. An agreed strategy should be submitted in support of the current application.</p> <p>In the absence of a viability mitigation strategy for the management of the badgers, It is recommend the planning authority refuse the scheme in its present form.</p> <p>Since the sale of the land the new owner has not kept up maintenance of the grassed area and residents are coming out to cut it.</p>	
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**Representations:**

Site notices were posted and neighbouring properties consulted. As a result 57 **letters of objection have been received from 44 separate households** the representations are detailed below. A petition containing 89 signatures has also been received.

<b>Representations</b>	<b>Assessment of Head of Regulatory Services</b>
<p><b>Highway Safety:</b></p> <p>Traffic will be increased on the estate and cause noise disturbance</p> <p>There is insufficient parking for any future residents and they will end up parking all around the estate causing obstructions.</p> <p>The access road is too close to other properties and almost opposite a sharp bend on a narrow road.</p> <p>Relocating the play area closer to round would have highway safety issues.</p>	<p>The proposal as presented is not compliant with current highway standards however it is accepted that the issues raised by the Highways Authority could be overcome subject to redesign of the access and layout to increase the parking provision and size of parking spaces.</p> <p>No concerns have been raised by the Highways Authority in regards to the increase in traffic as a result of an increase in nine residential properties.</p> <p>Safety of users of the play area could be safeguarded through the use of fencing separating the site from the highway. It is not seen as a constraint to the development of the site and the Highways Authority have not objected on this matter.</p>
<p><b>Impact upon Heritage Asset:</b></p> <p>Very close to The Mount which has great archaeological interest and could spread further to said building area.</p> <p>The new owners describe the space as 'wasteland'. Though partial scrubland the space has historic and archaeological significance. The land incorporates The Mount, a scheduled monument.</p> <p>The Mount is a scheduled Monument protected by</p>	<p>Please see commentary above for full assessment of impact upon heritage assets.</p>



<p>law, surely this cannot just be ignored</p>	
<p><b>Impact upon the Character of the area</b></p> <p>The loss of the green space will impact upon the character of the area.</p> <p>The green spaces serves the whole estate and would be lost if development is passed.</p> <p>Mature trees will have to be removed for said build to take place</p> <p>It is not wasteland as claimed by the applicant it is a well-used and enjoyed recreational land and habitat for wildlife</p> <p>This green space is an asset for surface water management. It enhances the built environment, is beneficial to the psychological wellbeing of residents and preserves bio-diversity</p> <p>Building houses on this area would spoil our street.</p> <p>The play area/space available would be reduced which reduces the recreational value of the site</p> <p>There is not space for the proposed build as it will make the area cramped and massively overlooked</p> <p>Any increase in building density would spoil the area</p>	<p>The site at present contains a grassed area leading down to a small copse of trees which is fenced off from the estate. This provides an area of wildlife habit and is an important safe zone for protected species. The equipped play area is sited further to the north, sited on a lower topography.</p> <p>It is considered that the site does contribute to the open nature of this part of the site and provides a pleasant recreational area for residents. The area also contributions to the setting of the schedule monument; The Mount, sitting immediately to the north of the site, providing a buffer zone from the built up area.</p> <p>If development was to proceed the trees and the grassy bund would need to be removed with possible remodelling of the land. Whilst the proposal would relocate the play area to the front of the site, which would ensure that it was overlooked (and may even reduce the risk of flooding that has historically happened)) it would be on a reduced scale to that currently enjoyed by the residents.</p> <p>Plots 1-8 would be sited along the eastern boundary of the site which is currently the wildlife habitat area. Plot 9 would be sited opposite plot 7 and 8 with an access road between them (leading into an area marked as phase 2). The dwellings would be a mix of three bedroom semi-detached properties, 2 no. four bedroom detached dwellings and 1 no. two bed bungalow. It is not considered that the house types would be out of character with the area subject to the suitable use of materials to take account of the rest of the estate. However notwithstanding the highways objection the semi-detached dwellings do not have any garages and has insufficient provision for parking. The parking has been proposed all to the front of the dwellings and has not been well integrated within the development and is considered to dominate the streetscene. The existing dwellings in this location benefit from garages and the parking is considered to be integrated with having larger front gardens between the parking areas.</p> <p><b>Whilst the Council is deficient in housing land supply; and this proposal would seek to provide nine dwellings, it is not considered that the benefits of such would outweigh the harm identified upon the character of the area. (amongst other matters) The loss of the open space would change the nature of the site from one of pleasant open grassed/treed area to a built up area.</b></p>

<p><b>Impact upon residential outlook/amenity</b></p> <p>The removal of the trees will result in loss of privacy to local residents. In addition the relocation of the play park will remove the grassed level playing area.</p> <p>The play space is well used by children of the estate and the grassed area would be lost if approved.</p> <p>New placed play park planned proximity very close to current houses at the top of Vulcan Close thus being visually intrusive and making current properties overlooked and subjecting these properties to loss of privacy whereas the current position of the park is non-intrusive to anyone and safer as not close to roads.</p> <p>The planned new play area will be very intrusive.</p> <p>The new location will cause noise disturbance in the evening with the meeting of youth with nowhere else to go. Anti-social behaviour may occur.</p> <p>There is little room for construction which would mean that all residents would be effected by noise, dirt and the increased volume of traffic</p>	<p>It is intended to relocate the play area from its current location to the north of the site to the front of the site adjacent the junction of Valiant Way and Victor Close. In this location the play area would be afforded a higher level of surveillance being closer to residential properties, however, concerns are raised in regards to possible noise impacts from use as a meeting place from older children which may result in anti-social behaviour occurring being too close to the residents.</p> <p>The nearest resident would be separated by the highway and it is not considered that resiting within the area parked as 'park' on the plan would have an unduly adverse impact upon residents. The area is currently used for play at present.</p> <p>Noise from construction would be relatively short lived but would undoubtedly cause some disruption to residents during development. Parking of construction vehicles can be condition to be within the site however the site would be constrained and a construction management plan should be requested to ensure that minimal impact upon the residents.</p>
<p><b>Drainage</b></p> <p>The proposed soakaways will only add to this problem and the main sewers on the estate appear inadequate to support the existing properties let alone additional household</p> <p>There have also been a number of issues with sewer/drainage on this estate since it was built; the addition of more houses will put further pressure on the sewage system</p> <p>When they created the play area, Jelson's dug so deeply that the area is now prone to serious flooding. Once upon a time the surface water would have collected in the ancient pond that was originally on the site.</p> <p>The site is known for flooding the play area often floods.</p> <p>This area regularly floods. Any changes to levels or buildings would divert flood water towards existing homes</p>	<p>The development falls below the threshold for requiring consultation with the Lead Local Flood Authority on surface water management. It has been suggested that the development would use sustainable drainable techniques in the form of soakaways. This is minimal building regulations requirements and would be controlled by that regulatory body.</p> <p>This area at times does suffer flooding due to water running down the grassy bunds with nowhere to go. The site is not in a known flood zone and is not identified as area of critical drainage issues. The problem has resulted due to being sited on the lower topography where surface water will naturally gravitate towards.</p>

<p><b>Wildlife/Ecology</b></p> <p>The Leicestershire and Rutland Badger Group strongly objects to this application as there is a large, active badger sett on site and no mitigation has been put forward by the developers to compensate the badgers for disturbance and loss of habitat.</p> <p>It would destroy wildlife habitat</p> <p>Jelson's advised that the land would not be built on, primarily because of the badgers</p> <p>Over the past five years this patch of land has established itself as a very important wildlife habitat. It is now home to not just the badgers but many other animals including foxes, snakes and birds and this would be lost.</p> <p>The area is abundant with wildlife, birds, badgers, foxes. The badgers were encouraged to move here when the development was first built; there is nowhere else for them to move to.</p> <p>The land is a haven for wildlife with many live badgers setts and birds including bullfinches, goldfinches, siskin, wrens and a woodpecker.</p> <p>Thriving badger population strongly evident. The habitat is small but sustainable, though shrunken due to large Jelson development on old Police Station site. No further loss of area possible without badger extinction. The Badger Protection Act allows 30m machinery exclusion zone or mitigation under licence. However the site is already too small and with nowhere else for the badgers to access.</p> <p>Local flora and fauna would be killed off by the destruction of the woodland.</p>	<p>Please see commentary above under the Ecology assessment.</p>
<p>Petition:</p> <ul style="list-style-type: none"> <li>• When the Copperfields development was constructed, the Developers (Jelsons) were required to provide a public open space to include a level playing area and an equipped play area, which was intended to be retained at all times</li> <li>• The play park and public open space (grassed area are used regularly by young children for playing ball games and other recreational activities.</li> <li>• It is also home to badgers, foxes, rabbits, an abundant array of birds and other wildlife. To destroy this natural habitat, for the sake of a few additional houses would be a travesty.</li> </ul>	<p>Noted. These issues have been addressed within the report.</p>

<ul style="list-style-type: none"> <li>• The grassed area is regularly maintained by local residents due to the current owner's neglect of the area. Without this upkeep, the local children would have nowhere safe to play.</li> <li>• The proposed re-location of the play park closer to the road will restrict the area of open space for the children to play on.</li> </ul>	
<p><b>Other Matters:</b></p> <p>The land has a restrictive covenant – if Jelsons could have built on it they would have. There are strong reasons why this land should not be developed on.</p> <p>We were led to believe that on original planning application the mentioned land was to be public open space with a level playing area that when completed by Jelsons was to be handed over to council for on-going maintenance</p> <p>The site was part of the original development and was to remain as public open space this was in line with planning policy...would it have been approved without it?</p> <p>Surely if there was ample space and it was deemed a good idea, Jelsons would have built there.</p> <p>Who would be responsible for the upkeep of the new play park and equipment?</p> <p>Should approval be granted where would the children play for the next two years whilst it was being constructed?</p>	<p>The area subject of this application was part of the public open space provision for the development of the former police site. This was to comply with local plan policy H10 and H11 in providing sufficient amenity land which includes an equipped play area. Condition 10 of planning approval 03/00905/REM required the provision of public open space to include a level playing area and an equipped play area. It was to be retained at all times. The land was never offered for adoption to the Council and remained in the developer's ownership until recently. The condition requires the open space to be provide and retained however this does not prevent planning applications from being submitted which are to be determined on their own merits. However there are shortcomings with the application which make it an unacceptable proposal as outlined elsewhere in the report.</p> <p>The Land owner is responsible for the upkeep and on-going maintenance of the site which the conditions requires to be retain at all times.</p> <p>Should approval be granted time periods could be imposed to ensure that the play area becomes available within a suitable timeframe.</p>

**Other Material Considerations, not raised through representations:**

<b>Consideration</b>	<b>Assessment of Head of Regulatory Services</b>
<p><b>Application of the Development plan policies and the NPPF</b></p>	<p>The site lies within the town envelope with a presumption in favour of development subject to compliance with the local plan policy OS1, BE1, C15 and C16. (see above). The site is considered to be a greenfield site, being characterised as open space and having high biodiversity value containing protected species by law. It is not considered that the site is suitable for development as it would alter the character of the area and has potential harmful impacts upon protected species and designated heritage assets.</p> <p>The Council does not have a deliverable five year housing land supply and the housing policies contained within the local plan have to be</p>

	<p>regarded as ‘silent’, therefore the policy guidance within the NPPF takes clear precedence. The NPPF seeks to boost housing supply and requires provision of a 5 year supply of housing land plus 5% ‘headroom’. Melton’s most recent analysis concluded that this is not being met and the available supply is below 5 years. Paragraph 49 of the National Planning Policy Framework requires that housing applications are considered in the context of the presumption in favour of sustainable development.</p> <p>Core planning principles of the Framework in paragraph 17 encourages the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value, contribute to conserving and enhancing the natural environment, preferring land of lesser environmental value, where consistent with other policies in this Framework and conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.</p> <p>Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.” However, the NPPF does not state that housing development should be approved ‘at any price’ and that the supply of housing surpasses all other considerations. It is considered that, on the balance of the issues, the benefits of allowing nine residential property does not amount to significant benefits when assessed as required under the guidance in the NPPF in terms of housing supply and due to unknown impacts of the proposal upon heritage assets and ecology would not amount to sustainable development and should be resisted.</p> <p><b>Whilst the proposal would still provide some housing in the borough it would not contribute to the 5 year land supply and the unsustainable form of development is not considered to outweigh the limited benefits the proposal would bring and is considered to be contrary to the core planning principles of the NPPF (developing on brownfield sites, respecting the natural environment and Heritage Assets).</b></p>
<p><b>Design and Layout</b></p>	<p>The dwellings have been sited in a row along the eastern boundary with access road running in front of the plots 1-7. Plot 8 has been sited opposite plot 7 which allows for the road to continue up to the area marked as phase 2. The play area is to be relocated so that it sits at the corner of the site. The design of the dwellings reflects the existing style of dwellings on the</p>

### **Conclusion**

The proposal seeks to redevelop a site that was part of a larger scheme to provide public open space for the development of 122 dwellings. The site is now in private ownership however the conditions attached to the original development still apply. The open space and equipped play area is to be retained however the development of nine dwellings would reduce the open space provision on the site. The proposal seeks to relocate the equipped play area to the front of the site which may provide some benefits in terms of drainage and better surveillance but the useable play space will be reduced. Part of the site is currently left unmanaged to safeguard protected species and this would be removed and no mitigation has been proposed and the full impacts are unknown. Furthermore immediately to the north of the site is a Schedule Monument: The Mount, insufficient information has been submitted to assess the likely impacts upon this designated heritage asset or buried artefacts and an assessment cannot be fully considered. It is considered that the proposal does not amount to sustainable development as promoted within the context of the NPPF and should be resisted. The limited public benefits of providing nine market dwellings is not considered to outweigh the environment concerns and the proposal is accordingly recommended for refusal.

### **Recommendation: Refuse**

1. The proposal would, if approved, result in the loss of amenity space serving a residential development to the detriment of the residential amenity of occupants of the surrounding dwellings. Redevelopment of the open space is considered to represent over intensification of the site which would have a detrimental impact upon the character of the area contrary to local plan policies OS1, BE1 and the NPPF paragraphs 17 and 64.
2. The site layout as submitted is considered unsuitable as it does not provide a safe vehicular access due to the potential conflict with an existing vehicular access and the site does not provide sufficient off street usable car parking spaces to cater for the likely demand and as such could create dangers for highway users to the detriment of highway safety.
3. The proposal involves the loss of wildlife habitats and insufficient information has been submitted to assess the full impacts or identified any possible mitigation to safeguard protected species contrary to the NPPF paragraph 109.
4. Insufficient information has been submitted to assess the full impacts upon the Schedule Monument and buried archaeology interests and is contrary to the NPPF paragraphs 128 and 129.

Officer to contact: **Mrs D Knipe**

**Date: 12 June 2014**