# **COMMITTEE DATE: 27<sup>th</sup> September 2018**

Reference: 18/00808/FUL

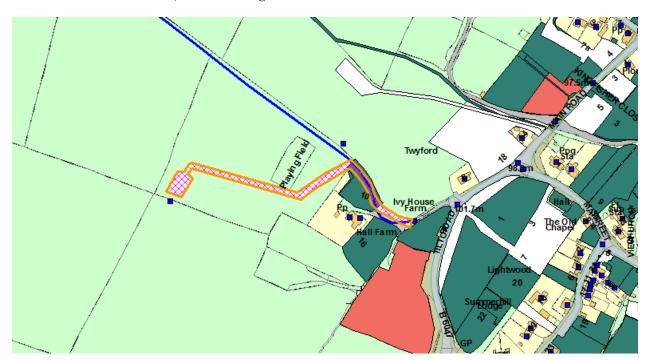
**Date Submitted:** 05.07.2018

Applicant: Mr & Mrs Matthew and Hiranthi Cook

Location: Ivy House, 18 Tilton Road, Twyford LE14 2HZ

Proposal: Erection of farm barn for cider apple storage and processing with general farm

use, 105 metre long access track.



# Introduction:-

The proposal seeks full planning permission to erect a barn for the storage and processing of apples for cider production on agricultural land to the west of Twyford. The applicants have planted a commercial multi-variety cider apple orchard of approximately 4.5 acres, consisting of some 540 trees within the field further to the west of the proposed barn.

The barn proposed is a single storey construction with a saltbox roof with a maximum height of 6.104m. It will have a width of 13.7m and depth of 18.3m. Along the north elevation there will be two points of entry in the form of roller shutter doors. Outside of this, a concrete apron to allow for vehicles to access and exit the site is proposed, measuring approximately 6x13.7m. Leading up to this a stone access track is proposed of 250 m long as can be seen on the map above, which for a short period of time runs along the public footpath. Amendments to the proposal have been undertaken to respond to neighbour concerns over amenity.

# 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
- Impact upon highway safety
- Impact on amenity to adjacent neighbours in terms of scale and noise

The application is presented to the Planning Committee owing to the level of representations received.

# Relevant History:-

None

# **National Planning Policy Framework (NPPF)**

The revised NPPF was published on 24<sup>th</sup> July 2018. Paragraph 7 states that the purpose of the planning system is to contribute to the achievement of sustainable development. In doing so, the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways:

- An economic objective to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure:
- A social objective to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- An environmental objective to contribute to protecting and enhancing our natural, built and historic
  environment; including making effective use of land, helping to improve biodiversity, using natural
  resources prudently, minimising waste and pollution, and mitigating and adapting to climate change,
  including moving to a low carbon economy.

Plan and decisions should apply a presumption in favour of sustainable development. For decision taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. 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.

Paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

Other relevant policies in the NPPF relevant to this application include:

# Promoting sustainable transport

• The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

• Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

### Supporting a prosperous rural economy

- Planning policies and decisions should enable:
  - a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
  - b) the development and diversification of agricultural and other land-based rural businesses;
  - c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
  - d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
- Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

#### Achieving well-designed places

- The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this.
- Planning policies and decisions should ensure that developments:
  - a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

#### Consultations:-

# **Consultation Reply**

# LCC Highways

The Local Highway Authority advice is that, in its view, the residual cumulative impacts of development can be mitigated and are not considered severe in accordance with the National Planning Policy Framework 2018 (NPPF), subject to the Conditions as outlined in this report.

#### **Site Access**

It is understood that access to the development proposal would be via the existing un-adopted track from Tilton Road. In order to access the relevant parcel of land, the track would require extending.

Neither the existing track, nor the proposed track are within the highway boundary, however it is noted that Public Footpath D66 does run along part of the existing track.

#### **Highway Safety**

There have been no personal injury collisions (PIC's) within the last five years in the vicinity of the site access and as such the LHA has no existing road safety concerns in connection with this site.

#### **Trip Generation**

Due to the quantum of development, no assessment of trip generation is required, however it is noted that the submitted Design & Access Statement (Ref: COOK/2018-1B) states that the development proposal would result in no more than 10 lorry loads per year.

### **Internal Layout**

Landyke Ltd drawing number COOK/2018-4 details the proposed barn layout to benefit from a

15.725m x 12m stone yard area and concrete apron which provides adequate opportunity for vehicles to turn

In addition to this, Landyke Ltd drawing number COOK/2018-3 details the proposed site layout, including both the existing and proposed access track. Whilst this is located in excess of 130m from the public highway, as stated above, this does form part of Public Footpath D66.

The proposed new access track connects with the existing track at an approximate 90 degree angle and would appear that the track has not been widened at this point. Careful consideration should therefore be given to the design of this track in order to ensure that it is sufficiently wide enough at the bend to accommodate HGV's that would enter the site without causing undue risk to pedestrians.

### Condition(s)

The LHA advises that a condition ensuring that no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a

# Assessment of Assistant Director of Strategic Planning and Regulatory Services

The applicant has stated within the documentation accompanying the application that there will be no measurable increase in vehicle movements associated with the production of cider; the export of the apple juice will generate less traffic along the track behind Ivy Farm House than the regular tractor / trailer movements associated with sheep, and year round farming activities.

It is noted that the type of traffic will be different, being 7.5 tonne lorries that will collect the product to take to off-site bottling factories. The applicant expects that at full yield this would not exceed 10 lorry loads per year.

It is therefore expected that the traffic movements associated with the development will actually represent a net fall in vehicles using the access track / route onto Tilton Road.

The condition advised is noted as suggested by the Local Highway Authority, and is considered reasonable and necessary and can be applied to a decision if permission is granted.

distance of 5 metres of the highway boundary unless hung to open away from the highway to ensure that a vehicle can stand clear of the highway. This will protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (2018).	
LCC Footpaths As vehicle movements on the track will not significantly change, there is no objection to the application as it should not affect the Public's use and enjoyment of the Right of Way.	Noted.
LCC Ecology  Initial response based on original location	Noted
Initial response based on original location On balance, LCC ecology doesn't think that a survey will be required for this application. The development does not appear to be impacting any existing buildings meaning that a Bat Survey will not be required following the Leicestershire and Rutland Bat Protocol.	A further request for whether a survey/information is needed for the revised location has been requested.  Any revised comments will be updated verbally at the
The new building appears to be proposed to be cited in an area of already disturbed land (animal pens). I am most concerned with the creation of the access track. However, the proposed layout suggests that the first section of track from the road already exists.	committee meeting.
Environmental Health	
Noise related information was submitted to the Local Planning Authority prior to the relocation of the proposal.	Comments from Environmental Health were received prior to the amended location of the proposal and are now of limited value as the barn has been moved significantly further away from the closest residential dwellings. The barn is now some 170 metres away from nearby dwellings.
	Site working hours could be restricted by way of planning condition which would overcome potential noise issues from the site and standard operating hours of
	Monday to Friday 08:00 – 18:00 Saturdays 08:00 – 13:00 No working on Sundays or Bank Holidays
	Are suggested for this proposal should permission be granted.

# Representations:-

As a result of a site notice and neighbour notification letters six letters of objection from 6 addresses has been received. A summary of these objections and officer response is discussed below, however please note that the consultation period for this application end on  $27^{th}$  September 2018.

Representation	Assessment of Assistant Director of Planning and Regulatory Services
Access	
Why would a new track be necessary unless there	The new track will allow for vehicles to access the

would be an increase in vehicle movements.

Not suitable for commercial vehicles

The application document refers to 3 part time employees working at the site, whom will, in all probability, drive to the site.

This potentially constitutes 3 additional vehicles each day arriving and going for a break and leaving at the end of their work shifts. That's potentially 18 extra vehicular movements per day just for employees on a track that currently gets less than 10 for all the 4 properties combined.

If this was combined with construction traffic and delivery vehicles this will make the passage of traffic unsustainable and severely compromise safety for residents and their children

The orchard production estimates are based on the current yield of 540 trees from the exiting orchard in 3 years time. The applicants intend to ship in apples until this harvest is ready thus making the 10 lorries a year prediction inaccurate for these first 3 years.

In addition the applicant's intention seems to be to plant further trees in the adjoining field (stated in proposal point 1.4) the volume of traffic will inevitably increase.

barn which is located in the specific location to make use of the orchard close by. The vehicle movements need to be reasonable to allow the produce to be transported off site for bottling and other processes.

The vehicles transporting the juice from the site will be a maximum of 7.5 tonne lorries, no more than 10 movements per year when the site is operating at full yield.

The proposal is restricted to only allow for the vehicles associated with the storage and processing of apples to access the site. Any parking for the employees will need to be catered for in an arrangement that does not impact upon highway safety.

It is considered very unlikely that this will create a severe impact upon the highway network where the LCC highways department have not identified this harm.

The applicant states within their Design and Access statement that by year 3 the orchard has the potential to produce approximately 16.6 tonnes of fruit per acre by year 3. This results in 75 tonnes of fruit, which leads to approximately 52,500 litres of cider (11,500 gallons). The proposed building is therefore not large enough to accommodate apples being imported on top of those being produced on site.

Furthermore, if necessary, conditions could be placed on the use to restrict the amount of vehicular movements per year should it be considered necessary in terms of either highways impact, or the impact upon residential amenity, however these have not been requested by the Local Highway Authority.

# **Footpaths**

Whilst the planning application does not include any proposals to alter the existing track or hedges the applicants are believed to have told residents they intend to cut back hedging and widen the track to accommodate the larger transport vehicles.

This will be considered to be an issue that would require further consultation with the LCC footpaths team. As far as what has been submitted, there are no plans for this as part of this proposal.

#### Noise and Disturbance

The washing, cleaning, milling and pressing of apples will all generate noise.

Residential properties are within 50m of this proposed barn and further properties are within 100 m of it.

There is no mention of the working hours of employees and what times of the day production and noise pollution would occur.

Following further discussions with the applicant, the proposed barn has now been moved further away from the closest residential dwelling, and is now some 170 metres away. It is expected that this will significantly reduce the impact of any noise associated with the processing of the apples causing a material impact upon residential amenity.

It is deemed that the activity on the site is akin to many similar agricultural processes that do not require

hours of operation to be imposed on the site. The work is seasonal, and the noise experienced will not be continuous and is not expected to be at times that would have a significant impact on those living nearby, however as per earlier in the report operating hours could be imposed should permission be granted.

#### **Overall amenity**

Currently benefit from open space at the boundary of our land. With the proposed location of a 6m large barn being so close to our boundary, it will have an overbearing effect on our outlook and loss of sunlight. The building has been moved further from the closest dwelling, and is now proposed to be located some 170 metres from the closest residential dwelling. Furthermore, the land on which it is proposed is significantly lower, therefore reducing the impact of the height of the barn. It is not considered that the barn would have any material impact on outlook or loss of sunlight due to the distances involved.

#### Design

These residential properties back onto unspoiled, unpolluted open fields - a commercial property would be out of keeping with local planning and development

The barn is considered to be typical of many similar buildings, having an 'agricultural' appearance and is acceptable in terms of design, in keeping with the rural area.

#### Waste Removal

The apples are to be washed and treated with chemicals (to eliminate Patulin and insect infestation) as well as the use of enzymes, tannin, gelatine, pasteurization, bentonnesite absorbic acid etc. The application only states method of disposal of foul sewage is 'unknown'.

There is no mention of how disposal of hazardous chemicals will be made and no mention of an environmental impact report to be produced.

There is a watercourse within 150m of the proposed site and the https://www.gov.uk/guidance/pollution-prevention-for-businesses#activities-that-produce-contaminated-water classes activities that cause pollution in this category (cleaning of food for production)

Pomace which is given to pigs can't be done so in large quantities so it is some of this may cause for more movements of vehicles

The only waste will be pomace (dried pressed apple after juice extraction). The apple treatment and use of IBC juice containers ensures no importing/exporting of packaged products will be required.

Depending upon apple yield, moisture content and other factors could mean the pigs are not able to take it all. However the pomace "cake" provides recyclable mulch that in major orchards is placed around and along the line of the apple trees in the orchard. This helps to suppress weed growth and reduces the amount of herbicide (weedkillers) that need to be applied and further reduces the amount of labour intensive mowing/strimming of excessive grass growth.

# **Apple Washing water**

Once the apples are harvested and brought to the barn and before the apples can be milled and crushed they must be cleaned of any dust/stuck-on-leaves, twigs etc. They are passed through a water trough and then onto a small elevator that lifts them to the crusher hopper at a higher level. The dunking of apples in water and lifting by elevator paddles ensures only clean apples enter the crusher. The water in the trough will need replacing on a daily basis but water quantities are small and it must be remembered that cider apples are not eaten as a fresh eating apple and the cider making process is itself a purifying action. The used water will be discharged into a field drain and thence to the local ditch. There are no chemicals used in the washing process, no herbicide or pesticide treatment of apples is permitted prior to harvesting and therefore no possible pollutants in the washing water

#### Other Material Considerations Not Raised By Representations:-

#### Other Material Consideration

# Application of planning policy

Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development and advises that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, a Local Planning Authority should grant permission unless: the application of the policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

# Assessment of Assistant Director of Planning and Regulatory Services

The application is required to be considered against the Development Plan and other material considerations.

Paragraph 213 of the NPPF states that existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The 1999 is considerably out of date in terms of its compatibility with the NPPF. The NPPF is therefore considered to form the policy basis for decision making in this instance.

Whilst the proposed development does not fully accord with the saved policies of the Local Plan due to its location, it is considered that the development does accord with the NPPF and there are other material considerations to take into account that support the proposal.

# **Emerging Melton Local Plan**

The new local plan has now completed Examination and the Inspector has recently received responses to suggested Modifications. The remaining stage is to receive the Inspectors decision.

#### **Paragraph 47** of the NPPF states that:

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing

#### It is stated in **paragraph 48** that:

Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in

The Local Plan has progressed through examination stage and the Main Modifications are currently being assessed by the Inspector.

The relatively minimal amount of work required to complete the local plan modifications that do not impact upon the main policies of the plan means the plan can be afforded significant weight.

the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

# Policy SS1 –Presumption in favour of Sustainable Development:

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with polices n Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application, or relevant policies are out of date at the time of making the decision, then the Council will grant permission unless material considerations indicate otherwise, taking into account whether:

Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the national planning policy framework taken as a whole; or

Specific policies in that framework indicate that development should be restricted.

# Policy EC2 Employment Growth in the Rural Area (Outside Melton Mowbray)

In order to support the rural economy, the Council will allow for:

- A) new employment land to be provided in rural settlements; and/or;
- B) rural employment proposals which create or safeguard jobs.

The following types of rural employment development are acceptable:

- 1. The re-use of existing farm buildings and well-designed new buildings for employment;
- 2. Schemes for farm diversification involving small-scale business and
- commercial development that help to support the viability and retention of the

farm holding;

3. Small-scale tourism proposals, including visitor accommodation, such as

glamping, camping and bed & breakfast;

4. The expansion of existing rural businesses, dependent upon the nature of

the activities involved, the character of the site and its accessibility;

The proposal is considered to be sustainable development providing small scale employment and making an effective use of natural resources in the form of apple production and processing.

The development is also a direct reflection of local policy in attempting to maintain our commitment to Melton being the 'Rural capital of food'.

The barn is considered to be typical of many similar buildings, having an 'agricultural' appearance and is acceptable in terms of design, in keeping with the rural area.

The development proposed is deemed to accord with

- 5. Small scale employment development to meet local needs; and
- 6. The use of land for agriculture, forestry and equestrian activity.

Subject to the proposal:

- 7. Being of an appropriate scale for its location;
- 8. Having sufficient accessible off road car parking provided on site or in the

nearby vicinity to cater for the use proposed.

### Policy D1 – Raising the Standard of Design

All new developments should be of high quality design. All development proposals will be assessed against all the following criteria:

- a) Siting and layout must be sympathetic to the character of the area;
- b) New development should meet basic urban design principles outlined in this plan and any accompanying Supplementary Planning Documents (SPD);
- c) Buildings and development should be designed to reflect the wider context of the local area and respect the local vernacular without stifling innovative design;
- d) Amenity of neighbours and neighbouring properties should not be compromised;
- e) Appropriate provision should be made for the sustainable management of waste, including collection and storage facilities for recyclable and other waste;
- f) Sustainable means of communication and transportation should be used where appropriate;
- g) Development should be designed to reduce crime and the perception of crime.
- h) Existing trees and hedges should be utilised, together with new landscaping, to negate the effects of development;
- i) Proposals include appropriate, safe connection to the existing highway network;
- j) Performs well against Building for Life 12 or any subsequent guidance and seeks to develop the principles of 'Active Design' for housing developments;
- k) Makes adequate provision for car parking; and
- Development should be managed so as to control disruption caused by construction for reasons of safeguarding and improving health well-being for all.

these polices in that it will create a small employment opportunity which is deemed to be an appropriate scale for its location.

# **Conclusion:-**

It is considered that on balance, the proposed building and use within will contribute with the aims of supporting a rural economy and larger aims of allowing the borough of Melton to continue the food and drink service industry which it prides itself on as the 'Rural Capital of Food'. It accords with local and national policy in this regard and has been considered to not significantly impact upon highway safety and through a series of amendments will not also demonstrably impact upon the amenity of those living nearby due to both the access and entrance of vehicles to the site and the processing of apples within the building. The building itself will be traditional in terms of scale and material, very typical of that found in most agricultural fields around the Melton area.

It is considered that the proposed development is compliant with the Local Plan and the policies contained within the NPPF and there are no material considerations which would justify the refusal of the application.

**Recommendation:** - Permit,: subject to the absence of receipt of further consultations responses within the remainder of the consultation period that raise issues not already covered in this report and the following conditions:

- 1. The development shall be begun before the expiration of three years from the date of this permission.
- 2. The development herby permitted shall be carried out in accordance with drawings numbered: COOK/2018-1 Revision 2; COOK/2018-3 Revision 2 and COOK/2018-4 Revision 2 received by the Local Planning Authority on 12<sup>th</sup> September 2018.
- 3. The external materials to be used in the development hereby permitted shall be in strict accordance with those specified in the application unless alternative materials are first agreed in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details
- 4. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres of the highway boundary unless hung to open away from the highway.
- 5. Machinery within the barn shall not be operated outside of the hours of Monday Friday 08:00-18:00, Saturday 08:00-13:00. There shall be no operation of the machinery within the barn on Sundays or Bank Holidays. When machinery is in operation all doors and windows to the barn (including the roller shutters) shall be closed.

#### Reasons:

- 1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.
- 2. For the avoidance of doubt.
- 3. To ensure the development is of the satisfactory appearance as stipulated within the application.
- 4. To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (2018).
- 5. For the avoidance of doubt and to reduce the potential for machinery noise to impact upon residential amenity, due to a lack of information provided by the applicant for an accurate assessment to be undertaken.

Officer to contact: Glen Baker-Adams

Date: 14<sup>th</sup> September 2018