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Planning and Development
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Leicestershire,
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Friends of Ashby Bath Grounds
c/o 16 Tower Gardens
Ashby de la Zouch
Leicestershire
LE65 2GZ

27 March 2014

Dear Ms Worrall,

Planning Application Number 14/00107/FULM: Erection of five dwellings etc.

The Friends of Ashby Bath Grounds is a constituted community group formed to work towards protecting and enhancing the Bath Grounds for the benefit of the local community. At the time of writing we have forty four fully subscribed members and a committee of seven. I am writing on behalf of the Friends of Ashby Bath Grounds to strongly object to the above Planning Application.

We set out, in the table below, detailed planning reasons why this application should be rejected, citing relevant national and local policy - NPPF, Local Plan 2002 (and associated Inspector's Report) and the emerging Core Strategy. Where appropriate we have also listed the relevant sections of the Developer's Planning Support Statement. We trust that you will consider these objections carefully and cite them in your report to the Planning Committee with a recommendation to reject the application.

In summary, they include the following:

- 1. Sustainability (NPPF 6 etc)** – We contend that the proposed development fails the NPPF definitions of sustainability on many grounds; Social, Environmental, Economic, Health and Land use and so NPPF 14 and 197's "*presumption in favour of sustainable development*" is not appropriate for this application.
- 2. Core Principles (NPPF 17)** – We describe how this application fails to comply with nearly all the 12 Core Principles that "*should underpin plan-making and decision taking*".
- 3. Material considerations (NPPF 11)** – We strongly contend that there are significant material considerations that indicate that the housing development aspect of this application should be denied.
- 4. Local Green Space and Green Belt (NPPF 77, 88-90)** – the Bath Grounds meets all the criteria for designation as Local Green Space and so the policy for managing development should be consistent with policy for Green Belts. NPPF 87-89 make it clear that the construction of new buildings within Green Belts should be regarded as inappropriate. The proposal to build houses on the Bath Grounds does not meet any of the exceptions or permissions as described in paragraphs 89 and 90, and so should not be permitted.
- 5. Compliance with development plan (NPPF 2, 11)** - We show the proposal does **not** "*accord with the current or emerging development plan.*" viz;
 - **Local E1 (saved): Sensitive areas.** The new houses would significantly diminish the open character of the area and its contribution to the "Countryside in the Town" character of the Bath Grounds. The proposed housing area is not "small" as claimed. It would result in the loss of over 12% of the Bath Grounds for public access and set a precedent for building on the other neighbouring designated "sensitive" areas within Ashby.
 - **Local L14 (not saved): Recreational space within limits of development.** According to NWLDC's 2008 Open Space Audit, the Bath Grounds are the District's second most visited

recreational space. Ashby has an under-provision of recreational space of 2.99 ha. The development would increase this under-provision by 25%. The proposal will not provide any replacement recreational space in a suitable location. There is no guarantee that any of the associated inducements will materialise. In particular the potential new sports pavilions will be **neither** built **nor** funded by the developer. According to the relevant Proposals Map, the proposed housing is sited on "Protected Open Space."

- **Local E10 (not saved): Conservation areas.** The development would be detrimental to the character and appearance of the Ashby Conservation Area in terms of scale, proportions, massing, layout, setting, detailing and materials of construction. It would result in the loss of open space and important views within and out of the area and would be detrimental to the environmental quality.
- **Local CS29 (emerging): Open Space, Sport and Recreation.** See L14 above. There is no justification to consider the proposed development an exception to this policy. The open space to be lost is **not** small, is **not** surplus to requirements and **no** enhancement to the remainder of the open space or recreational grounds will be provided by the developer.
- **Local CS34 (emerging): Conserving and Enhancing the Historic Environment. The developer's own Heritage report states there will be negative impacts on the Castle and Bath Grounds.** The developer is attempting to induce the Council into allowing this intrusive housing development in return for potential improvements to the Royal Hotel. These are separate planning applications and should be considered separately. There is no guarantee that the suggested work would be undertaken at the Royal Hotel should this application be approved.
- **Local CS26 (emerging): Flood Risk –** The housing development is in flood zone 2 and on the fringe of flood zone 3a. CS26 states that new development will be directed towards land at the lowest risk of flooding within the District; with priority given to land within Flood Zone 1. NPPF 101 makes it clear that '*Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.*' It is inconceivable that there are not reasonable available sites for five houses in flood zone 1.

We would emphasise that the inclusion in this application of new sports pavilions on the Bath Grounds for the use by the Cricket and Bowls clubs should not be considered as compensating enhancement of the area. These pavilions are unlikely ever to be built being too costly for those clubs to build or maintain. The developer is not proposing to fund these buildings. Also the developer does not control the land concerned, as the Town Council already holds a lease with at least 9 years to run and a right to renewal.

We need to impress upon you the deep and widespread opposition of the local community to this application. No doubt you will have received many other letters of objection from the public and will have noted the recommendation to refuse from Ashby Town Council. Furthermore, we shall be delivering to you shortly a petition signed by over 3000 people specifically calling upon the "District Council to refuse any planning application that would reduce the recreational and sporting use of the Bath Grounds, in particular any proposal to build houses on the Bath Grounds."

Yours sincerely

David Bigby, Treasurer, on behalf of the Friends of Ashby Bath Grounds

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<p>Sustainability. NPPF</p>	<p>NPPF Forward</p> <p>"The purpose of planning is to help achieve sustainable development."</p> <p>"Sustainable means ensuring that better lives for ourselves don't mean worse lives for future generations."</p> <p>"Development means growth.. . We must house a rising population, which is living longer, and wants to make new choices."</p> <p>"So sustainable development is about positive growth – making economic, environmental and social progress for this and future generations."</p> <p>"Development that is sustainable should go ahead without delay - a presumption in favour of sustainable development that is the basis for every plan and decision."</p> <p>Para 6</p> <p>Planning should contribute to the "achievement of sustainable development."</p> <p>Para 7</p> <p>There are three dimensions to sustainable development:</p> <p>"An economic role – ensuring that sufficient land of the right type is available in the right place at the right time to support growth and innovation;</p> <p>A social role – supporting strong, vibrant and healthy</p>	<p>"4.14 The proposals are capable of delivery. Whilst only five dwellings they will make a very small contribution to the delivery of sustainable housing in the Borough. There are no drainage or highway issues that need to be addressed and no noise impacts from the railway line. Both the housing and the pavilions are deliverable.</p> <p>4.15 The NPPF seeks to promote sustainable development. It is considered that all three elements of the proposal are sustainable not only in themselves but also within the broader proposal for the Bath Ground/Royal Hotel. Approval of the planning applications will deliver the following:</p> <p>i. Deliver the freehold of the Bath Ground to the Ashby Woulds Town Council.</p> <p>ii. Secure long term leases for the two sports clubs and so enable them to seek grant funding, improved facilities and</p>	<p>NPPF11 requires Planning Authorities to approve "<i>development proposals that accord with the development plan without delay ... unless material considerations indicate otherwise.</i>" We strongly contend that there are significant material considerations that indicate that the housing development aspect of this application should be denied. Also, we show later in our response below that the proposal does not "<i>accord with the current or emerging development plans</i>".</p> <p>However, as the exact status of the local development plans is unclear, we also contend that (quoting directly from the NPPF14), "<i>the adverse impacts of ... (the development) ...would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework (NPPF) taken as a whole.</i>" We would particularly draw attention to NPPF 74, which we deal with in detail further on in our submission under the heading Open Space, Sport and Recreation Policy. This specifically states that "<i>Existing open space, sports and recreational buildings and land, including playing fields, should not be built on</i>", unless exceptional justification can be provided.</p> <p>As the developer states, development of the five houses "will make only a very small contribution to the delivery of ... housing in the Borough". They will certainly not appreciably "<i>widen the choice of high quality homes</i>" (NPPF9). The Friends of Ashby Bath Grounds recognise that the NPPF requires a "<i>presumption in favour of sustainable development.</i>" (NPPF14). However we strongly dispute whether the proposed development can be categorised as "sustainable" for the following reasons.</p> <p>1. Social. According to the NPPF Ministerial Foreword, "<i>Sustainable means ensuring that better lives for ourselves don't mean worse lives</i></p>

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	<p>communities by providing the supply of housing required to meet the needs of present and future generations together with providing everyday needs ; and</p> <p>An environmental role that contributes to protecting and enhancing natural resources.”</p> <p>Para 9</p> <p>“widening the choice of high quality homes”, “making it easier for jobs to be created” and “moving from net loss of bio diversity to achieving net gains for nature “ are some of the key ways of achieving sustainable development.</p> <p>Para 11</p> <p>“Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise”</p> <p>Para 14</p> <p>“At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking.”</p> <p>“For decision taking this means:</p> <ul style="list-style-type: none"> • Approving development proposals that accord with the development plan without delay; and • Where the development plan is absent, silent or 	<p>enlarge their membership base.</p> <p>iii. Allow further improvements to the remainder of the Baths Ground.</p> <p>iv. Enable the management of the wooded area to the south of the Royal Hotel.</p> <p>v. As part of the broader package enable removal of the extraneous and unsympathetic extensions to the Royal Hotel and construct more sympathetic extensions that will not only improve the listed building and its setting but also help secure the viability of the Royal Hotel moving forward.</p> <p>vi. Improvements to the garden of the Royal Hotel and its setting.</p> <p>vii. The delivery of new leisure and restaurant facilities that will both complement the Royal Hotel's offer but also provide better facilities for residents of Ashby as a whole.”</p>	<p><i>for future generations.</i>” Also the preamble to NPPF6 quotes Resolution 42/187 of the United Nations General Assembly, which <i>“defined sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”</i> We contend that whilst five families and the developer may benefit from this development, it will be socially retrograde, irreversible and result in worse lives for current and future generations of the vast majority of the residents of Ashby and its surroundings. It will also impact negatively on the lives of current and future residents of the neighbouring elderly persons sheltered housing in Bamburgh Close. Many of these homes, which are currently quiet and secluded, would become overlooked by the proposed 3 storey houses and their current views of the Bath Grounds would be lost.</p> <p>2. Environmental. NPPF 14 states that the environmental role of sustainable development should contribute <i>“to protecting and enhancing natural resources.”</i> Also NPPF 9 states that, <i>“moving from net loss of bio diversity to achieving net gains for nature” is a key way “of achieving sustainable development.”</i> We contend that the proposed housing development would be environmentally damaging, resulting in the permanent loss of a significant area of beautiful open space near the centre of the Town which is a major Tourist attraction and has been used for many years by a very large number of residents for informal and formal recreation. There would be no offsetting environmental protection arising from the housing as the developer is not proposing to undertake any work to the remainder of the Bath Grounds and the Town Council already has a long lease on the area (see further details below). There would undoubtedly be a net loss to biodiversity and no gains for nature from this development, contrary to the tenets of NPPF 7.</p> <p>3. Economic. According to NPPF7, sustainable development should</p>

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	<p>relevant policies are out of date , granting permission unless</p> <ul style="list-style-type: none"> ○ 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.” <p>Para 197</p> <p>“In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.”</p>		<p>help achieve “<i>economic, environmental and social progress for this and future generations</i>”. We have briefly addressed the environmental and social aspects above. Whilst the house building will result in some minor, short term economic activity in Ashby, it will make no measureable impact on the longer term economic growth of the area. This type of very expensive, luxury housing is likely to be purchased by people from outside the District who are either retired or working elsewhere. It will make no contribution to the local need for reasonably priced and “affordable” housing. The balance between economic stimulus and environmental and social damage from developing this site has been considered by the Planning Authority and Inspectors many times in the past, resulting in its protection and designation as “Sensitive”. At the 2002 Local Plan Enquiry the Inspector found that, “<i>the submissions in connection with the second issue</i> (giving the freehold of the land to the Town Council) <i>do not outweigh the presumption in government planning guidance against developing existing parkland, and accordingly that they do not constitute circumstances of sufficient weight to override the adverse conclusion I have reached....</i>”</p> <p>4. Health. The proposed housing development would be detrimental to sustaining a “<i>strong, vibrant and healthy community</i>” as required by the NFFP7 for sustainable development. It will increase the current deficit of recreational space in Ashby by at least 25% (see below) and, with a large proportion of the remaining playing fields dedicated to the cricket square, outfield, bowls green and pavilions, it will particularly reduce the area of public land available for informal recreation and sports training. This further reduction in recreational open space will contribute to reducing community health.</p> <p>5. Land. NPPF7 defines another aspect of “sustainable development as, “<i>ensuring that sufficient land of the right type is available in the right place at the right time to support growth and innovation</i>”. We</p>

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			<p>believe that there is already sufficient land available on the fringes of Ashby to accommodate a development of luxury houses of this size. .</p> <p>Referring to the new houses and two sport pavilions included in the application, the developer claims that "all three elements of the proposal are sustainable not only in themselves but also within the broader proposal for the Bath Ground/Royal Hotel." We have set out above why we do not believe that the housing can be considered "sustainable". We also contend that the proposed sports pavilions are not sustainable. This is because they would be far more ambitious and expensive to build and maintain than is within the means of the sports clubs involved irrespective of the length of their leases. The developer does not propose to provide any funds to build or maintain these buildings, which could only be built in the unlikely event of the clubs raising sufficient funds themselves (building costs estimated at around £750,000). Whilst both the Cricket Club and Bowls Club desire new pavilions, their representatives have told us that these plans are far too ambitious for their requirements. We believe that these extensive plans for pavilions have been submitted in order to provide a veneer of legitimacy to the developer's plans for building houses on the Bath Grounds. Furthermore, the potential work on the Royal Hotel is not included in this application and should not be considered in this context. There is no guarantee that work would happen should this application be approved.</p>
<p>NPPF Core Principles</p>	<p>Para 17. Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should:</p> <p>1) be genuinely plan-led, empowering local people to</p>	<p>"3.12. Paragraph 17 sets out the 12 Core Principles that should underpin decision making and decision taking. Not all will be relevant to every type of planning application.</p>	<p>NPPF 17 sets out the 12 Core Principles that should underpin planning decision making and decision taking. Not all will be relevant to every type of planning application. We set out below why we believe that this proposal fails to comply with nearly all of these Core Principles:</p> <p>1) The developer held a single public consultation on his proposals almost two years ago in May 2012. There is no evidence that he</p>

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	<p>shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;</p> <p>2) not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;</p> <p>3) proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;</p> <p>4) always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;</p> <p>5) take account of the different roles and character of</p>	<p>1) Plan led - developer on the basis of joint working and cooperation. An ability to empower local communities to shape their surroundings.</p> <p>2) Enhance and improve places – not just about scrutiny but should be creative.</p> <p>3) Support sustainable economic growth. Every effort should be made to objectively identify and then meet the housing, business and other development needs of an area, and respond positively to wider areas of growth.</p> <p>4) Secure high quality design.</p> <p>5) Take account of the different roles and character of areas – promote vitality and viability in town centres, protect green belts and recognise the intrinsic character and beauty of the countryside and support</p>	<p>has made any substantive changes to the housing development plans based upon feedback from the public and he has not held a second round of consultation on the submitted plans. We can assure the Committee that the community does not feel empowered to shape their surroundings by this proposal or the manner in which it has been presented. Furthermore, at an extraordinary meeting on 27th January 2014, Ashby Town Council resolved to “cease negotiations with Oakland Hotels with immediate effect in respect of the negotiations for the proposed Heads of Terms for the transfer of the freehold of the Bath Grounds from Oakland Hotels to the Town Council”.</p> <p>2) As set out elsewhere, we contend that Ashby and the Bath Grounds in particular will not be enhanced nor improved by this proposal.</p> <p>3) We have explained above why we do not believe that the proposed development should be considered economically sustainable. It does not address the real housing needs of the area.</p> <p>4) We believe that the designs cannot be considered “high quality” as they are; out of keeping with the conservation area’s architectural vernacular; imposing and unattractive.</p> <p>5) Regarding the character of the area, see 4 above. The proposed housing does not take account of the role of this part of Ashby, which is essentially recreational open space, separated by a distinct boundary from non overlooked sheltered housing. By current definition, this area should be designated as “Green Space” (see below) and be protected as Green Belt. The new houses would violate rather than protect Ashby’s green belt and spoil the “Countryside in the Town” character of the centre of</p>

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	<p>different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;</p> <p>6) support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);</p> <p>7) contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;</p> <p>8) encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;</p> <p>9) promote mixed use developments, and encourage multiple 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, carbon storage, or food production);</p> <p>10) conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for</p>	<p>thriving rural communities.</p> <p>6) Support low carbon initiatives, take account of flood risk, re-use resources.</p> <p>7) Conserve and enhance the natural environment. Alocatyimns (<i>sic</i>) should prefer land of lesser environmental value.</p> <p>8) Encourage the effective use of brownfield land.</p> <p>9) Promote mixed use developments.</p> <p>10) Conserve heritage assets</p> <p>11) Manage growth to make the fullest possible use of public transport.</p> <p>12) Take account of local strategies to improve health, social and cultural wellbeing and delivery of everyday facilities.”</p>	<p>Ashby.</p> <p>6) We are not qualified to comment in detail on the low carbon, flood risk and resource re-use aspects of the proposals. However no evidence of a low carbon footprint for these houses has been presented other than its compliance with Code Level 4 of the Code for Sustainable Homes. No commitment for improvement to Code Level 5 or 6 has been given. The housing development can only increase the risk of flooding of the Gilwiskaw both at the Bath Grounds and downstream.</p> <p>7) The proposal blatantly fails to conserve or enhance the natural environment, the land in question currently being of very high environmental value.</p> <p>8) This is definitely not a brownfield site.</p> <p>9) This is not a mixed use development.</p> <p>10) Far from conserving Ashby's heritage assets, the proposed housing will actively spoil them. This proposal should not be confused with nor considered alongside the separate proposal for works to the Royal Hotel as there is no guarantee that the Royal Hotel work would be undertaken or funded and is itself dependent on planning permission being granted for further in appropriate building in the Ashby conservation area. We draw attention to the fact that previous developments undertaken in Ashby have become insolvent after the housing has been built but before all the promised enhancements have been funded even with the protection of section 106 agreements, which are not proposed in this case.</p> <p>11) The likelihood of the residents of the new houses making use of currently available public transport services is remote and no</p>

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	<p>their contribution to the quality of life of this and future generations;</p> <p>11) 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; and</p> <p>12) take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.</p>		<p>contribution to improving these services has been offered.</p> <p>12) The housing proposals make no provision for improving health, social and cultural wellbeing for the community and will be detrimental to these by reducing community recreational space. The sports pavilions are unlikely ever to be built (see below).</p>
<p>Sensitive Areas</p> <p>Local Plan E1 (Retained)</p>	<p>Development will not be permitted within the Sensitive Areas, identified on the Proposals Map, which would adversely affect or diminish the present open character of such areas and the contribution they may make to the character, form and setting of settlements, the street scene generally or the relationship with adjoining countryside.</p>	<p>“The site lies within a sensitive area as outlined in Policy E1 of the Plan. The bowls and cricket pavilions will be constructed on the same sites as they currently occupy, albeit on a larger scale.</p> <p>The bowls site is well screened by hedging and mature trees whilst the cricket pavilion sits adjacent to heavily wooded area to the south of the Royal Hotel. Neither of the pavilions will affect the current open character of the Bath Ground.</p> <p>The five dwellings are of a contemporary design and located on a small part of the Bath Ground. The site sites</p>	<p>The impact of the five houses will be significant on the open character of the Bath Grounds. At present the Bath Grounds are surrounded by trees with very little direct sight lines from existing houses. The five three storey houses would be clearly visible from the whole of the Bath Grounds and dramatically change the ‘countryside within a town’ character of the Bath Grounds. There are no other three storey buildings within the vicinity. Indeed the adjacent houses, which comprise old people’s sheltered accommodation, are single storey and will be overlooked by the proposed houses. The local street scene will therefore be detrimentally affected.</p> <p>The proposed housing area is not “small” as claimed. The development would result in the loss to public access of over 12% of the total area of the current Bath Grounds and a much greater percentage if only the parts not occupied by private clubs (pavilions, the bowling green and cricket pitch) are considered.</p> <p>Building on this part of the sensitive area is also likely to set a precedent for building on the adjoining areas also designated as sensitive and which are in private ownership, namely “Bullens field”</p>

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		<p>immediately adjacent to existing residential properties and the railway line. There will be some impact on the open character of a small part of the sensitive area but it is not considered that it adversely impacts on the broader functional form of the Bath Ground. Furthermore, it will not impact on street scenes or on the relationship with adjoining countryside. The housing will occupy part of the sensitive area but the impacts are minimal."</p>	<p>and the playing fields North of Prior Park Road. There is a particular danger of this as Bullens field could then be seen as an "infill site" between existing housing. Such development would be devastating for the Ashby environment.</p> <p>Therefore the impact of the housing development will be far from "minimal".</p>
<p>Open Space, Sport and Re-creation Local Plan L14 (not saved)</p>	<p>Development of recreational open space will be permitted only where such land is within Limits to Development identified on the Proposals Map and:</p> <p>(a) It can be demonstrated that development of the site would not result in an under provision of open space in relation to the creation and amenity needs of the area; or</p> <p>(b) Prior to commencement of the development, the developer makes provision for replacement recreational open space of equivalent community benefit and in a suitable location within the locality; or</p> <p>(c) The redevelopment of a small part of the site would assist in the retention or enhancement of its existing</p>	<p>"4.5 Policy C14 (<i>sic</i>) relates to recreational open space. The comprehensive set of proposals for the site which will transfer the freehold of the Bath Ground to the Ashby Woulds Town Council, the provision of long leases to the sports clubs, the ability to control the Bath Ground and planning permission for two new pavilions. It is considered that Policy L14 is satisfied; although it is understood that this policy</p>	<p>The NWLDC Open Space Assessment (2008) firmly categorises the Bath Grounds as "recreation space" and concluded that Ashby has a deficit of 2.99 ha of recreation space, second only in deficit to Coalville. The associated survey found that the Bath Grounds was the second most visited recreation site in the district.</p> <p>Furthermore, Ashby is rated only the 17th parish in the District for provision of recreation space per person (12.79m² against an average for the district of 16.42 m²). Ashby also has less than the District average of open space per person. These deficits are likely to have increased significantly since the 2008 assessment as there has been substantial further housing development in Ashby but no additional provision of recreation space. The proposed development would increase Ashby's recreational ground deficit by approximately 0.77ha</p>

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	recreational facilities.	has not been saved."	(25%) at least.
Policy CS29:	<p>1) Existing Open Space, sport and recreation facilities will be safeguarded. Applications for essential ancillary facilities that are proposed to support outdoor recreational use will be supported.</p> <p>2) Within Limits to Development, exceptionally, development may be allowed on part of such a site where:</p> <p>A The remainder of the site is enhanced so its public value in visual and functional terms is equivalent to the original site or better, or</p> <p>B The open space, sports and recreation facilities have been considered, through an assessment, to be surplus to requirements.</p> <p>3) Within Limits to Development, redevelopment may be allowed on an entire site where:</p> <p>A An Assessment has been undertaken and the entirety of the open space, sport and/or recreation facilities have been identified as surplus to requirements</p> <p>B The sport or recreational use is relocated to an alternative site of equivalent or greater value in terms of quantity, quality and accessibility to users of the original site, and other factors do not justify its retention.</p> <p>4) New housing development will make provision for appropriate open space, sport and recreation facilities having regard to both quantitative and qualitative</p>	<p>"3.32 The site for the proposed dwellings equates to ***ha which is ***% of the overall "playing field" site... "</p>	<p>The Open Space Assessment concluded that "there is a need to provide play and recreation provision in the parishes that are not well served". This development will have the opposite effect, with no alternative provision to be provided by the developer.</p> <p>Regarding the claimed enhancement of the Bath Grounds by this development through transfer of the freehold, this claim would only have any validity if use of the Bath Grounds by the public were currently threatened or if the council or clubs were currently prevented from enhancing the Bath Grounds, neither of which is the case. Ashby Town Council (not Ashby Woulds) already has a lease on the whole of the Bath Grounds with 9 years left to run and an automatic right to renew for a further 28 years. They have applied for designation of the Grounds as a Community Asset which would give them the right to purchase if it were offered for sale. The Bath Grounds are therefore not at risk. The Town Council and the clubs are already in a position to make improvements if they so wish (subject to relevant planning permissions) and these proposals would not substantively change that situation. Furthermore, the developer is not making any direct provision for enhancement of the recreational facilities. He is only applying for planning permission for new sporting pavilions should the clubs involved decide to build them and if they can raise the required funds, which the developer is not providing.</p> <p>Interestingly the application states on numerous occasions that the area of land that the houses are to occupy is "small" and "extremely small" but conveniently leaves blank its actual size. It actually comprises over 12% of the current area of the Bath grounds.</p> <p>The Local Plan Proposals Map clearly describes the whole of the Bath Grounds as "protected open space" under Policy L14. Therefore,</p>

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	<p>factors identified by an up-to-date assessment of needs and any deficits or surpluses of open space, sports and recreational facilities.</p> <p>In respect of qualitative factors regard will be had to:</p> <p>A The quality of existing provision within the locality of the proposed development and the quality of existing or proposed physical links to such provision; and</p> <p>B The ability of the existing provision to be expanded or enhanced to meet the needs generated from the proposed development.</p>		<p>regarding Policy L14, we contend that;</p> <p>a) the development would result in an increased under-provision of open space in relation to the creation and amenity needs of the area;</p> <p>b) the developer is not proposing to make provision for replacement recreational open space of equivalent community benefit and in a suitable location within the locality; and</p> <p>c) the area is not small, representing over 12% of the Bath Grounds (approx. 0.77ha), and the development would not assist in the retention or enhancement of the existing recreational facilities.</p> <p>Regarding Emerging Policy CS29 we contend that the proposed housing area should be safeguarded as it is part of an existing Open Space, sport and recreation facility. It should not be treated as an exception to this emerging policy and the NPPF as;</p>
NPPF 74	<p>Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:</p> <ul style="list-style-type: none"> ● an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or ● the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or ● the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss. 		<p>a) As explained above, the remainder of the site would not be enhanced such that its public value in visual and functional terms would be equivalent to the original site or better, and</p> <p>b) The open space, sports and recreation facilities have been carefully considered through an assessment, and have been found not to be surplus to requirements.</p> <p>Regarding NPPF74, we contend that the land proposed for housing should not be built upon, as it constitutes existing open space, sports and recreational land and</p> <p>a) an assessment has been undertaken which has clearly shown the open space is not surplus to requirements;</p> <p>b) the loss resulting from the proposed development would not be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; and</p>

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			c) the development is not for alternative sports and recreational provision, the needs for which clearly outweigh the loss.
<p>Conservation Area and Local Heritage</p> <p>Local Plan E10 (not saved)</p>	<p>Development will not be permitted within Conservation Areas, or where it would affect the setting of such areas, which would:</p> <p>(a) Be detrimental to the character or appearance of the Conservation Area in terms of:</p> <ul style="list-style-type: none"> (i) scale, proportions and massing; (ii) layout, grouping and setting; (iii) detailing and materials of construction; <p>(b) Be detrimental to the setting of buildings which contribute positively to the character and appearance of the Conservation Area;</p> <p>(c) Result in the loss of open spaces or important views within, into and out of the Conservation Area;</p> <p>(d) Result in the loss of particular features which contribute positively to character and appearance of the Conservation Area, including:</p> <ul style="list-style-type: none"> (i) Walls and other means of enclosure; (ii) Ground surfaces; (iii) Natural features (such as trees and hedgerows); and (iv) Features of archaeological interest; 	<p>“4.8 The site is located within a conservation area and the Royal Hotel is a Grade II* listed building. The pavilions are some distance away from the listed building and I do not consider they can create any adverse impact to the building or its setting. The proposals will make a positive contribution to the Conservation Area. The existing sports pavilions will be replaced with much more contemporary designed buildings that will complement rather than seek to compete with the Royal Hotel. The new buildings will be a statement of their own and as with Royal Mews on Station Road complement the Royal Hotel and its setting.</p> <p>4.9 Delivery of all of the components of the broader Bath Ground/Royal Hotel site will also allow investment to take place in the Grade II*</p>	<p>Regarding Local Plan E10 and NPPF section 12 (Conserving and enhancing the historic environment), we contend that the development would;</p> <p>a) be detrimental to the character and appearance of the Ashby Conservation Area in terms of scale, proportions, massing, layout, setting, detailing and materials of construction. The design is contemporary and pays no attention to the historic architectural vernacular within the Ashby Conservation Area.</p> <p>b) be detrimental to the setting of buildings which contribute positively to the character and appearance of the Conservation Area. The houses will be plainly visible from the Royal Hotel whereas as currently the view to the east runs all the way to the green hedge and the castle beyond. The setting of the Royal Hotel itself and other listed buildings within the conservation area, such as the Catholic Church and Rawdon Terrace, will be spoilt when viewed from the sheltered housing in Bamburgh Close and the public footpath leading under the railway to the Pennine Way area. Also, contrary to the developer's assurances the view to Ashby Castle will be lost from significant areas of the Bath Grounds.</p> <p>c) result in the loss of open space and important views within and out of the area and would be detrimental to the environmental quality. The comments of the Inspector at the 2002 Local Plan Enquiry are pertinent;</p> <p><i>“7.395. The line which would form the site's western boundary and thus separate the proposed development from the remainder of the</i></p>

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	<p>(e) Be detrimental to environmental quality in terms of:</p> <ul style="list-style-type: none"> (i) Traffic generation; (ii) Noise and other forms of environmental intrusion. 	<p>Royal Hotel. The heritage statement prepared by Node outlines the history of the Royal Hotel and its place in Ashby's development. The overall proposal shows a significant desire to improve the hotel and its setting. The Royal Hotel is a very important building in Ashby and its improvement as a consequence of the subject application for houses/pavilions must carry weight in the decision making process. The complete package will secure its future and so accord with emerging Policy CS34 and Section 12 of the NPPF."</p>	<p><i>grounds, is, however, not marked by any physical features. On both sides of this hence somewhat arbitrary division, the ground is now open grassland used for informal recreation. The objection site therefore at present clearly relates -both in form and function- to the land to its west.</i></p>
<p>Policy CS34:</p>	<p>Heritage assets, and their setting, will be protected and conserved. The conservation of assets which reflect the District's industrial and coalmining heritage will be a particular priority.</p> <p>Where opportunities arise, particularly through new development, North West Leicestershire District Council will consider favourably those schemes that make a positive contribution and enhance existing heritage assets.</p> <p>The District Council will also seek to secure the viable and sustainable future of heritage assets at risk of neglect, loss, decay or other threats, especially where this supports tourism or business development, providing such development is consistent with the significance of the heritage asset.</p>	<p>Royal Hotel. The heritage statement prepared by Node outlines the history of the Royal Hotel and its place in Ashby's development. The overall proposal shows a significant desire to improve the hotel and its setting. The Royal Hotel is a very important building in Ashby and its improvement as a consequence of the subject application for houses/pavilions must carry weight in the decision making process. The complete package will secure its future and so accord with emerging Policy CS34 and Section 12 of the NPPF."</p>	<p><i>7.397. Development of this site would also in my opinion adversely affect the present open setting of the Royal Hotel, which, because the Bath Grounds were "historically laid out to complement its design or function", would be contrary to advice in paragraph 2.16 of PPG15".</i></p> <p>d) result in the loss of the setting of several important natural features within the Bath Grounds. In particular, the current beautiful aspect within the parkland of the coniferous trees which are to be absorbed into the back garden of one of the houses will be lost. The trees will become dwarfed by the 3 storey houses behind.</p> <p>e) The proposed housing development would be detrimental to the environmental quality, particularly in terms of intrusion into environment of the adjoining sheltered housing through overlooking and loss of amenity.</p>
<p>NPPF Section 12 Conserving and enhancing the historic environ-</p>			

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Community Benefit		<p>“2.40 Currently the entire application site and the Baths Ground is controlled by the applicant. Agreement has been reached with Ashby Woulds Town Council such that it would secure the freehold of the Baths Grounds. Furthermore two specific areas of land would then be leased to the Ashby Bowling Club and the Ashby Hastings Cricket Club. They would be minimum 50 year leases that would then enable the Clubs to secure funding to construct the new pavilions and so secure their future and attract greater patronage.</p> <p>2.41 This benefit will only arise if planning permission for the improvements to the Royal Hotel and the commercial development receives planning permission. There is considerable investment in the maintenance and improvements to the Grade II* Listed Royal Hotel.”</p>	<p>This section of the Planning Statement demonstrates more than any other the lack of attention to detail. Whilst the applicant has the freehold of the site, it is incorrect to say that he controls the site as there is a lease with the Town Council, with at least 9 years remaining, which gives control of the Bath Grounds to the Town Council for the whole of this period. Indeed, the application is not deliverable without the agreement of the Town Council.</p> <p>It is Ashby de la Zouch town Council, not Ashby Woulds Town Council.</p> <p>No agreement has been reached with the Town Council. The Town Council has agreed in principle the Heads of Terms of an agreement, but this is not binding on either party.</p> <p>The Heads of Terms agreed in principle referred to leases with the Cricket Club and Bowls Club. A more recent version provided by the applicant made no reference to the leases. Having insufficient tenure is one barrier to securing funding. There may well be other barriers, not least of which may be lack of available funding. The main motivation for the clubs to obtain new pavilions is the poor state of the pavilions, not as an enabler to increased participation. Indeed, the cricket field is fully occupied during the summer months and so significantly increasing participation is unlikely.</p> <p>The claimed benefit is not dependent on the improvements to the Royal Hotel and the commercial development receiving planning permission. The draft Heads of Terms states that it is ‘subject to the grant of a planning permission for the proposed residential, bowls and cricket facilities ONLY’</p>

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<p>Flood Risk Policy CS26:</p>	<p>A site-specific flood risk assessment is required for proposals of 1 hectare or greater in Flood Zone 1 and all proposals for new development (including minor development and change of use) in Flood Zones 2 and 3, and also where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding. Site-specific Flood Risk Assessments should consider the issues of flooding from sewers, canal infrastructure failure and groundwater rising from former coal mining areas. 88</p> <p>New development will be directed towards land at the lowest risk of flooding within the District; with priority given to land within Flood Zone 1.</p> <p>The use of Flood Zones 2 and 3a for recreation, amenity and environmental purposes will be acceptable where an effective means of flood risk management has been provided.</p> <p>Land within Flood Zone 3b will be safeguarded, to ensure that the functional floodplain is protected from development. The Council will also support proposals which reinstate the functional floodplain, where possible.</p> <p>All new development will be expected to ensure that it does not increase the level of flooding experienced elsewhere, and should be managed to ensure no net increase of water is discharged into the local sewer and watercourse systems</p> <p>Surface water run-off in all developments should not increase the amount of surface water discharged into</p>	<p>“2.26 A Flood Risk Assessment has been prepared by Infrastructure Planning & Design Limited. With regard to the residential properties it concluded that there would be no objection subject to the finished floor levels being a minimum of 121.2m AOD which would give a 600mm clearance with the anticipated highest flood level possible in the adjoining land. A dry escape route is also recommended which should be at a minimum level of 120.9m AOD. Furthermore, it noted that the whole of the area where the residential properties were proposed to be constructed is above the overflow level where flood water would escape Bass ground to Station Road in the south-west corner of the site. It therefore concluded there were no significant flood risk from the proposed development.</p> <p>2.27 With regard to the bowls pavilion the Flood Risk Assessment concluded that the</p>	<p>NPPF 101 makes it clear that ‘Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.’ The housing development is in flood zone 2 and on the fringe of flood zone 3a. It is inconceivable that there are not reasonable available sites for five houses in flood zone 1.</p> <p>As the houses would be classed as More Vulnerable, the Sequential Test would suggest that the Exception Test should be applied. This requires that ‘the development provides wider sustainability benefits to the community that outweigh flood risk’ and ‘a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime’.</p> <p>As demonstrated above, the development does not provide wider sustainability benefits to the community and so it fails the Exception Test.</p> <p>A site-specific flood risk assessment has been carried out which suggests a minimum clearance between finished floor levels and anticipated highest flood level as 0.6m. This assumes an escape route to Station Road. Without having detailed plans for the proposed development associated with the Royal Hotel it is not possible to verify that this clearance will exist in to the future. In addition, Station Road does not provide a re-entry to the culvert or Gilwiskaw Brook. Where will the water go?</p>

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	<p>the local public sewer system. On previously developed sites, surface water runoff should be attenuated by 20% on the site. The use of Sustainable Drainage Systems (SuDS) will be given priority where its application is appropriate; design and layout which enhances natural forms of on-site drainage will be encouraged.</p>	<p>only flood risk is considered to arise from fluvial flooding as it is adjacent the Baths Grounds, which are in a EZ Flood Zone 3a. Any flooding would result from potential flooding/surcharging from the Gilwiskaw Brook</p>	
<p>NPPF Section 10</p>	<p>101. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding.</p> <p>102. If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed:</p> <ul style="list-style-type: none"> • it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and • a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its 	<p>which passes beneath the town in a culvert. The pavilion will be sited on land that is generally at 120.6 AOD and the floor levels will be above this figure; hence there is no risk to the proposed development from fluvial flooding at a 10 year plus 20% addition for climate change.</p> <p>2.28 With regard to the cricket pavilion the Flood Risk Assessment concluded. The pavilion will be sited on land that is generally at 120.63 AOD and the floor levels will be above this figure; hence there is no risk to the proposed development from fluvial flooding at a 10 year plus 20% addition for climate change.”</p>	

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	<p>users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Both elements of the test will have to be passed for development to be allocated or permitted.</p>		
<p>Green Space and Green Infrastructure.</p> <p>CS28</p>	<p>The design and layout of new development should take account of and provide opportunities to create and enhance green infrastructure provision, strategic and local, and improve accessibility to these assets from new and existing development.</p> <p>The following Green Infrastructure within the district is of strategic significance:</p> <ul style="list-style-type: none"> • Trent Strategic River Corridor • National Forest • Charnwood Forest • Coalville Urban Fringe • Swadlincote Urban Fringe • Loughborough Urban Fringe • Nottingham Urban Fringe <p>Local Green Infrastructure, which includes Areas of Separation, Local Green Spaces, parks, open spaces and playing fields as well as Sustainable Urban Drainage Systems, supplements the strategic network.</p>		<p>National Planning Policy Framework 77 makes it clear that designation as Local Green Space is not appropriate for most open spaces. However, the criteria for designation as Local Green Space do apply to the Bath Grounds. The Bath Grounds are close to the community it serves, has special significance to the community in terms of beauty, heritage and recreational value and is a unique open space which is local in character.</p> <p>We contend that the Bath Grounds meets all the criteria for designation as Local Green Space and so the policy for managing development should be consistent with policy for Green Belts.</p> <p>National Planning Policy Framework 87-89 makes it clear that the construction of new buildings within Green Belts should be regarded as inappropriate. The proposal to build houses on the Bath grounds does not meet any of the exceptions or permissions as described in paragraphs 89 and 90, and so should not be permitted.</p>
<p>NPPF 77 &</p>	<p>77. The Local Green Space designation will not be appropriate for most green areas or open space. The</p>		

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78	<p>designation should only be used:</p> <ul style="list-style-type: none"> • where the green space is in reasonably close proximity to the community it serves; • where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and • where the green area concerned is local in character and is not an extensive tract of land. <p>78. Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.</p>		