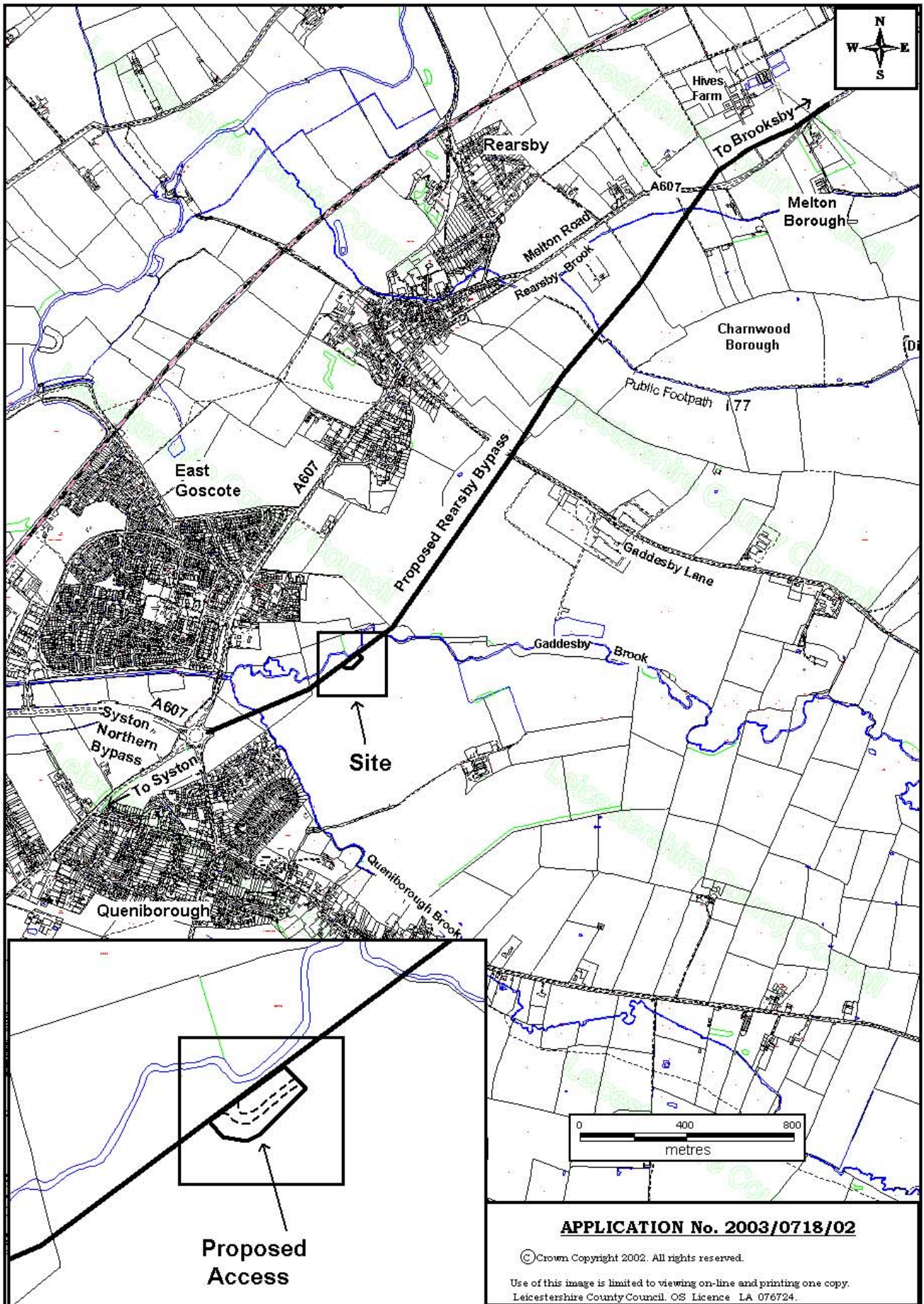


**Item 12(a)****DEVELOPMENT CONTROL AND REGULATORY BOARD****12<sup>TH</sup> JUNE 2003****REPORT OF THE DIRECTOR OF COMMUNITY SERVICES****APPLICATION UNDER REGULATION 3 OF THE TOWN AND  
COUNTRY PLANNING GENERAL REGULATIONS****LEICESTERSHIRE COUNTY COUNCIL – CONSTRUCTION OF AGRICULTURAL  
ACCESS, LAND ADJOINING A607 REARSBY BYPASS, EAST GOSCOTE  
(CHARNWOOD BOROUGH)****2003/0718/02 – 10<sup>th</sup> March 2003****Background**

1. Consent was granted on 16<sup>th</sup> May 2002 by the Regulatory Board for the construction of the Rearsby Bypass. This scheme provides for a 3.4 km link between the A607 Syston Northern Bypass and A607 at Brooksby Grange Farm, to the north east of Rearsby village (ref nos 2001/2249/02 and 2001/0633/06). It is identified in the County Council's current Local Transport Plan for construction in the period up to 2006. It is now programmed for commencement in Autumn 2003, with an anticipated construction period of one year.
2. In the meantime, progress is being made to acquire the necessary land and prepare, if necessary, for any compulsory purchase inquiry. As part of these negotiations, a request has been made by an adjoining land owner to the new road for a separate agricultural access from the bypass. This has resulted in the current application for a formal amendment to the approved scheme, in the form of a separate planning application.
3. The original scheme was accompanied by an Environmental Statement, albeit not formally required, which provides an updated assessment of the environmental impacts of the scheme. The assessment deals with a range of issues such as landscape impact, ecology, archaeology, community severance, etc. Conditions attached to the consent set out requirements for dealing with these matters, as well as those relating to the floodplain.

**Description of Proposal**

4. The current application relates to 0.75ha of land on the south-east side of the proposed line of the new road, about 0.7km from the extreme southern end of the



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road. At this point the road will be on an embankment between low lying fields alongside the Gaddesby Brook. It is intended to construct a 5.5m wide individual access road running parallel to the embankment and linking into the adjoining field. There would be a widened mouth to this roadway at its junction with the new highway.

5. There is already a separate access into the field on the opposite (north-east) side of the new road, staggered with this current proposal. The landowner is seeking consent for the additional agricultural field access, so that he may have a more convenient means of reaching his farmland and crossing the new route. The alternative means of access to the land would be across adjacent fields to the south, linking eventually with Coppice Lane in Queniborough, via an unmade private road.

### **Planning Policy**

#### **National Policy Guidance**

6. PPG25 was published in July 2001 and provides the Government's latest advice on Development and Flood Risk. It seeks to reduce the risks to people and the developed and natural environment from flooding, and advises planning authorities to ensure that flood risk is properly taken into account. The guidance introduces the concept of flood risk assessment and a sequential approach to development proposals.
7. Functional flood plains will not normally be considered appropriate for new built development, except for essential transport and utility infrastructure. In such cases, infrastructure should be designed and built so as to remain operational during times of flood; not to result in a net loss of flood storage capacity; and not to increase flood risk elsewhere. Applicants for planning permission are expected to carry out an assessment of the risk of flood posed by development over its expected lifespan, including detailed hydrological investigations and any mitigation measures.

#### **Strategic Policy Considerations**

8. *Strategy Policy 4* provides that development in the countryside will not be appropriate if it has a significant adverse effect on the character and appearance of the landscape. *Environment Policy 5* states that provision will not be made for development that would result in a reduction in the separation of settlements. The southern end of the Bypass route passes through an 'area of local separation' between East Goscote and Queniborough (as defined on the Deposit Local Plan).
9. Other policies in the Environment Chapter relate to the safeguarding and evaluation of archaeological features (*Environment Policy 2*); the protection of watercourses as wildlife and amenity area (*Environment Policy 9*); and the provision of comprehensive landscaping for new development (*Environment Policy 11*).

10. *Environment Policy 7* provides for the protection and conservation of ecological features, including the need for appropriate conditions to minimise disturbance and provide new habitats. It states that development will not be permitted which could adversely affect sites of county and district level interest, unless there is an overriding national or local need.
11. *Transport Policy 3* makes provision for specific strategic road improvement schemes within the Plan period (1996-1-2006). The provision of an A607 Rearsby Bypass is identified as a major County scheme to be implemented by 2006.

#### Local Policy Considerations

12. The Wreake Valley Local Plan was adopted in 1985. Whilst the proposed development is included within the Plan area, this document is now substantially out of date.
13. The Draft Local Plan for Charnwood Borough was placed on deposit in June 1996 and was the subject of an extensive public inquiry (Spring - Summer 1998). A second public inquiry has been held in the Borough Council's *Proposed Modifications* (report August 2002), in response to which the Council has recently published its Further *Proposed Modifications* (Jan 2003).
14. *Policy TR/2(iii)* of the Local Plan provides that planning permission will not be granted for development that would prejudice the eventual construction of the A607 Rearsby Bypass, which is identified on the Proposal Map.
15. *Policy CT/1* deals with areas outside the defined limits of development, where development will be strictly controlled. It provides for planning permission to be granted for (inter alia) 'strategically important schemes for mineral related uses, transport infrastructure, and other public services or utilities', where there would be no significant adverse environmental impact. *Policy CT/2* provides that such development should safeguard the historic, nature conservation and amenity interests of the locality.
16. *Policy EV/2* provides for the safeguarding of archaeological sites and remains, requiring the preservation and/or excavation and recording of such features in appropriate cases. Certain other policies in the Environment section of the Draft Plan relate to requirements for appropriate landscaping (*EV/25*); safeguarding sites of local ecological importance and nature conservation (*EV/27-29*); and protected species (*EV/30*).
17. Areas identified as floodplain on the Proposals Map are dealt with by *Policy EV/33*. This provides that planning permission will not be granted for development that is likely to increase flood risk, unless there is an overriding need, and adequate protection and mitigation measures are taken to compensate for the impact on the floodplain.

### **Consultations**

#### **Charnwood Borough Council – Planning**

18. No objection, but ask that the comments of the Borough council's landscape architect be taken on board. These comments refer to a 'lack of planting along the embankments and boundaries of the road', and recommend additional hedgerow and native tree planting

#### **Rearsby Parish Council**

19. No comments to make on the proposal

#### **Queniborough Parish Council**

20. The Parish Council wishes to object to this proposal unless it can have assurance that the proposed access will not be developed as a permanent road to Coppice Farm.

#### **East Goscote Parish Council**

21. No objections

#### **Environment Agency**

22. Initially, the Agency lodged a holding objection to the proposal on the basis of lack of information, as the application site is within an area of risk of flooding from the Gaddesby Brook. A flood risk assessment was requested, in accordance with para. 60 of PPG25.
23. Following consultation between the agency and the applicant, this holding objection has been lifted, as it has been determined that the proposed development is not in the line of the proposed flood discharge route and is away from the main stream and flood openings in the overall road scheme. Any loss of flood storage capacity arising from the development will be replaced within the compensatory flood area already agreed under the terms of the original consent for the new road scheme.

#### **Leicestershire Museums Service (Archaeology)**

24. Under application 2001/2249/02 a programme of fieldwalking and geophysical survey was undertaken by the University of Leicester Archaeological Services within the line of the proposed bypass. A substantial scatter of prehistoric flint was discovered in the proposed route as well as a number of subsurface archaeological features, also potentially of prehistoric date.
25. As a result of these initial surveys planning permission was granted subject to a number of archaeological conditions, one of which was for trial trenching. It is

recommended that the current application is also granted subject to a condition, so that this area can be included in the scheme of archaeological work.

26. This condition is as advised in paragraph 55 of DoE Circular 11/95. The “Programme of Work” referred to in the recommended condition will in this case be the archaeological trial trenching and any necessary subsequent archaeological work, in accordance with the Specification to be agreed.

#### **Director of Museums (Ecology)**

27. Before development commences, it should be ascertained that protected species will not be affected adversely by the proposal. A watching brief should be maintained as work progresses and, in the event of any protected species being discovered, the appropriate mitigating measures should be devised and implemented. A search for badgers, great crested newts, reptiles and water voles should be made before heavy machinery moves onto the site.

#### **Publicity**

28. This proposal has been advertised by site notices in the locality. No representations have been received in the period for response.

#### **Assessment of Proposals**

29. The proposal represents a minor alteration to the approved scheme for the full length of the proposed bypass, on behalf of an adjoining landowner, who has agricultural land on either side of the proposed route. Subject to a restriction on the use of the access (i.e. agricultural purposes only), there would appear to be no objection in principle to the development. The main considerations in this case relate to (i) road safety and (ii) impact on the function of the floodplain.
30. The development will result in an additional private access road onto a stretch of the proposed Rearsby Bypass, along which such facilities are kept to the necessary minimum. There is no objection from a highway safety aspect to this development, so long as its use remains incidental to the agricultural use of adjacent farmland. A condition of permission is recommended in this respect.
31. Insofar as the impact on the surrounding flood area is concerned, the Environment Agency has now confirmed that it has no objection to the development. Any (marginal) impact on the capacity of the flood storage area works can be accommodated adequately within the proposed compensatory flood area for the overall scheme.
32. There are marginal impacts arising from the amendment to the road scheme for matters of landscaping, ecological impact, archaeological requirements and surface water drainage. These matters can best be dealt with through the conditional requirements of the ‘principle’ permission for the new road, and cross-referenced in the current decision. Subject to the above provisos, the proposal is considered to be acceptable.

### **Recommendation**

Permit, subject to the following conditions:

1. The development hereby permitted shall be begun before 16<sup>th</sup> May 2007.
2. This consent shall be implemented as an amendment to permission no 2001/2249/02, granted on 16<sup>th</sup> May 2002 and any relevant conditions attached to that consent. The terms of permission no. 2001/2249/02 shall apply to the consent hereby granted, insofar as they are affected by the amended scheme, namely:
  - (i) conditions no. 3-6 (landscape scheme and implementation);
  - (ii) conditions no. 7-10 (surface water drainage);
  - (iii) condition no. 11 (ecology); and
  - (iv) conditions no. 14-18 (archaeology).
3. The means of access approved by virtue of this permission shall be used solely in conjunction with the agricultural use of the adjoining land and for no other purpose whatsoever, including a means of access to any land for purposes in connection with residential or commercial use.
4. Before any development commences on site, including site preparation works of any kind, a detailed scheme shall be submitted to and agreed in writing by the Director of Community Services, to indicate the provision to be made for the replacement of flood water storage capacity within the locality.
5. No development shall take place within the application area, including sites works of any kind, until the applicant (or their agent or successors in title) has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which shall be submitted to and approved in writing by the Director of Community Services.

### **Reasons**

1. To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, and to enable the County Planning Authority to review the position at the end of this period in the context of the consent for the overall scheme.
2. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner.
3. In the interests of highway safety and the relationship to any existing or proposed land use activities in the locality.
4. To ensure that the function of the floodplain is not compromised.

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5. To ensure that satisfactory provision is made for the safeguarding, investigation and recording of any archaeological remains affected by the development.

**Policies and Proposals of the Development Plan relevant to this decision**

Strategy Policies 2, 3 & 5; Environment Policy 3; and Transport Policy 2 of the Structure Plan:

**Circulation Under Sensitive Issues Procedures**

Prof. M. E. Preston, CC

**Officer to Contact**

Mr. C. J. Noakes (Tel. 0116 265 7053)  
E-Mail: [planningcontrol@leics.gov.uk](mailto:planningcontrol@leics.gov.uk)

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# **DEVELOPMENT CONTROL AND REGULATORY BOARD**

The considerations set out below apply to all preceding applications.

## **EQUAL OPPORTUNITIES IMPLICATIONS**

Unless otherwise stated in the report there are no discernible equal opportunities implications.

## **IMPLICATIONS FOR DISABLED PERSONS**

On all educational proposals the Director of Education and the Director of Resources will be informed as follows:

### **Note to Applicant Department**

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970 and the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984.

You are advised to contact the County Council's Assistant Personnel Officer (Disabled People) if you require further advice on this aspect of the proposal.

## **BACKGROUND PAPERS**

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

## **SECTION 54A OF TOWN AND COUNTRY PLANNING ACT 1990**

Members are reminded that Section 54A of the 1990 Act requires that:

"Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. the Structure Plan or any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are:

Section 70(2)	:	determination of applications;
Section 77(4)	:	called-in applications (applying s. 70);
Section 79(4)	:	planning appeals (applying s. 70);
Section 81(3)	:	provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
Section 91(2)	:	power to vary period in statutory condition requiring development to be begun;
Section 92(6)	:	power to vary applicable period for outline planning permission;
Section 97(2)	:	revocation or modification of planning permission;
Section 102(1)	:	discontinuance orders;
Section 172(1)	:	enforcement notices (the phrase occurs also in the new s. 172 which is substituted by the Planning and Compensation Act 1991, but not in the new provisions relating to planning contravention notices (new s. 171C) and breach of condition notices (new s. 187A);
Section 177(2)	:	Secretary of State's power to grant planning permission on enforcement appeal;
Section 226(2)	:	compulsory acquisition of land for planning purposes;
Section 294(3)	:	special enforcement notices in relation to Crown land;
Sched. 9 para (1)	:	minerals discontinuance orders.