

Report of the Strategic Director (Service Delivery)

[Section 1: Planning Applications](#)

[Section 2: Appeals](#)

In accordance with the provisions of Section 100D of the Local Government Act 1972, background papers are the contents of the files whose registration numbers are quoted at the head of each report, but this does not include material which is confidential or exempt (as defined in Sections 100A and D of that Act, respectively).

1. Planning Applications

This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 2015 (as amended) responses to County Matters and strategic submissions to the Secretary of State.

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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

1. The issues of fact raised by the report of the Strategic Director (Service Delivery) or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the Strategic Director (Service Delivery), arise from a Member's personal knowledge of circumstances on the ground that lead to the need for clarification that may be achieved by a site visit.
3. Implications that may be demonstrated on site arise for consistency of decision making in other similar cases.

Glossary of terms

The following reports will often abbreviate commonly used terms. For ease of reference, the most common are listed below:

| | |
|--------|---|
| LP1 | Local Plan Part 1 |
| LP2 | Local Plan Part 2 |
| NP | Neighbourhood Plan |
| SPD | Supplementary Planning Document |
| SPG | Supplementary Planning Guidance |
| PPG | Planning Practice Guidance |
| NPPF | National Planning Policy Framework |
| NDG | National Design Guide |
| SHMA | Strategic Housing Market Assessment |
| SHELAA | Strategic Housing and Employment Land Availability Assessment |
| s106 | Section 106 (Agreement) |
| CIL | Community Infrastructure Levy |
| EIA | Environmental Impact Assessment |
| AA | Appropriate Assessment (under the Habitat Regulations) |
| CPO | Compulsory Purchase Order |
| CACS | Conservation Area Character Statement |
| HER | Historic Environment Record |
| LCA | Landscape Character Area |
| LCT | Landscape Character Type |
| LNR | Local Nature Reserve |
| LWS | Local Wildlife Site (pLWS = Potential LWS) |
| SAC | Special Area of Conservation |
| SSSI | Site of Special Scientific Interest |
| TPO | Tree Preservation Order |
| BNG | Biodiversity Net Gain |
| PRoW | Public Right of Way |
| POS | Public Open Space |
| LAP | Local Area for Play |
| LEAP | Local Equipped Area for Play |
| NEAP | Neighbourhood Equipped Area for Play |
| SuDS | Sustainable Drainage System |
| LRN | Local Road Network (County Council controlled roads) |
| SRN | Strategic Road Network (Trunk roads and motorways) |
| | |
| DAS | Design and Access Statement |
| ES | Environmental Statement (under the EIA Regulations) |
| FRA | Flood Risk Assessment |
| GCN | Great Crested Newt(s) |
| LVIA | Landscape and Visual Impact Assessment |
| TA | Transport Assessment |
| | |
| CCG | (NHS) Clinical Commissioning Group |
| CHA | County Highway Authority |
| DCC | Derbyshire County Council |
| DWT | Derbyshire Wildlife Trust |
| EA | Environment Agency |
| EHO | Environmental Health Officer |
| LEP | (D2N2) Local Enterprise Partnership |
| LLFA | Lead Local Flood Authority |
| NFC | National Forest Company |
| STW | Severn Trent Water Ltd |

Item No. 1.1

Ref. No. [DMPA/2024/0051](#)

Valid date: 11/01/2024

Applicant: John Davis

Agent: J J M Planning Ltd

Proposal: **Erection of 9 dwellings at Merrilees, Cadley Hill Road, Swadlincote, DE11 9EQ**

Ward: **Church Gresley**

Reason for committee determination

This item is presented to the Committee at the request of Councillor Stuart as local concern has been expressed about a particular issue, there are unusual site circumstances that should be considered by the committee and the previous committee application DMPA/2020/0127.

Executive Summary

The application proposes a revised scheme to a previously refused planning application. The revised scheme is considered to overcome the reasons for refusal and is therefore recommended for approval subject to the conditions. Conditions are recommended to ensure suitable noise mitigation measures are integrated into the dwellings and site as a whole. Further conditions are recommended to secure protection measures for the trees and hedgerows that are to be retained and further conditions to secure appropriate landscaping, species and retention measures. Whilst there will be some increased traffic movements within the site and associated noise from these comings and goings and the potential for conflict between the existing businesses and the future occupants of the properties on balance, given the reduction in numbers of dwellings which facilitates greater separation distances between existing and proposed dwellings and uses and the increased planting within the site it is considered that the provision of 9 dwellings on a brownfield site within the settlement boundary of Swadlincote is considered to provide an acceptable, sustainable form of development which would outweigh any harm caused.

Site Description

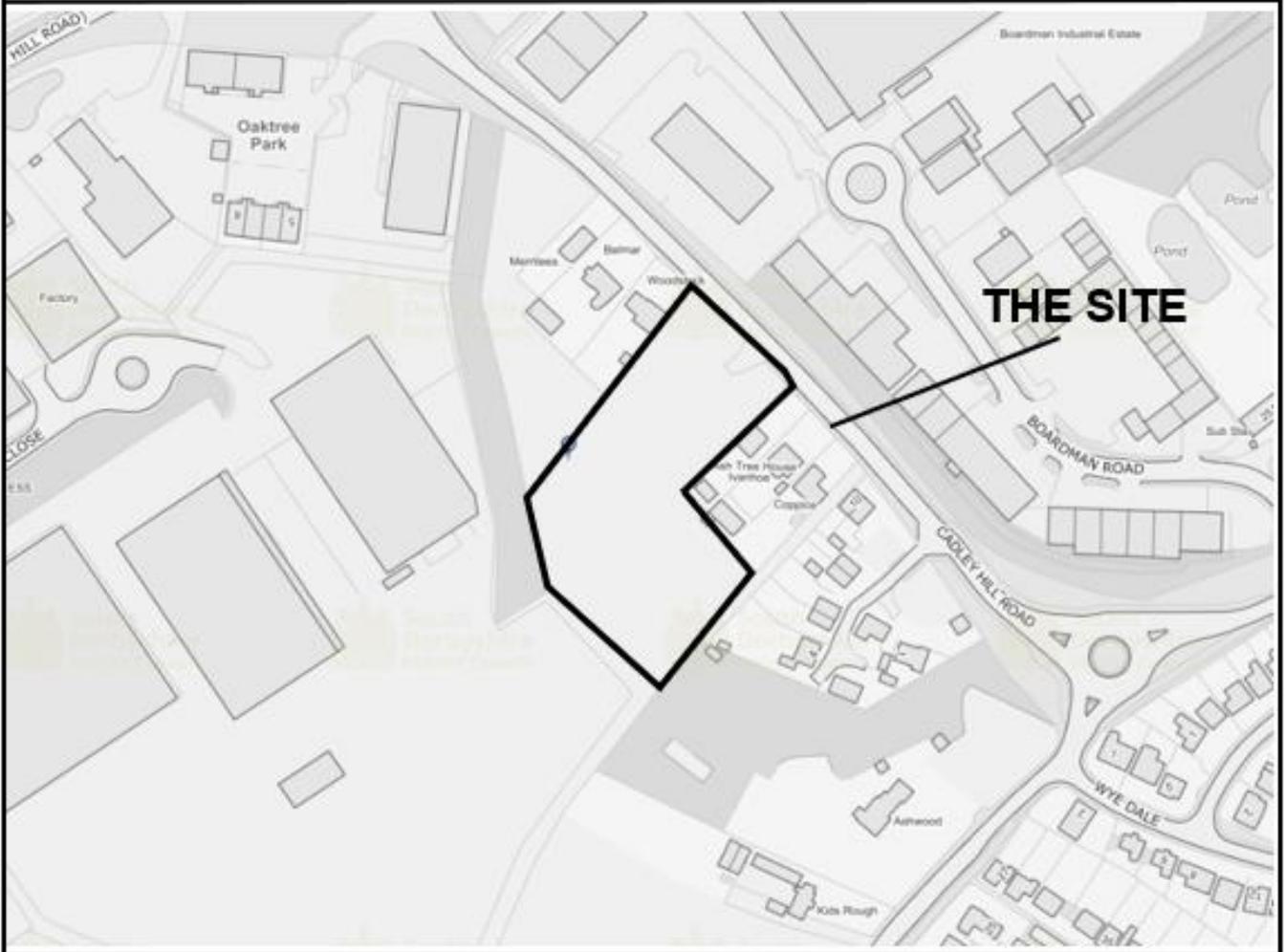
The application site lies to the southwest of Cadley Hill Road, from which an existing vehicular access is taken, the site lies within Church Gresley Ward, on the outskirts of the urban area of Swadlincote and lies between the associated urban and residential areas within the settlement boundary. The site, most recently in use as a boarding kennel, but now having had all associated structures, except some internal hard standing removed, is somewhat overgrown. The site is broadly level at the north and west and rises slightly to southeastern periphery. To the northwest and southeast the site is bound by residential dwellings accessed off Cadley Hill Road and Woodlands Close. To the west and northwest rear of the site lie industrial units accessed off Ryder Close, to the southwest periphery of the site lies land forming employment allocations (E1A and E1G) within the South Derbyshire Local Plan Part 1.

The site is within the National Forest Area and lies within Flood Zone 1. The Council's mapping system indicates that the site may contain contaminated land and that it is within the Coal Mining Risk Referral Area.

The proposal

The application proposes the erection of 9no detached residential dwellings taking access from the existing point off Cadley Hill Road and proposing improvements to the existing access to safely facilitate this proposal. In addition to the dwellings proposed include a central access road within the site and landscaping to the periphery of the site. Single garages are proposed to serve plots 4 and 7, plot 5 is proposed to be served by a double garage and plots 8 and 9 to share a double garage.

DMPA/2024/0051– Merrilees, Cadley Hill Road, Swadlincote, DE11 9EQ



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South Derbyshire District Council, LA 100019461.2020

Plots 8 and 9 (House Type A) are oriented to front Cadley Hill Road, the plots are set back from the residential dwelling to the northwest of the site and sit between the northwest boundary of the site and the internal road. To the southeast of the internal road, between the road and the neighbouring dwelling a landscaped area of meadow grassland with tree planting is proposed. 3no dwellings (1no Type B, 1no Type C and 1no Type E) are proposed to front the internal road and to sit between the road and the northwestern periphery of the site. 1 no Type D dwelling is set to the southwest of the site at an angle to the other dwellings and 3no (1no Type E and 2no Type C) dwellings are sited to the southeast of the site broadly parallel with the southeastern boundary.

The plot numbers, house types and parking provision are shown below:

Plot 1: House type E - 4 bed, 2 parking spaces

Plot 2: House type - 3 bed, 2 parking spaces

Plot 3: House type C - 3 bed, 2 parking spaces

Plot 4: House type D (V1) - 3 bed, 3 parking spaces

Plot 5: House type B - 4 bed, 3 parking spaces

Plot 6: House type E - 4 bed, 2 parking spaces

Plot 7: House type C - 3 bed, 2 or 3 parking spaces (parking plot dependent)

Plot 8: House type A - 4 bed, 3 parking spaces

Plot 9: House type A - 4 bed, 3 parking spaces

Woodland planting is proposed between the rear gardens of dwellings to the southwestern periphery of the site and the boundary with existing employment uses and hard and soft landscaping across the rest of the site.

Applicant's supporting information.

Planning Statement, prepared by JJM Planning, dated January 2024, received 10/01/2024

The Planning Statement sets out the relevant planning considerations and outlines how the scheme is considered to have overcome the previous reasons for refusal of application DMPA/2020/0127.

Design and Access Statement, prepared by Cleveley King Architects, dated 23/01/2020, received 10/01/2024

The submitted design and access statement makes reference to the 15 unit scheme and summarises the policy context, design of the development and local setting and concludes that the scheme is a high quality, modest residential development that is commensurate with the surroundings and site that presents a positive contribution to the surroundings.

Noise impact assessment report prepared by Noise Air, report reference P4136-R2-V1, dated 17/07/2023, received 10/01/2024

The Noise Impact Assessment conclude (7.1.2) that, receptors within the site for daytime periods are likely to be at medium risk of adverse noise impacts with no mitigation, during the nighttime, dwellings to the north east are likely to experience medium risk and dwellings to the centre and south west low to medium effects without mitigation. The report recommends adequate mitigation is included within the final development, including the installation of an acoustic barrier, the installation of a sound insulation scheme that includes mechanical ventilation and high performance glazing that would allow for windows to be closed if necessary. The report sets out that by implementing the recommended sound insulation scheme, with windows close, internal noise levels will be below impact.

The report also assesses the potential noise impact on Ash Tree House from the proposed internal road and concludes this will be a minimal effect.

Preliminary Ecological Appraisal prepared by Brindle and Green, reference: BG19.268.1 dated March 2024, received 05/04/2024

The PEA covers the scope of a PEA with Phase 1 Habitat Survey and Protected Species Assessment for the site. It sets out the potential ecological constraints to the planning application. The report identifies the potential of habitats to support protected and, or, notable species and sets out measures necessary to protect species during site clearance and makes recommendations of biodiversity improvements. The report concludes that direct impacts on nearby designated sites are unlikely. The site is described as being dominated by poor semi-improved grassland and other vegetation that provide limited ecological value and are common locally. They note the proposed retention of higher HPI value native hedgerows that elevate the overall value. The report sets out the following recommendations:

- Works should take place outside bird breeding season, where not possible further advice is given
- Soft landscaping proposals should be employed to enhance the biodiversity of the site
- Suitable lighting should be used to prevent disturbance to foraging or commuting bats, soft landscaping should also incorporate species benefit to species predated by bats
- Reasonable avoidance measures for badgers should be put in place before and during development, consideration should be given to the plating of native fruit trees to provide foraging habitat
- Reasonable avoidance measures (RAM's) for GCN should be implemented and secured via condition
- RAM's for reptiles should also be secured via condition
- RAM's should be put in place for mammal species including hedgehogs, design enhancements should be secured to provide travel routes for hedgehogs

Coal Mining Risk Assessment prepared by Ivy House Environmental, dated January 2019 and received 10/01/2024

The Coal Mining Risk Assessment concludes that there is a risk of unrecorded mine workings to pose a risk to ground stability and recommend a programme of rotary drilling and if necessary a programme of drilling and grouting may be required to stabilise unrecorded workings if these are encountered. A further watching brief is recommended during the foundation and excavation ground works with advice offered in respect of any discoveries in this regard.

Phase I and II Geo-Environmental Assessment by Ivy House

The Geo-Environmental Assessment undertook recommended borehole drilling the locations of which are included within the report. The investigation findings were concluded to provide reasonable justification of a negligible risk of ground instability due to the collapse of shallow unrecorded mine workings. The report also concluded that the risk of unrecorded mine entries was now reduced to a very low level and advise a watching brief be undertaken for the foundation excavation and ground works and that should any features that indicate back filled workings or historic mine shafts these be investigated and recorded by a competent person.

Arboricultural Impact Assessment Report prepared by Brindle and Green; report reference: BG19.268.1, dated August 2019, received 10/01/2024

The Arboricultural Impact Assessment submitted assessed the quality of trees on the site and made recommendation for tree removal to facilitate the development of the previously refused scheme. It further recommended replacement planting and tree protection measures.

Drainage statement prepared by Dice, report reference: 100307/WO/JAN-20/01, dated January 2020, received 10th January 2024

The drainage statement refers to the previously proposed scheme. The report concludes that infiltration rates on the site are not viable for infiltration or soakaway systems, and as such the system proposed is an attenuation system that mimics surface water flows from the existing site and discharges to the existing combined sewer on Cadley Hill Road. Foul water drainage is also proposed to be discharged to the Cadley Hill Road combined sewer.

Relevant planning history

9/2016/0654 – Outline application (all matters to be reserved) for the residential development of one detached dwelling and garage. **Withdrawn**

DMPA/2020/0127 - Erection of 14no. dwellinghouses, with associated parking, internal road and amenity space, along with the creation of access. **Refused** - November 2023.

Responses to consultations and publicity

Consultees

Derbyshire County Council - Local Highway Authority - No objection, subject to conditions and informatives - 12/02/2024.

The Officer notes that the application is an amendment to the previously refused application for 14no dwellings. They set out that there were no objections, subject to conditions, from the highway authority. They note the same access and internal, adoptable road layout are proposed in this application and confirm that they have no objection subject to the inclusion of the previously recommended conditions for wheel washing, highway construction management statement/ plan and the installation of the improved access, maintenance of pedestrian visibility splays, provision and retention of parking and garaging space, agreement of full details of the internal road layout including management and maintenance, details of surface water drainage and a condition restricting internal lighting.

The Coal Authority - No objection, informatives requested - 14/02/2024.

The Coal Authority agree the findings of the reports submitted and offer no objections to the proposed scheme. Advice is offered and requested to be included as informative notes.

Derbyshire Wildlife Trust - No objection subject to conditions - 12/04/2024

Final - Confirm agreement to the findings of the updated Preliminary Ecological Appraisal (PEA). Based upon the findings of this they request the inclusion of conditions to secure reasonable avoidance measures to prevent risks to protected and priority species and secure net gains to biodiversity.

Initial - request further updated survey work be undertaken and submitted for consideration - 29/02/2024

The National Forest Company - No objection, subject to conditions - 13/02/2024.

The Officer notes in their response they had previously commented on an application for 14no dwellings at the site for which a financial contribution was proposed to meet the National Forest Planting requirement. They note the current site area and the requirement of Local Plan Policy INF8 that, by virtue of this, 20% of the site area (0.14ha) is required to be woodland planting and landscaping. They note the site plan shows an unquantified area of woodland planting, which they assume to be the National Forest planting offer and observe any absences of detail relating to this woodland., they note the submitted Design and Access statement makes reference to a financial contribution and appears to be that of the previously submitted application. They further note in the comment that, if the proposed woodland planting extends to 0.14ha the details of species mix, size and density can be secured by condition, having regard to the management of these areas.

South Derbyshire District Council - Environmental Health Officer – No objection subject to conditions securing:

- An acoustic barrier at the southwest of the site (prior to commencement of use)- A sound insulation scheme to meet sound reduction index (SRI) in table 19 of the noise assessment report reference P4136-R2-V1 dated 17th July 2023
- Glazing specification capable of achieving 40dB Rw+Ctr, to all rooms with mechanical ventilation to habitable rooms – including the submission of an overheating assessment as part of this scheme.

- The final design should have no passive wall or window vents.
- Submission, upon completion of the above works, of a validation report prepared by a competent person to be approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology.

South Derbyshire District Council - Tree Officer - No response at the time of writing.

Severn Trent Water - No response at the time of writing.

Members of the Public and Neighboring Land Owners

Comments were received from 3 members of the public and one representative of the adjacent commercial landowner. These are summarised below: Concerns relating to the re-submission of documents

- a) Requests relating to the placement of the site notice and the location of the site notice as placed
- b) The design of the development is not appropriate in the surrounding context.
- c) The design of the houses do not match the building styles of the road and in keeping to the area. noise levels will increase to boundary houses, the distance of the houses to the existing plots has not been thought of.
- d) The view from the front looks one sided and cramped in on one side
- e) There will be light pollution to neighbouring dwellings from the parking of vehicles
- f) The development will overlook existing gardens
- g) Concerns relating to construction noise
- h) Houses at the boundary could destabilise existing houses
- i) Previous planning conditions have not been followed
- j) There are concerns that the proposed noise control measures will render the scheme unviable
- k) Any conditions securing noise mitigation measures should be secured to safeguard future residents.
- l) Trees on the boarders to the west of the site have been removed by an adjoining factory .The remaining trees although on the boarder do not sit on the applicant's land so therefore cannot guarantee that theses tree's will not be removed in the future.
- m) Whilst the application plans to use sustainable materials to help reduce noise from Keystones any proposed development still does not take into account residents will suffer noise pollution when opening windows or sitting in the garden.
- n) It is appreciated that the new application has removed plans to build or remove hedgerow on the boarder of Ashtree House, it is queried if it can be guaranteed that no further application would be made to build more property if this application were granted
- o) Concerns that this is a virgin site and that the development would destroy local wildlife habitats.
- p) It is reasonable that a much greater area is let undisturbed to support local wildlife
- q) There are bird and bat species with established communities close to the site

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): Policy S1: Sustainable Growth Strategy; Policy S2: Presumption in Favour of Sustainable Development; Policy S4: Housing Strategy; Policy S6: Sustainable Access; Policy H1: Settlement Hierarchy; Policy H20: Housing Balance; Policy SD1: Amenity and Environmental Quality; Policy SD2: Flood Risk; Policy SD3: Sustainable Water Supply, Drainage and Sewerage Infrastructure; Policy SD4: Contaminated Land and Mining Legacy Issues; Policy BNE1: Design Excellence; Policy BNE3: Biodiversity; Policy INF1: Infrastructure and Developer contributions; Policy INF2: Sustainable Transport; Policy INF8: The National Forest

2017 Local Plan Part 2 (LP2):

Policy BNE7: Trees, Woodland and Hedgerows

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is: National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

The relevant legislation is:

The Town and Country Planning (General Permitted Development) Order 2015 (as amended)

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Policy and principle of development
- Residential Amenity
- Design and impact on the character of the surroundings (Nat forest)
- Trees Biodiversity and Landscaping
- Highway Safety
- Coal Mining legacy and contaminated land
- Other Issues

Planning assessment

Policy and Principle of Development

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the application site comprises the Local Plan, Part 1 (2016) and Part 2 (2017).

The National Planning Policy Framework adopts a presumption in favour of sustainable development and identifies that for decision taking there are three key objectives in achieving sustainable development these are environmental, social and economic. The benefits and harm of development proposals should be considered in accordance with these objectives and weighed in the balance when making planning decisions.

The NPPF recognises the need for a sufficient amount and variety of land to come forward where it is needed in order to meet the Government's objective of significantly boosting the supply of homes. It summarises that the overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types. Paragraph 70 sets out the important contribution made to meeting housing requirements that is made by small and medium sized sites which can be built-out relatively quickly, sub paragraph d) advises that LPA's should support the development of windfall sites through policies and decisions - giving great weight to the benefits of using suitable sites within existing settlements for homes.

Local Plan Policy S1, the Sustainable Growth Strategy commits to building at least 12618 dwellings in the district over the plan period (2011 - 2028) in order to meet objectively assessed housing need and sets out that this will be achieved on a mix of brownfield and greenfield sites with encouragement given to the reuse of previously developed land. Policy S2 commits to a positive approach to applications that reflects the National Planning Policy Framework's presumption in favour of sustainable development, committing in this policy to deal positively and expeditiously with applications that accord with the policies of the Local Plan, unless material considerations indicate otherwise.

Section 5 of the LPP1 focuses on housing and the explanatory text sets out in table 3 the land supply for Swadlincote and Villages, showing the no. of dwellings to be delivered on allocated sites within

Parts 1 and 2 of the Local Plan and identifies that 450 dwellings will be delivered through windfall sites. Policy S4 sets the Housing Strategy for the district to deliver the required quantum of housing across allocations, the settlement hierarchy set out within Policy H1 identifies Swadlincote as an urban area and specifies that within urban areas development of all sizes within the settlement boundary will be considered appropriate. Policy H20 seeks to support a balance of dwelling types and makes no prescription for the density of sites but sets out that housing development should make the most efficient use of land having account of what is appropriate for the surrounding local built and natural environment.

The application site is a previously developed site, last in use as canine boarding kennels, that lies within the settlement boundary of the urban area of Swadlincote. The site is bound by both residential and commercial uses as well as vacant land and tree belts. The application proposes the construction of 9 dwellings comprising a mix of 3 and 4 bedroom properties. The density of the site equates to around 11.5 dwellings per hectare which is lower than the surrounding patterns of development but considered to make efficient use of land as required by the development plan. The proposal is considered to accord with the requirements of the NPPF and the development plan in that it delivers a housing development within the settlement boundary, making efficient use of previously developed land that could be built out relatively quickly and serve to deliver windfall development to support the achievement of sufficient housing supply thus addressing need within the District. The development is therefore considered acceptable in principle, subject to the material considerations which are discussed below.

Design and impact on the character of the surroundings

The NPPF places emphasis upon good design which runs through various sections of the framework and is noted within the social objective to play a role in shaping beautiful and safe places and sustainable communities. Good design is also considered important to make effective use of land, assimilate development into the surrounding area, provide a good range of travel options and to fundamentally provide places that are attractive, and that people want to live in. Section 12 concentrates on well-designed places and sets out that planning decisions should ensure that development functions well and adds to the quality of an area for their lifetime, are visually attractive due to the architecture, layout and landscaping, are appropriately sympathetic to the surroundings whilst establishing a sense of place using different features to create attractive, welcoming and distinct places to live that are of an appropriate mix of built and green infrastructure and minimise opportunities for crime and disorder.

Local Plan Policy BNE1 sets the districts requirements for good design quality placing an expectation on development to achieve safe and healthy environments that are easy to access and move around and that are appropriate to their location providing coherence, such as in the national forest and also conform to the Design Guide Supplementary Planning Document. Policy BNE1 sets out that new development within the National Forest area should follow the Design Charter, and the 'Guide for Developers and Planners'. Matters in relation to the National Forest are fully discussed within the latter appropriate section of the report.

The site is laid out with a single access and egress point that will be delivered through the improvement of the existing access off Cadley Hill Road. Fronting Cadley Hill Road the two proposed dwellings are arranged to the northwest of the access and are set back from the road being separated by a further are including planting, the dwellings proposed are aligned to the existing adjacent pattern of development fronting the road to the northwest of the site. The remaining dwellings are arranged to overlook the internal road and therefore offer surveillance of the landscaped areas within the site, this orientation also places the dwellings with the rear gardens closest to the boundaries of the site and offers appropriate separation distances between proposed and existing dwellings. The individual dwellings are of a contemporary design using a mix of materials, including brick and timber cladding that are seen on other dwellings on and off Cadley Hill Road and styles that will not appear incongruous when viewed alongside existing development.

Residential Amenity

Paragraph 180 e) of the National Planning Policy Framework sets out that planning decisions should contribute towards the local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution. It progresses to advise in paragraph 191 that decisions should ensure new development is appropriate for its location taking into account the likely effects on health and living conditions and in doing so mitigate and reduce to a minimum potential adverse impacts resulting from noise from new developments.

Policy SD1 of the Local Plan part 1 sets out that the Council will support development that does not lead to adverse impacts in the environment or amenity of existing and future occupiers within or around proposed developments. The latter part of the policy considers the need for a strategic buffer between conflicting land uses in order that they do not disadvantage each other in respect of amenity issues such as noise.

The areas of the proposed development that are adjacent existing residential dwellings are considered to introduce compatible uses and do not represent unacceptable forms of development in this location. With respect to the areas of the proposals that lie in closest proximity to the neighbouring commercial uses it is noted that an objection is received from a representative of the adjacent business in respect of the potential for noise related issues. due to the relationship between the proposed dwellings and the operations at Keystone Lintels and the potential for complaints relating to noise from future occupiers of the dwellings. The representation references paragraph 193 of the NPPF which sets out:

Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

The response requests the Council give careful consideration to the conditions necessary to ensure the future residents are protected from noise impacts in order to safeguard against Keystone Lintels operations and raises issue with the use of the previously submitted noise report. The Council's Environmental Health Officer has not requested this be updated nor questioned the use of this report. They have requested a number of conditions to secure mitigation measures to be submitted prior to the commencement of development and a verification of the performance of such measures prior to occupation of the dwellings. In addition the scheme proposed enlarges the separation distances - this is laid out below:

| Previous scheme | | Proposed scheme | |
|-----------------|------------------------------|-----------------|------------------------------|
| Plot number | Closest distance to boundary | Plot number | Closest distance to boundary |
| Plot 9 | 7m (rear corner) | Plot 4 | 26m (rear) |
| Plot 7 | 6.95 (rear) 3.7 (side) | Plot 5 | 28m (side) |
| Plot 6 | 4.8m (side) | Plot 3 | 24.5 (side) |

The application proposes a greater distance between the proposed and existing uses, this coupled with conditions which secure mitigation before the development has been commenced and occupied are considered to address the relevant requirements of the NPPF and the development plan. Furthermore, the development is proposed with greater separation between the differing uses and as such it is considered that the controls in place will offer confidence to ensure that the development will not be brought forward in a manner that will result in adverse effects beyond what can be controlled via

condition and the built fabric of the dwellings.

The below visual comparison of the previously refused and currently proposed schemes shows the removal of 4 previously proposed plots, and the proposed planted area that would be located in this area.



The proposed scheme is considered to be a betterment to the design of residential design that will help to reduce noise levels experienced by residents. The inclusion of conditions to secure suitable ventilation and glazing systems that ensure a post development level of noise are recommended and supported by the Council's Environmental Health Officer. In addition to the recommendations for the previous scheme the EHO recommends the inclusion to the southwestern boundary of a noise attenuation bund, that will further safeguard the proposed dwellings from excessive levels of noise. It is considered that the proposed scheme, subject to conditions, and by virtue of the reduced quantum of development, addresses the previous reason for refusal and that the current scheme complies with the relevant development plan policies.

Trees and Landscaping

Policy BNE7 of the Local Plan Part 2 requires that where development is proposed that could affect trees and hedgerows it will be required to demonstrate that appropriate measures are secured to ensure adequate root protection and buffers around these. Paragraph D of the policy further requires that where new planting is proposed consideration should be given to the different characteristics of the site. The Local Plan supports the National Forest objectives including increased woodland cover and recognises the environmental and economic benefits that the National Forest brings to the district. It recognises the potential impact upon the character of the district through different types of development including large modern developments and, in recognising this, focuses on the importance of high-quality design in the planning process.

Policy INF8 sets out that the District Council will work with the National Forest Company and partners to deliver the National Forest Strategy, create an attractive, sustainable environment and achieve 33% woodland cover. It requires all residential schemes over 0.5ha to incorporate tree planting and landscaping in accordance with the National Forest Planting Guidelines and referencing the Guide for Developers and Planners. It requires that development is appropriately sited and scaled in relation to the setting within the forest. The woodland planting and landscaping requirements of Policy INF8 require 20% of this site to be woodland planting or landscaping. Policy BNE3 relates to biodiversity and seeks to support targets within the National Forest Biodiversity Action Plan. Policy BNE4 requires that developers show regard has been had to the landscape types within the National Forest Landscape

Character Assessment within the design of the scheme and the incorporation of landscaping and woodland planting.

The application site lies within the National Forest and by virtue of the site size 20% of the site is required to be landscaped or planted with trees in order to support the national forest aspirations and comply with the relevant policies. The site extends to around 7900m square, of which the layout plan shows circa 1626m square of wooded area to the southern boundary and 1026m square meadow grassland with tree planting to the northeastern boundary of the site, these areas equate to 20.5% and 12.9% of the site area respectively. The comments of the National Forest Officer are taken into account and it is considered necessary to impose a condition to secure full details of the proposed landscaping as part of this recommendation, such a condition is in accordance with the requirements of the relevant policies.

Reason for refusal number 2 of the previous permission stated:

The proposed development would result in the loss of trees and work to adjacent boundary hedgerows impacting the established landscaped character which is not considered to be outweighed by the proposed planting and landscaping contrary to Policies BNE1, BNE3 and BNE4 of the South Derbyshire District Local Plan.

The current scheme represents a betterment of this position in that there are now no trees proposed for removal to allow for the development. The majority of hedgerow previously proposed for removal is now proposed for retention, the sole exception to this is the removal of some hedgerow either side of the entrance off Cadley Hill Road, this is necessary to facilitate safe access and egress. In addition to the retention of existing trees and hedgerows the application proposes significant tree planting to the southern area of the site where dwellings have been removed. The Planning Statement sets out that this has been done to address the previous reason for refusal. It is considered that these revisions to facilitate retention and additional planting are considered to comprehensively address the previous reason for refusal and as such there are no robust grounds in relation to tree or hedgerow removal that would justify the refusal of this revised application.

This recommendation includes conditions that secure a scheme of protection methods and a detailed landscaping scheme that are included to give confidence that existing trees and hedgerows will be adequately protected during the construction process and that the landscaping scheme, species and planting will be considered acceptable by the

The increased level of planting should be considered a benefit of the scheme in terms of increasing woodland cover and offering a betterment to the design of the scheme.

Biodiversity and Ecology

The National Planning Policy Framework describes how planning decisions should contribute to and enhance the natural and local environment in a variety of ways. Of relevance to this development proposal is the requirement that development should minimise impacts on and provide net gains for biodiversity. Expanding upon this requirement, it sets out principles which should be applied in the determination of planning applications, stating at paragraph 186 that planning permission should be refused if it is not possible to avoid, mitigate or compensate for significant harm to biodiversity resulting from the development proposal.

Policy BNE3 of the Local Plan sets out that the LPA will support development that contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains in biodiversity wherever possible.

The application is supported by a Biodiversity Metric that shows that the site can deliver a 19.58% increase in biodiversity units on site and a 26.54% increase in hedgerow units on site. The metric has been reviewed by the Derbyshire Wildlife Trust who confirm the trading rules have been satisfied and the required net gain is therefore met on-site with no requirement for off site gains in this instance. The updated PEA has also been reviewed by DWT who agree the development is unlikely to result in harm

to species, the trust request the inclusion of conditions during the construction phase to ensure that no harm arises to species that may use the site at present and that post development enhancements within the site are secured by conditions. The proposed conditions to secure the metric and ongoing habitat and landscape improvements as well as species specific improvements are considered acceptable and are included within this recommendation. The proposed scheme delivers enhancements and is considered acceptable in terms of the impacts on biodiversity and species.

Highway Safety, access and parking

The National Planning Policy Framework requires in paragraph 114b that during the consideration of development proposals it should be ensured that safe and suitable access to the site can be achieved for all users. Where this is unachievable the Framework advises that development can be refused.

Policy S6 of the Local Plan looks to minimise the need to travel and make efficient use of transport infrastructure and services as well as encouraging use of sustainable transport modes. It seeks to achieve this by seeking patterns of development that enable travelling distances to be minimal and make the best use of existing transport infrastructure and services.

The application proposes the enhancement of the existing access off Cadley Hill Road to offer both pedestrian and cycle access to the scheme. Private parking is provided to each dwelling comprising a mix of garage and driveway parking. The Local Highway authority have reviewed the application and offer no objection subject to the inclusion of a number of conditions to ensure that safe access and adequate parking are retained for the lifetime of the development, both to the site and to the individual plots. Given the emphasis on highway safety within the development plan and NPPF these are considered reasonable and necessary. The application subject to conditions is considered to accord with the development plan and as such access, parking and highway safety do not present a reason for the refusal of this application.

Coal Mining legacy and contaminated land

Paragraph 124 of the NPPF requires LPA's give substantial weight to the value of using suitable brownfield land in settlements for homes and other identified need and that appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.

Policy SD4 requires that applicants demonstrate that schemes in areas known to be at risk of instability or contamination demonstrate, through investigations, that the scheme will incorporate any necessary remediation methods to render the development proposed safe.

The application is supported by Coal Mining Risk Assessment prepared by Ivy House Environmental, dated January 2019 and a Phase I & Phase II Geo-environmental Assessment Incorporating a Coal Mining Legacy Probe Drilling Report dated May 2019. The findings of the reports in respect of ground stability are agreed by the Coal Authority who offer no objection to the planning application and request the inclusion of informatives. Similarly, no objection is offered from the Council's Environmental Health Officer in respect of the findings of the report, conditions are requested to ensure, should any contaminated land be discovered that this is appropriately managed and addressed. These are considered reasonable and necessary, in accordance with policy. As such the proposal is considered acceptable in this regard.

Flood Risk and Drainage

The National Planning Policy Framework sets out that the planning system should take account of flood risk and new development should manage flood risk from all sources. All development should be directed away from areas of risk at flooding and no development should increase the risk of flooding. Paragraph 173 requires that new development does not increase flood risk in other locations.

Local Plan Policy SD2 sets out that the council will give priority to development in areas at lowest risk of flooding. It further requires suitable measures to manage surface water on all sites in order to minimise increasing the risk of local flooding as a result of the development. It sets out that development that could lead to changes in surface water flows or increase flood risk should utilise Sustainable Drainage Systems, unless it is demonstrated that ground conditions are not suitable for

SUDS.

It is acknowledged that the applicant has submitted a previously used drainage note that refers to the earlier refused scheme. The LPA has accepted this note in consideration of this application on the basis of the following points:

- the current scheme reduces impermeable areas and therefore reduces the increases to surface water run off
- the drainage note included infiltration tested to demonstrate that the ground conditions were unsuitable for the use of SUDS - it is considered the ground conditions are unlikely to have changed either during the time elapsed or through the reduction in built form proposed
- The previous scheme was recommended for approval based upon the surface water runoff rates for a greater quantum of development, the proposed scheme would therefore be sufficient to adequately manage surface water drainage for the proposed quantum of development.
- a condition to secure, prior to the development of the site that a revised scheme for drainage is submitted and approved by the LPA

The site is in flood zone 1 where the likelihood of flooding is lower. Severn Trent have been consulted on the application and make no objection to the proposed development. As such it is considered that the proposed development subject to compliance with the recommended conditions would be compliant with the development plan and national policy requirements in relation to flood risk and drainage.

Other issues

Issues with submitted documents

The comment of Keystone Lintels representatives raise concerns regarding the validity of documents submitted in support of the application, some of are the same as those submitted in support of the previous application that was refused. The current scheme represents a smaller scheme with larger areas of landscaping, greater retention of trees and hedgerows and a greater separation between the proposed dwellings and commercial uses. The Council has sought updated ecological and biodiversity documents in order to ensure the presence of any protected or priority species is considered in accordance with its responsibilities. None of the previously submitted documents form the suite of approved documents however are considered sufficient to suitably assess the scheme proposed.

Where changes to the development represent reduced harm from the previously considered scheme, such as impacts on trees and matters in relation to drainage Officers consider that the submitted documents demonstrate the greater quantum of development is achievable without harm that would present a robust reason for refusal, in these instances it is considered sufficient to secure further details by condition of the recommendation.

Site notice and notification of the application

A site notice was placed upon the fence inside the access to the site. this was placed at the nearest point between the two as was possible and as required. Queries have been raised about why other locations were not selected further along Cadley Hill Road. The reason for this is other suitable locations would also have been at the entrance to other dwellings and as such would not have been in accordance with the requirements for site notices to be placed at the access of the site with the public highways and would have simply been misleading. Letters were also sent to all neighbours in accordance with the requirements of the Councils adopted Statement of Community Involvement.

Conclusion and planning balance

The NPPF states that there are three dimensions to sustainable development, namely economic, social and environmental and that these should be considered collectively and weighed in the balance when assessing the suitability of development proposals.

The proposed scheme has addressed the previous environmental reasons for refusal, providing a greater distance between the dwellings and conflicting commercial uses, further mitigation measures are secured by condition of the proposal. Similarly, no trees are proposed to be removed and

significant amounts of planting are proposed and secured by conditions. The application offers an on-site net gain to biodiversity and is achievable without harm to protected species, further provision for species enhancements within the site are also secured in the form of a hedgehog highway and swift boxes.

The social element is secured through the creation of 9 new dwellings that contribute towards meeting housing demand within the District. Economically benefits will be secured through the creation of construction jobs. The design of the development is considered to integrate appropriately with the existing style and pattern of development, the site incorporates landscaped and wooded areas to support integration and aspirations of the National Forest.

Highways and drainage matters are addressed and considered to be secured via condition of the application. For these reasons the development is considered to accord with the relevant national and local policies and is recommended for approval subject to the conditions included within this application.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following condition(s):

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with plans / drawings ref. Proposed Site Plan, Drawing number : 1920-PL-050, Revision H, Dated 15/12/2023, received 10/01/2024, Proposed Preliminary Access Design, Drawing Number: 100307_01_0100_01 Rev H, dated 22/02/2023, received 10/01/2023; House Type A – Elevations, Drawing number: 1920-PL-A211, dated 15/12/2023, received 10/01/2024; House Type A – Floor Plans, Drawing Number: 1920-PL-A210, dated 15/12/2023, received 10/01/2023; House Type A Handed – Elevations, Drawing Number: 1920-PL-AH221, dated 21/12/2023, received 10/01/2024; House Type A Handed – Floor Plans, Drawing Number: 1920-PL-AH220, dated 21/12/2023, received 10/01/2023; House Type B – Elevations, Drawing Number: 1920-PL-B200, dated 08/07/2019, received 10/01/2024; House Type B – Floor Plans, Drawing Number: 1920-PL-B100, dated 08/07/2019, received 10/01/2024; House Type C – Elevations, Drawing number: 1920-PL-C200, dated 01/08/2019, received 10/01/2024; House Type C – Floor Plans, drawing number: 1920-PL-C100, dated 01/08/2019, received 10/01/2024; House Type C (Handed) – Elevations, drawing number: 1920-PL-CH200, dated 01/08/2019, received 10/01/2024; House Type C (Handed) – Floor Plans, drawing number: 1920-PL-CH100, dated 01/08/2019, received 10/01/2024; House Type D (V1) – Elevations, drawing number: 1920-PL-D1200, dated 08/07/2019, received 10/01/2024; House Type E – Elevations, drawing number: 1920-PL-E200, Rev A, dated 08/07/2019, received 10/01/2024; House Type E – Floor Plans, drawing number: 1920-PL-E100, Rev A, dated 08/07/2019, received 10/01/2024; House Type E Handed – Elevations, drawing number: 1920-PL-EH200, dated, 07/09/2020, received 10/01/2024; House Type E Handed – Floor Plans, drawing number: 1920-PL-EH100, dated 07/09/2020, received 10/01/2024; Single Garage, drawing number: 1920-PL-G100 Rev A, dated 08/07/2019, received 10/01/2024; Double Garage, drawing number: 1920-PL-G200 Rev A, dated 23/04/2019, received 10/01/2024.unless

as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

3. Before the development hereby approved is commenced, including any site clearance or preparatory work details of wheel washing / cleaning facilities for construction traffic connected with the development shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. The approved facilities shall be installed and operational before the commencement of the development and shall be retained in working order throughout all phases of the development, to prevent mud and debris from being deposited on the surrounding highways during the development.

Reason: To minimise the amount of mud, soil and other materials originating from the site being deposited on the highway in order to ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highways in accordance with the requirements of Policy S2, Policy SD1 and Policy INF2 of the Local Plan Part 1 and the National Planning Policy Framework.

4. Before the development hereby approved is commenced, including any site clearance or preparatory works, a Highway Construction Management Plan (HCMP) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. The plan shall include details specifically relating to:
 - a) parking for vehicles of site personnel, operatives and visitors
 - b) site accommodation
 - c) storage of plant and materials
 - d) provision of roadside boundary hoarding behind any visibility zones
 - e) any proposed temporary traffic management

The approved details shall be implemented and maintained throughout the construction period unless otherwise agreed in writing by the LPA in consultation with the Local Highway Authority.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety and in recognition that initial preparatory works could bring about unacceptable impacts for existing highway users and nearby residents. In accordance with the requirements of Policy S2, Policy SD1 and Policy INF2 of the Local Plan Part 1 and the National Planning Policy Framework.

5. Before the development hereby approved is commenced, including site clearance or preparatory works, the approved vehicular and pedestrian access to Cadley Hill Road shall be constructed and laid out in accordance with the approved plan (Drawing No. 100307-01-0100-01 Rev H), constructed to base level, drained, lit, provided with white lining and signage and visibility sightlines as shown on the approved drawing. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason: In the interests of highway safety and to ensure the proposed development does not prejudice the free flow of traffic along the neighbouring highway in accordance with the requirements of Policy S2, Policy SD1 and Policy INF2 of the Local Plan Part 1 and the National Planning Policy Framework.

6. Prior to the commencement of development above slab level a full schedule of materials to be used in the external surfaces of the development shall be submitted to and approved in writing by the local planning authority. The approved scheme shall thereafter be retained in accordance with the approved details.

Reason: In order to ensure the satisfactory appearance of the development in accordance with the requirements of Policy BNE1 of the Local Plan and the National Planning Policy Framework.

7. Before the development hereby approved is commenced, construction details of the residential estate street and footways (including layout, levels, gradients, surfacing and means of surface

water drainage via a positive gravity-fed system discharging to a public sewer, highway drain or watercourse) shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details. For the avoidance of doubt the applicant is advised to agree the construction details with the Highway Authority prior to discharging this condition.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety in accordance with the requirements of Policy S2, Policy SD1 and Policy INF2 of the Local Plan Part 1 and the National Planning Policy Framework.

8. Before the development hereby approved is commenced above damp proof course level a landscaping plan detailing the proposed woodland planting and landscaping shall be submitted to and agreed in writing by the Local Planning Authority in consultation with the National Forest Company. The details shall include, but not be limited to:
- Species mix
 - Size of proposed planting
 - Density

The approved details shall thereafter be retained and maintained for the lifetime of the development in accordance with the approved details.

Reason: For the avoidance of doubt and in accordance with the applicant's stated intentions to secure appropriate landscape and woodland planting in accordance with the requirements of Policy S1, Policy BNE1, Policy BNE4 and Policy INF8 of the Local Plan Part 1, Policy BNE7 of the Local plan Part 2 and the National Planning Policy Framework

9. Before the development hereby approved is commenced a full specification of the following noise control measures shall be submitted to and approved in writing by the local planning authority.
- a) A continuous acoustic barrier constructed along the south-west boundary of the site
 - b) A sound insulation scheme to meet sound reduction index (SRI) in table 19 of the noise assessment report Reference P4136-R2-V1 dated 17th July 2023
 - c) Glazing specification capable of achieving 40dB Rw+Ctr, to all rooms with mechanical ventilation to habitable rooms – an overheating assessment must be submitted as part of this scheme.
 - d) The final design should have no passive wall or window vents

The scheme shall thereafter be implemented, retained and maintained in complete accordance with the approved details for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: In order to ensure safeguarding of residential amenity in accordance with the requirements of Policy BNE1 and Policy SD1 of the Local Plan Part 1 and the National Planning Policy Framework

10. Prior to the first occupation of any dwelling details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an agreement has been entered into under Section 38 of the Highways Act (1980).

Reason: To ensure safe, suitable and satisfactory development of the site and to ensure estate roads are managed and maintained thereafter to a suitable standard in accordance with the requirements of Policy S2, Policy SD1 and Policy INF2 of the Local Plan Part 1 and the National Planning Policy Framework.

11. Before the development hereby approved is commenced, including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on habitats, species including great crested newt, grass snake and breeding birds and other sensitive biodiversity features at the site during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall thereafter be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard species and habitats in accordance with the requirements of Policy BNE3 of the Local Plan and the National Planning Policy Framework.

12. Before the development hereby approved is commenced a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to, and be approved in writing by the LPA. The aim of the BEMP is to provide details of how habitats will be created, enhanced, and sympathetically managed. The BEMP should be in accordance with the updated Biodiversity Metric Brindle and Green March 2024. The BEMP should include the following: -
- a) Description and location of features to be retained, created, enhanced and managed including areas of neutral grassland and mixed scrub as well as woodland, urban trees and reptile hibernacula.
 - b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
 - c) Appropriate management methods and practices to achieve aims and objectives.
 - d) Prescriptions for management actions.
 - e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
 - f) Details of the body or organization responsible for implementation of the plan.
 - g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at regular intervals for the period of the plan.
 - h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
 - i) Requirement for a statement of compliance upon completion of planting and enhancement works.

The BEMP shall also include details of the legal and funding mechanism(s) by which the long-term (30 years) implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in complete accordance with the approved details.

Reason: In order to provide and secure a net gain to biodiversity in accordance with the requirements of Policy BNE3 of the Local Plan and the National Planning Policy Framework.

13. Notwithstanding the provisions of the Town and Country planning, General Permitted Development Order, no external lighting shall be installed on the site unless otherwise agreed in writing with the Local Planning Authority, in consultation with the Local Highway Authority and the Wildlife Trust. Any application for external lighting should include detailed specification including the location and intensity of illumination, predicted lighting contours and any mitigating features such as dimmers, PIR sensors and timers. Any approved scheme of lighting shall be installed and retained in accordance with the approved details..

Reason: In the interests of highway safety and to safeguard protected or priority species and their habitats in and around in accordance with the requirements of Policy S2, Policy SD1, Policy BNE3 and Policy INF2 of the Local Plan Part 1 and the National Planning Policy Framework.

14. No development, including preparatory works, shall commence until a scheme for the protection of trees and hedgerows has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be based on best practice as set out in BS 5837:2012 and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

Reason: In order to protect existing trees and hedgerows within and adjacent the application site in accordance with the requirements of Policy BNE4 of the Local Plan and the National Planning Policy Framework.

15. Before the construction of any driveways or parking areas, details of surface water drainage provision to those areas (so as to adequately mitigate runoff of surface water on to the highway) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. The approved drainage details shall be fully implemented prior to first occupation and thereafter maintained in a fully functional state.

Reason: To ensure the areas are properly drained and do not result in unsafe conditions on the public highway in accordance with the requirements of Policy S2, Policy SD1, Policy Sd2 and Policy INF2 of the Local Plan Part 1 and the National Planning Policy Framework.

16. If during the construction works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site. in accordance with the requirements of Policy S2, policy SD1 and Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

17. Prior to the first occupation of the dwellings hereby approved a Landscape Management Plan (LMP) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the National Forest Company. The LMP shall include details of the ongoing management and maintenance methods, including a schedule and frequency of works to be undertaken and details of informing the LPA of the responsible body. The ongoing management and maintenance of these areas shall thereafter be undertaken in accordance with the agreed details unless agreed in writing by the LPA.

Reason: For the avoidance of doubt and to ensure the ongoing management and maintenance of the woodland and landscape areas in accordance with the requirements of Policy SD!, Policy SD2, Policy BNE1, Policy BNE4 and Policy INF8 of the Local Plan Part 1 and Policy BNE7 of the Local Plan Part 2 an the National Planning Policy Framework.

18. Prior to the occupation of a [dwelling/unit] a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of a [dwelling/unit] or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter

retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the visual setting of the development and the surrounding area.

19. Prior to the first occupation of any dwelling the associated parking and where applicable garage spaces detailed on the approved plans shall be fully constructed. The provision shall thereafter be retained and maintained, together with the means of access, as approved for the lifetime of the development.

Reason: To ensure the development is served by adequate parking provision and so as not to prejudice the free flow of traffic or the conditions of general safety along the neighbouring highways and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required. In accordance with the requirements of Policy S2, Policy SD1 and Policy INF2 of the Local Plan Part 1, The South Derbyshire Design Guide SPD and the NPPF.

20. Notwithstanding the provisions of the Town and country Planning Act, General Permitted Development Order, no boundary treatments or other obstructions between the height of 0.6m and 2m shall be erected adjacent the accesses of each plot / dwelling that would obstruct the approved pedestrian visibility splays of 2m x 2m, which shall be provided prior to the first occupation of the dwellings and maintained for the lifetime of the development.

Reason: To provide adequate visibility for drivers entering or leaving the site and to ensure the safety of pedestrians and vehicles in accordance with the requirements of Policy S2, Policy SD1 and Policy INF2 of the Local Plan Part 1 and the National Planning Policy Framework.

21. Before the commencement above slab level of the development hereby approved a Species Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
- 9 integrated swift bricks 1 per dwelling in line with British Standard 42021:2022.
 - integrated bat boxes x 3
 - fencing gaps 130 mm x 130 mm to maintain connectivity for hedgehogs in all gardens.

Reason: In order to provide species enhancements in accordance with the requirements of Policy BNE3 and the National Planning Policy Framework.

22. Notwithstanding the submitted details no laying of services, creation of hard surfaces or erection of a building shall commence until a scheme for the drainage of surface water from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of each respective dwelling served by the surface water drainage system.

Reason: To ensure the development is adequately served by a suitable surface water drainage system in order to minimise the likelihood of flooding incidents and damage to the environment, property or life in accordance with the requirements of Policy SD3 of the Local Plan and the National Planning Policy Framework.

23. Notwithstanding the submitted details, no construction of a building or hard surface, setting of site levels or installation of services/utilities shall take place until a scheme for the drainage of foul water from the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first [occupation/use] of each respective [dwelling/building] served by the foul water drainage system.

Reason: To ensure the development is adequately served by a suitable foul water drainage system and in the interests of minimising the likelihood of pollution of the environment in accordance with the requirements of Policy SD3 of the Local Plan and the National Planning Policy Framework.

24. Any tree, shrub or hedge lost within 5 years of planting (10 years for trees) shall be replaced by a like for like species of a similar size unless otherwise agreed in writing by the local planning authority.

Reason: In order to ensure good design and the retention of trees within the site in accordance with the requirements of Policy BNE1, Policy BNE4 and Policy INF8 of the Local Plan Strategy and the National Planning Policy Framework.

25. No removal of [trees, hedges, shrubs, buildings or structures] shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No [trees, hedges, shrubs, buildings or structures] shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts in accordance with the requirements of Policy BNE3 of the Local Plan and the National Planning Policy Framework.

26. Notwithstanding the submitted drawings and documents, to ensure compliance with Policy SD3 criteria ii), each dwelling shall be constructed to ensure that water consumption is no more than 110litres per person per day by ensuring that the fittings meet the standards set out in Table 5: Local Water Requirements of the SDDC Local Plan.

Reason: In the interest of sustainable development, potable water management and inline with Policy SD3 of the SDDC Local Plan.

Informatives:

- a. If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk
- b. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- c. If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980
- d. Planning permission does not give you approval to work on the public highway. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – ete.devcontrol@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

- e. The applicant's attention is drawn to the reference made by Derbyshire Wildlife Trust providing guidance on suitable lighting contained within Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023).
- f. Shallow coal seams: In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.
- g. Ground investigations and groundwork: Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine working or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for coal authority permission and further guidance can be obtained from The Coal Authorities Website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property
- h. The applicant's attention is drawn to the comments of the Coal Authority in respect of the potential risk of mine gasses.

Item No. 1.2

Ref. No. [DMPA/2023/0814](#)

Valid date: 05/07/2023

Applicant: Mr L Evans

Agent: Mr T Beavin

Proposal: Provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU.

Ward: Woodville Ward

Reason for committee determination

This planning submission is being reported to Planning Committee due to comments of concern/ objection received from members of the public.

Update Report for 30/04/2024

A recommendation to approve this planning submission was previously deferred at the Planning Committee which took place on 12 December 2023. The reasoning for this was to enable committee members to undertake a site visit and a review of the current submission against the planning application referenced 9/2018/1268, which proposed the erection of a building for use as a work unit and retrospective application for the erection of a temporary portacabin, which was refused on 03 May 2019. A site visit was scheduled for 9 January 2024 but could not take place.

Further details and clarifications that were requested at the previous Committee meeting are presented below. The late items which were previously scheduled to be reported are also summarised. The previous report is attached as an appendix.

Updated Details/ Clarifications

Review of 9/2018/1268

Planning permission was refused on 03 May 2019, under the reference of 9/2018/1268, for the proposed erection of a building for use as a work unit and retrospective application for the erection of a temporary portacabin at the site under the address of Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, Derbyshire, DE11 7AU. Consent was sought for the retention of a portacabin and a proposed work and storage building and the use of other areas of the site for logging.

The reasoning for this refusal was due to the proposed work/ storage building and temporary portacabin not being adequately justified as being necessary or essential in a rural location, and no evidence was submitted to demonstrate that there needs to be a constant staff presence on the site to require overnight accommodation. The proposal was considered to represent isolated buildings intruding on the otherwise open character of the countryside. A detrimental impact on neighbouring dwellings by way of noise intrusion was also referenced as a reason for refusal.

The current application presented to Committee (DMPA/2023/0814) differs from the previous refusal, as it does not contain a proposal for overnight accommodation, or a temporary portacabin. Further to

this, the previously refused application did not incorporate a landscaping and planting provision as proposed under the current application.

It is also worth noting that planning permission was approved on 18 July 2019, under the reference of 9/2019/0542, for the continued use of land for ancillary open storage in connection with the existing logging business and the continued siting of temporary portacabin.

The applicant is now seeking planning permission for the provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU. This will involve the removal of the temporary portacabin, and this is considered to present an improvement to the wider design and appearance of the site.

The scheme under consideration seeks to improve the operations of Midland Firewood Supplies Ltd which are carried out across the sites, as well as to increase site safety for operatives and to contain noise to within buildings. Provisions are also proposed to better screen the operations from the nearest neighbouring residents. The development of the existing site of Buildings Farm as proposed is considered to be acceptable in principle, and in accordance with Policy E2 (Other Industrial and Business Development) and Policy BNE5 (Development in Rural Areas) of the South Derbyshire Local Plan. It is considered that the proposed scheme of development is acceptable in principle.

Land Ownership/ Certificate B

Correspondence was received by the Council on Monday 13 November 2023 with regards to land ownership. It has been suggested that the resident of No.113 Repton Road, Hartshorne owns part of the track and land which the proposed scheme of development would be reliant upon, specifically a section of the Hartshorne Restricted Byway No. 30 (Public Right of Way). This is situated to the north of the existing timber and machinery store and would be reliant upon for the proposed new access into this part of the site. The applicant/ agent has since served notice under Certificate B of the planning application form to the resident of No.113 Repton Road, Hartshorne. Comments of representation have since been received from No.113 Repton Road.

Comments of representation have been received from No.113 Repton Road and Mill View, Ticknall Road in addition to those referenced within the initial committee report. These additional comments present further points of concern/ objection.

A summary of the key points arisen is presented below:

- Concerns regarding the use of the byway for the storage of machinery.
- Rights of access over land have not been agreed with landowners.

DWT Comments

The comments received from the Derbyshire Wildlife Trust are presented in the report as dated 21 August 2023. Additional comments were also received dated 04 October 2023. Both sets of comments outline a stance of no objections subject to recommended planning conditions.

Economic Development Comments

Setting aside any site-specific issues, we are supportive of such projects that will diversify the local economy and offer a range of employment opportunities in the rural areas of the District. The project contributes to the National Forest and to the development of the woodland economy. Activities such as this provide an economic use and return from the new woodlands, including from the thinning of younger trees as the new planting establishes. Typically, this provides the income for landowners to manage and maintain their woodlands.
(20 December 2023)

Conclusion

The proposed provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU is considered to be acceptable, and is considered to be in accordance with the relevant local and national level planning policy. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Appendix 1: Committee Report for DMPA/2023/0814. Previously prepared for 09 January 2024.

Item No. 1.4
Ref. No. DMPA/2023/0814
Valid date: 05/07/2023
Applicant: Mr L Evans **Agent:** Mr T Beavin
Proposal: Provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU.
Ward: Woodville Ward

Reason for committee determination

This planning submission is being reported to Planning Committee due to comments of concern/ objection received from members of the public.

Site Description

The application site is addressed as Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU. The site is located to the west of and is accessed from the Ticknall Road (A514) which links Hartshorne to Ticknall.

The existing use of the site currently under considered and edged within the red line comprises of a woodyard and workshop, portacabin office, and open storage areas. The application site comprises of three defined areas within the control of the applicant. These are accessed from the restricted byway leading off the Ticknall Road (A514) highway opposite the junction with Coal Lane to the east. Site 1 is the proposed location for the new timber store. Site 2 comprises of the existing woodyard. Site 3 is an area adjacent to the Ticknall Road (A514) highway. The whole site application area comprises of 8,090 sqm/ 0.809 ha of land.

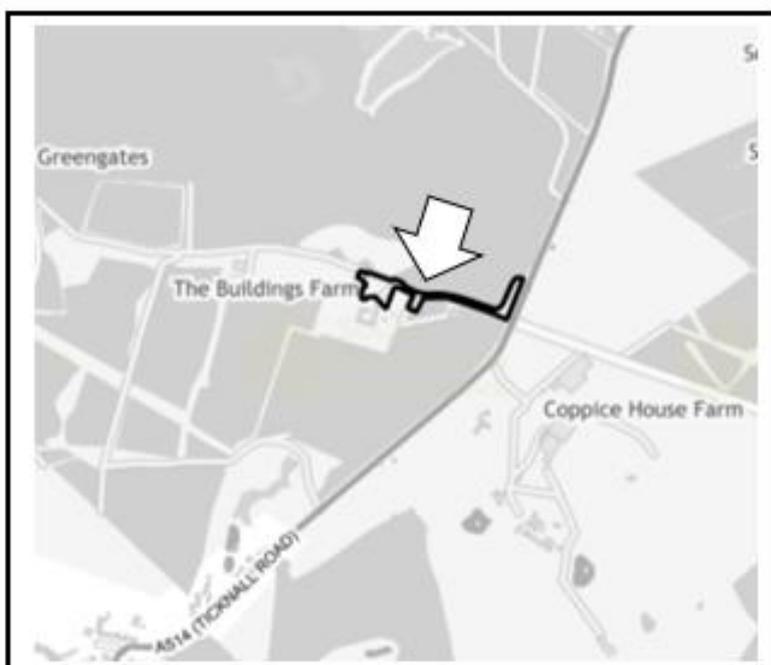
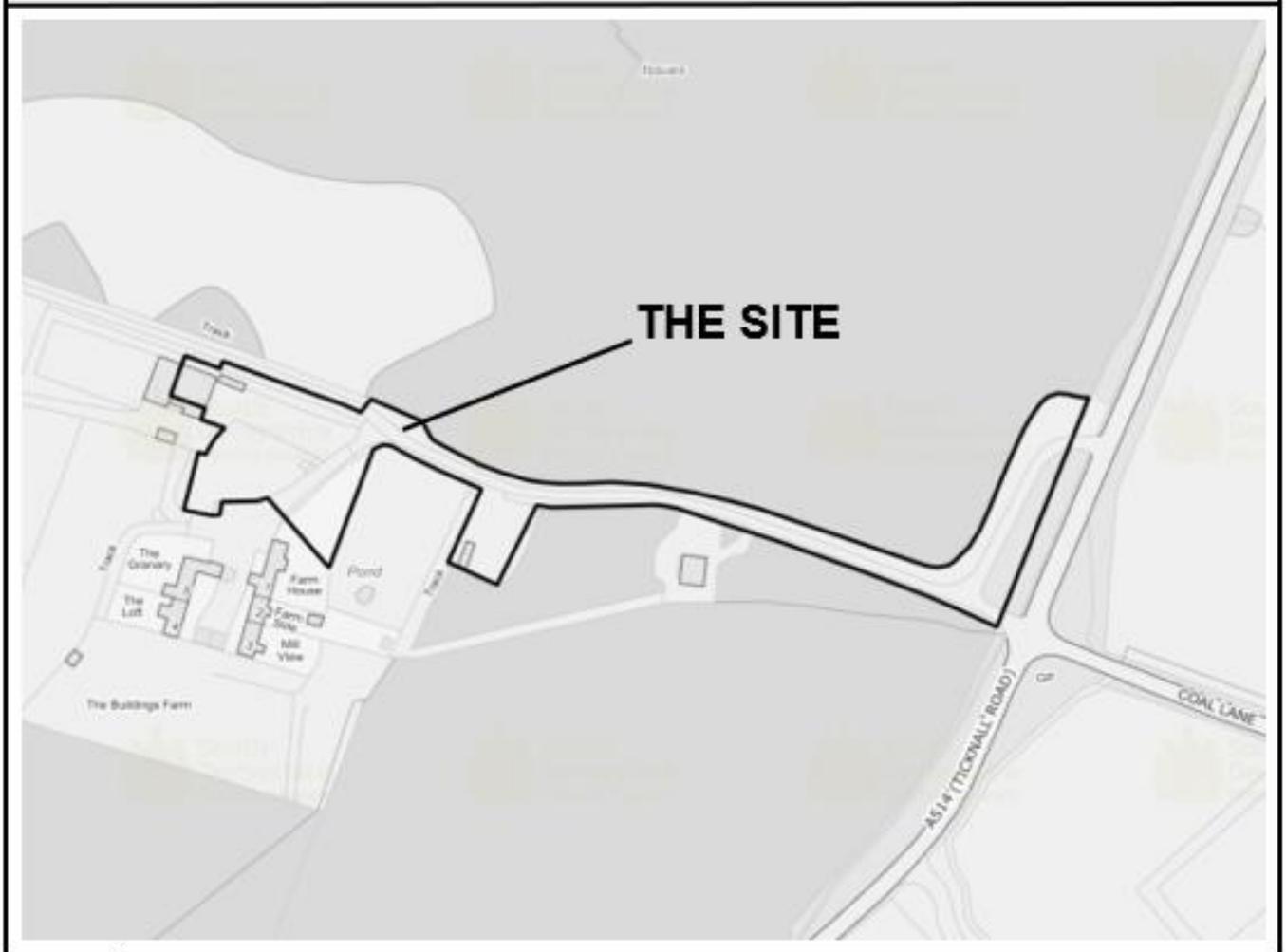
Residential properties under the addresses of No.1 to No.5, which comprise of Farm House, Farm Side, Mill View, The Loft and The Granary, are situated within relative proximity to the south of the site under consideration. No.1 Farm House has been edged within the blue line and falls under the ownerships of the applicant.

The application site hereby under consideration is located outside of a defined settlement boundary in the adopted local plan. Buildings Farm is not situated within a Conservation Area, does not fall within proximity of Listed Buildings, and does not fall within the River Mease Catchment. The site under consideration does not comprise of any Tree Preservation Orders. The site lies wholly within Flood Zone 1, which has the lowest probability of flooding. The site is situated within the National Forest.

The Proposal

The applicant is seeking planning permission for the provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU.

DMPA/2023/0814 – Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU



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South
Derbyshire
District Council

South Derbyshire District Council, LA 100019461, 2020

The proposal is for Midland Firewood Supplies Ltd to improve their existing operations, which are carried out across the sites, by way of purpose-built accommodation. This will increase site safety for operatives and contain noise. A re-aligning of the access from the byway is proposed to better screen the operations for the residents of Buildings Farm.

From a practical perspective for the business, the proposal will significantly improve storage and the wood drying process, through the provision of the dedicated wood storage building on Site 1. Currently wood is stored under tarpaulins. The importance of being able to effectively store and dry timber prior to sale is therefore a key driver for the applicant to ensure the wood sold by the company meets the legal requirements. The proposed log storage building is to be constructed like an agricultural barn with Yorkshire boarding to allow a free flow of air over the timber stored within. The siting is well screened by surrounding trees and will also incorporate additional planting.

The area of Site 2 proposes an extension to the existing timber yard machinery store to facilitate the moving of all timber processing operations indoors. This includes the creation of a wood processing area, workshop, and timber storage space. The extension will also provide a replacement ancillary first floor office and staff welfare facilities. The scheme seeks the formal laying out of parking spaces and a revised yard access location. New landscape screening is also proposed for the existing woodyard at Site 2. It is also proposed to install a package treatment plant to provide for foul drainage.

Site 3 confirms the existing site visibility from the byway to the highway and the formalisation of the historic log storage in this location, along with new planting. Across the whole site, edged within the Red Line, the scheme proposes to plant over 100 new trees. In addition, new hedgerow planting will add to the environmental enhancements from the scheme.

The following details of the proposed materials and finishes have been outlined by the applicant:

- Walls: Concrete Plank Walling, Yorkshire Boarding.
- Roof: Profile Sheeting/ PV panels.

The scheme of development under consideration does not incorporate any increase/ decrease in car parking provision. A total of x10 spaces are proposed as is the case as existing.

The scheme of development under consideration does not incorporate any increase/ decrease in number of employees. A total of x6 full time employees are proposed as is the case as existing.

The following hours of opening are proposed:

- Monday to Friday: 08:00am to 17:00pm
- Saturday: 08:00am to 13:00pm
- Sunday/ Bank Holiday: N/A

Applicant's supporting information

The applicant has submitted documentation setting out the proposals for approval.

- Design and Access Statement - Ref: N/A - 23 June 2023
- Phase 1 Geo-Environmental Assessment - Ref: EAL.68.23 Version 1.0 - 05 July 2023
- Existing Site Survey Site 1 - Ref: 222-68-01 - 23 June 2023
- Survey of Existing Site 2 - Ref: 222-68-02a - 23 June 2023
- Proposed Site Plan Overview - Ref: 222-68-03a - 23 June 2023
- Proposed Site Plan Site 1 - Ref: 222-68-04b - 07 August 2023
- Proposed Log Storage Building Site 1 - Ref: 222-68-05a - 23 June 2023
- Proposed Site Plan Site 2 - Ref: 2222-68-06a - 23 June 2023
- Existing Building - Site 2 - Ref: 222-68-07 - 23 June 2023
- Proposed Extensions and Alterations - Ref: 222-68-08 - 23 June 2023
- Proposed Side, Rear and First Floor Plan - Ref: 222-68-09 - 23 June 2023

- Proposed Retention of Log Storage Area - Ref: 222-68-10 - 23 June 2023
- Location Plan - Ref: 222-68-11a - 07 August 2023

Relevant planning history

9/2000/1175 - The erection of an agricultural storage building at The Buildings Farm Ticknall Road Hartshorne Swadlincote - Prior Approval Granted: 15/01/2001.

9/2013/1016 - Certificate of lawfulness for use of land and buildings as an equestrian/livery business including conversion of existing barn for use as stables, creation of manege, and siting of container and lorry trailer unit. - Lawful Development Certificate Granted: 03/02/14.

9/2013/1024 - Retrospective application for change of use of land from farm yard and farm machinery store to wood yard and timber/machinery store. - Approved: 03/03/14.

9/2017/1262 - Change of use of land for tourism purposes and erection of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding. - Approved: 09/05/2018.

9/2017/1365 - Development of new log cabin to create a live/work unit along with creation of parking and turning area and decking. - Refused: 20/03/2018.

9/2018/0506 - The erection of a log cabin for use as a work unit only with creation of parking and turning area and decking and the erection of a portacabin. - Refused: 07/08/2018.

9/2018/1268 - The erection of a building for use as a work unit and retrospective application for the erection of a temporary portacabin. - Refused: 03/05/2019.

9/2019/0542 - Continued use of land for ancillary open storage in connection with the existing logging business and the continued siting of temporary portacabin. - Approved: 18/07/2019.

Responses to consultations and publicity

Summary of consultation responses:

Woodville Ward -
No comments received.

Hartshorne Parish -
No comments received.

Hartshorne Residents Association -
No comments received.

National Forest Company -
Thank you for consulting the National Forest Company (NFC) on the above application. The NFC has no comment to make.
(17 August 2023)

Derbyshire Wildlife Trust -
Can confirm that although no specific ecology report has been provided, the application documents do include adequate information to assess likely impacts as well as details of proposed mitigation and enhancements.

Potential impacts on protected species are anticipated to be limited to nesting birds, depending on the timing of clearance works. The small loss of existing hedgerow to facilitate new access points into the yard would be offset by the proposed tree and hedgerow planting around the site boundaries and we recommend that this uses native species and includes a diverse range rather than single species.

The proposed site plans provide sufficient information about locations and specifications for bird/ bat boxes, the only additional information we would like to request is in relation to planting and maintenance for the proposed tree & hedge planting so that this can be secured as part of the planning consent. Tree and hedgerow planting should be carried out at a suitable time of year and following best practice guidelines for management/ maintenance to minimise risk of failures. Any trees/ hedging plants that do fail before the habitat has matured should be replaced.

If consent is granted we recommend that the following conditions are attached:

-Retained trees and hedgerows shall be protected during construction.

-No vegetation clearance during the period March to August (inclusive) unless preceded by a check for nesting birds by a suitably experienced ecologist no earlier than 24hrs in advance of planned works.

Any active nests shall be left in situ and undisturbed until the young have fledged.

-Biodiversity strategy including landscape planting and bird/bat boxes shall be implemented as per the layout plans (SG Design Studio drawings 222-68-06a dated 01/212/2022 and 222-68.04a dated 09/01/2023).

-Prior to commencement on site, supplementary information regarding tree and hedgerow planting shall be submitted to and approved in writing by the Council. Planting list to include at least 6 different native tree / hedge species. Any specimens that fail within the first five years shall be replaced.

(21 August 2023)

County Highways -

As the site is served by an existing access from the adopted public highway there are no highway objections to the planning application subject to logs being stored clear of the highway and do not obstruct any visibility splays as previously stated. It should also be noted that the application site is abutted by a Public Rights of Way Footpath Nos. 29, 30, 31 and 32 as shown on the Derbyshire Definitive Map. The routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place.

(04 September 2023)

County Public Rights of Way -

Can confirm that Hartshorne Restricted Byway No. 30 runs through the proposed development site, along the access, as shown on the attached plan. In addition, Hartshorne Public Footpath No. 31 runs adjacent to part of the proposed development and Hartshorne Public Footpaths No. 29 and No. 32 connect to the access / restricted byway 30. The Rights of Way Section has no objection to the proposals as it appears that the routes should be ultimately unaffected by the proposed works. However, I would request that a condition is placed on any consent, to the effect that not logs or machinery shall henceforth be stored along the restricted byway. This is in the interests of the safety of the public using the route. Advise for the attention of the applicant also provided.

(07 September 2023)

Peak and Northern Footpaths -

Do not have the technical expertise to comment properly on this application. The planning officer must be certain that the safety and amenity (noise and visual intrusion) of walkers using Hartshorne Restricted Byway 30 and Footpath 31 would not be affected by the development with the full widths of these rights of way being unobstructed at all times. Arrangements for vehicles entering and leaving the site from the main road and from the Restricted Byway must be safe for walkers.

(17 August 2023)

Environmental Health -

No concerns and do not propose any comments.

(15 September 2023)

Responses to publicity:

Following the formal consultation, which included neighbour notification letters, the publication of a press advert, and the displaying of a site notice, a total of x13 formal comment of representation have

been received. These comments incorporate x7 comments of objection and x6 comments of no objection/ support. A summary of the key points arisen is presented below:

Comments of Objection:

- a) Development not in-keeping.
- b) Impacts on the open countryside.
- c) Size and height of proposed built form.
- d) Implications on surrounding properties.
- e) Impacts on daylight and sunlight.
- f) Noise, air quality and climate change concerns.
- g) Highway safety implications.
- h) Impacts on footpaths and bridleways.
- i) Tree protection and mitigation.
- j) Ecological concerns.
- k) Business justification unclear.
- l) Unauthorised works.

Comments of Support:

- a) Support for local businesses.
- b) Great service to the community.
- c) Charity work of the applicant.
- d) No issues at all.
- e) Supplies the whole community around from shops to garages, pubs etc.
- f) Employees people locally.
- g) Requirements to keep firewood dry with the new legislation.
- h) Reassured that the proposed developments will be an improvement.
- i) Will reduce the noise and ad hoc storage and parking arrangements.

These comments of representation have been considered in the assessment of this planning submission.

Relevant policy, guidance and/ or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD).

The relevant Development Plan policies are:

South Derbyshire Local Plan Part 1 - LP1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S5 (Employment Land Need), S6 (Sustainable Access), E2 (Other Industrial and Business Development), E7 (Rural Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), and INF8 (National Forest).

South Derbyshire Local Plan Part 2 - LP2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), and BNE7 (Trees, Woodland and Hedgerows).

The relevant local guidance is:

South Derbyshire Design Guide SPD
Trees & Development SPD

The relevant national guidance is:

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)
National Design Guide (NDG)

Planning considerations

Considering the application made and the documentation submitted the main issues central to the determination of this application are:

- Principle of the Development
- Design, Character, and Appearance
- Amenity
- Access and Highway Safety
- Public Rights of Way
- Ecology and Biodiversity
- Drainage
- Other Matters

Planning assessment

Principle of the Development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG), together with the South Derbyshire Design Guide Supplementary Planning Document (SPD).

Planning approval was granted on 18 July 2019, under the reference of 9/2019/0542, for the proposed continued use of land for ancillary open storage in connection with the existing logging business and the continued siting of temporary portacabin at the site under the address of Buildings Farm Ticknall Road Hartshorne Swadlincote Derbyshire.

The applicant is now seeking planning permission for the provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU.

The scheme seeks to improve the operations of Midland Firewood Supplies Ltd which are carried out across the sites, as well as to increase site safety for operatives and to contain noise. Provisions are also proposed to better screen the operations from the nearest neighbouring residents. The proposal will significantly improve storage and the wood drying process, through the provision of the dedicated wood storage building enabling timber to be kept dry but also allowing the free flow of air over the timber stored facilitated by the Yorkshire boarding as proposed. The importance of being able to effectively store and dry timber prior to sale is a key driver for the applicant to ensure the wood sold by the company meets the legal requirements. The scheme of development under consideration does not incorporate any increase in car parking provision or overall numbers of employees.

The development of the existing site of Buildings Farm as proposed is considered to be acceptable in principle, and in accordance with Policy E2 (Other Industrial and Business Development) and Policy BNE5 (Development in Rural Areas) of the South Derbyshire Local Plan. These policies seek to

support the expansion of existing businesses, and redevelopment of established industrial or business land or premises, provided such does not give rise to undue impacts on the landscape character of the area or residential amenity. Providing that material planning considerations are met, it is considered that the proposed scheme of development is acceptable in principle.

Design, Character, and Appearance

The most applicable policies and guidance to consider with regards to the design, character, and appearance related considerations are Policy S2 (Presumption in Favour of Sustainable Development), Policy E7 (Rural Development), Policy BNE1 (Design Excellence), Policy BNE4 (Landscape Character and Local Distinctiveness), Policy INF8 (The National Forest), Policy BNE5 (Development in Rural Areas), and Policy BNE7 (Trees, Woodland and Hedgerows) of the South Derbyshire District Local Plan, the South Derbyshire Design Guide SPD, and the National Planning Policy Framework.

The National Planning Policy Framework attaches great importance to design of the built environment and sets out that high quality and inclusive design should be applied to all development, including individual buildings, private spaces, and wider area development schemes. It also states that development should respond to local character and history and reflect the identity of local surroundings.

The Council acknowledges and has considered comments and concerns arisen from the consultation undertaken regarding potential design related implications. In terms of scale, bulk, massing, and proportions the proposed scheme of development comprises of an acceptable form of design for a rural use. The scale and design of the built form as proposed is considered to be consistent with that expected for the use of the site. The materials as proposed and referenced above are considered to be appropriate for a development of this nature. Screening is provided by surrounding landscaping and planting. Further to this an improved provision of landscaping and planting is incorporated into the development proposal to further mitigate any potential design implications associated with this development proposal. Should planning approval be recommended planning conditions shall be incorporate to ensure that an acceptable level of design is retained and implemented at the build out stage, and to ensure the delivery and retention of a satisfactory scheme of landscaping and planting.

Overall, the proposal is considered to not result in unacceptable harm to the street-scene, neighbouring setting, or the wider locality, and is considered to be acceptable and in accordance with the relevant local and national level planning policies with regards to associated design, character, and appearance implications.

Amenity

The most applicable policies and guidance to consider are Policy SD1 (Amenity and Environmental Quality) and Policy BNE1 (Design Excellence) of the South Derbyshire District Local Plan, and the South Derbyshire Design Guide SPD which between them seek that new development does not lead to adverse impacts on the environment or amenity of existing occupiers within or around proposed developments.

The site under consideration currently facilitates a woodyard and workshop, portacabin office and open storage areas which serve the established business of Midland Firewood Supplies Ltd. Residential properties are situated within relative proximity to the south of the site under consideration. No.1 Farm House has been edged within the blue line and falls under the ownerships of the applicant. The siting is well screened by surrounding trees and the proposed scheme of development also incorporates additional planting to further screen the proposed built form and enable such to assimilate into the landscape.

It is considered that the areas under consideration as part of this planning application are situated a reasonable distance away from the neighbouring residential properties. It is however accepted that due to the nature of the business some amenity related implications may occur, but that this will not result in a significant detrimental loss of amenity to neighbouring residents. The Environmental Health team

have commented that there are no objections and they do not propose any comments on environmental health related grounds.

Proposed hours of opening of Monday to Friday: 08:00am to 17:00pm, Saturday: 08:00am to 13:00pm, and Sunday/ Bank Holiday: N/A have been presented by the applicant. These hours of opening are considered to be reasonable and acceptable for this type of development. Should planning approval be recommended a planning condition shall be attached in this regard.

Overall, given the nature of the development proposal, the relationship with nearby properties, and the overall scale of that proposed, it is considered that significant unacceptable implications will not arise. The siting of the development proposal and the relationship with the nearest neighbouring properties ensures the proposed scheme of development is considered to not present significant detriment with regards to loss of daylight, loss of sunlight, overbearing, overlooking or noise disturbance. The proposed scheme of development is therefore considered to be acceptable on amenity related grounds.

Access and Highway Safety

A technical assessment of the development proposal and a consideration of the potential associated access and highway related implications has been undertaken by the County Highways team at Derbyshire County Council. A formal consultation response has been provided with the County Highways team formally advising that as the site is served by an existing access from the adopted public highway there are no highway objections to the planning application subject to logs being stored clear of the highway and not obstructing any visibility splays as previously stated. The County Highways team have also noted that the application site is abutted by a Public Rights of Way. The Local Planning Authority acknowledges and has considered other comments and concerns arisen from the consultation undertaken including with regards to potential access and highways related implications.

Should the Council be minded to recommend planning approval a relevant planning condition shall be incorporated to ensure that logs being stored are clear of the highway and do not obstruct any visibility. Further to this the attention of the applicant shall be drawn to the presence of the Public Rights of Way.

It is worth noting that paragraph 111 of the National Planning Policy Framework states that 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.

Following the receipt of the professional County Highways advice it would be unreasonable to suggest that the scheme of development would be unacceptable on highway related grounds. Subject to the incorporation of relevant planning conditions, the proposed scheme of development is considered to be acceptable on access and highways related grounds.

Public Rights of Way

With regards to Public Rights of Way, Hartshorne Restricted Byway No. 30 runs through the proposed development site and along the access. In addition, Hartshorne Public Footpath No. 31 runs adjacent to part of the proposed development and Hartshorne Public Footpaths No. 29 and No. 32 connect to the access/ restricted byway 30. The Rights of Way team at Derbyshire County Council do not object to the proposals as it appears that the routes should be ultimately unaffected by the proposed works.

Should the Local Planning Authority be minded to recommend planning approval a condition shall be incorporated to the effect that no logs or machinery shall henceforth be stored along the restricted byway. This is in the interests of the safety of the public using the route.

Section 130 of the Highways Act places duties on the Highways Authority to protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any

roadside waste which forms part of it, and sub-section 3 of that section imposes a duty on them to prevent obstruction of any highway for which they are the authority. Section 137ZA empowers them to require the removal of any obstruction and Section 137 provides that obstructing a highway is an offence.

Ecology and Biodiversity

The most applicable policies and guidance to consider with regards to the ecological and biodiversity consideration are Policy S2 (Presumption in Favour of Sustainable Development), Policy E7 (Rural Development), BNE3 (Biodiversity), Policy INF8 (The National Forest), Policy BNE5 (Development in Rural Areas), and Policy BNE7 (Trees, Woodland and Hedgerows) of the South Derbyshire Local Plan, the Natural Environment and Rural Communities Act, and the National Planning Policy Framework.

A technical assessment of the development proposal and a consideration of the potential associated ecology and biodiversity related implications has been undertaken by the Derbyshire Wildlife Trust at Derbyshire County Council. A formal consultation response has been provided with the Derbyshire Wildlife Trust formally advising that although no specific ecology report has been provided, the application documents do include adequate information to assess likely impacts as well as details of proposed mitigation and enhancements.

Potential impacts on protected species are anticipated to be limited to nesting birds, depending on the timing of clearance works. The small loss of existing hedgerow to facilitate new access points into the yard would be offset by the proposed tree and hedgerow planting around the site boundaries and we recommend that this uses native species and includes a diverse range rather than single species.

The Derbyshire Wildlife Trust have advised that the proposed site plans provide sufficient information about locations and specifications for bird/ bat boxes, the only additional information we would like to request is in relation to planting and maintenance for the proposed tree and hedge planting. Tree and hedgerow planting should be carried out at a suitable time of year and following best practice guidelines for management/ maintenance to minimise risk of failures. Any trees/ hedging plants that do fail before the habitat has matured should be replaced.

The Derbyshire Wildlife Trust have formally advised that if consent is granted the following planning conditions being imposed:

- Retained trees and hedgerows shall be protected during construction.
- No vegetation clearance during the period March to August (inclusive) unless preceded by a check for nesting birds by a suitably experienced ecologist no earlier than 24hrs in advance of planned works. Any active nests shall be left in situ and undisturbed until the young have fledged.
- Biodiversity strategy including landscape planting and bird/bat boxes shall be implemented as per the layout plans (SG Design Studio drawings 222-68-06a dated 01/212/2022 and 222-68.04a dated 09/01/2023).
- Prior to commencement on site, supplementary information regarding tree and hedgerow planting shall be submitted to and approved in writing by the Council. Planting list to include at least 6 different native tree / hedge species. Any specimens that fail within the first five years shall be replaced.

These proposed recommended relevant planning conditions have been reviewed and considered by the applicant/ agent. It has been formally advised that this is accepted, and should the Local Planning Authority be minded to recommend planning approval such shall be incorporated.

The whole site application area comprises of 8,090 sqm/ 0.809 ha of land. Policy INF8 (The National Forest) of the South Derbyshire District Local Plan sets out dedicated tree planting and landscaping requirements. In the instance of this planning application the site area is below the threshold requiring a set percentage of National Forest planting. The policy sets out that Industrial, Commercial and Leisure Development under 1 ha requires normal landscaping appropriate to the sites setting rather than a set

percentage of the development area to be woodland planting and landscaping. The National Forest Company have formally advised that there are no comments to make in regard to this planning application.

The Local Planning Authority have reviewed and considered the landscaping provision incorporated into the proposed scheme of development. It is considered that this is appropriate to the sites setting. Should planning approval be recommended planning conditions shall be incorporate to ensure the delivery and retention of the landscaping scheme. Subject to the above-mentioned planning conditions, the scheme of development is considered to be acceptable on ecology and biodiversity grounds.

Drainage

The National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. The application site is situated within Flood Zone 1 and as such there are no flooding concerns in principle. Following consultation, the Environmental Health team have not provided any comment or advise with regards to drainage or flood risk related implications. It is considered that the proposals would accord with the relevant local and national level planning policy in this regard.

Other Matters

No other matters to be considered.

Planning Balance

The principle of the proposed scheme of development is firstly considered to be acceptable. An acceptable form of design is presented and further to this the proposal is considered to not have a significant adverse impact on the residential amenity of the nearest neighbouring properties. In addition to this the scheme of development as proposed is considered to be acceptable on access and highways safety grounds and has achieved the support of the County Highways team at Derbyshire County Council. Subject to relevant planning conditions, the development proposal is considered to be acceptable when considered against the aims and objectives of the South Derbyshire District Local Plan, Supplementary Planning Documentation, and the National Planning Policy Framework. There are no material considerations that would warrant refusal of planning permission in this instance.

Conclusion

The proposed provision of timber storage building, extension to existing timber and machinery store, installation of foul package treatment plant and laying out of parking spaces and revised yard access locations, together with new landscape screening for the existing woodyard and regularisation of historic log storage area at Buildings Farm, Ticknall Road, Hartshorne, Swadlincote, DE11 7AU is considered to be acceptable, and is considered to be in accordance with the relevant local and national level planning policy. None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following Conditions: -

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in full accordance with the following details:
 - Design and Access Statement - Ref: N/A - 23 June 2023
 - Phase 1 Geo-Environmental Assessment - Ref: EAL.68.23 Version 1.0 - 05 July 2023
 - Existing Site Survey Site 1 - Ref: 222-68-01 - 23 June 2023
 - Survey of Existing Site 2 - Ref: 222-68-02a - 23 June 2023
 - Proposed Site Plan Overview - Ref: 222-68-03a - 23 June 2023
 - Proposed Site Plan Site 1 - Ref: 222-68-04b - 07 August 2023
 - Proposed Log Storage Building Site 1 - Ref: 222-68-05a - 23 June 2023
 - Proposed Site Plan Site 2 - Ref: 222-68-06a - 23 June 2023
 - Existing Building - Site 2 - Ref: 222-68-07 - 23 June 2023
 - Proposed Extensions and Alterations - Ref: 222-68-08 - 23 June 2023
 - Proposed Side, Rear and First Floor Plan - Ref: 222-68-09 - 23 June 2023
 - Proposed Retention of Log Storage Area - Ref: 222-68-10 - 23 June 2023
 - Location Plan - Ref: 222-68-11a - 07 August 2023

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

3. All external materials used in the development shall match those detailed within the approved plans and documentation. Any alternative details shall be first submitted to and approved in writing by the Local Planning Authority, whereafter the approved alternative details shall be incorporated into the development.

Reason: In the visual interest of the built form and the surrounding area.

4. The use hereby permitted shall not be open outside of the times of Monday to Friday: 08:00am to 17:00pm, and Saturday: 08:00am to 13:00pm.

Reason: To protect the amenities of neighbouring properties and the locality.

5. No logs or machinery shall be stored along the restricted byway. The visibility splays outlined within the approved documentation shall not be obstructed at any time.

Reason: In the interests of access and the safety of the public using the route, and as recommended by the County Highways team and the Rights of Way team at Derbyshire County Council.

6. Retained trees and hedgerows shall be protected during construction.

Reason: In the interests of ecology and biodiversity, to protect the amenity and visual interest of the locality, and as recommended by the Derbyshire Wildlife Trust at Derbyshire County Council.

7. No vegetation clearance during the period March to August (inclusive) unless preceded by a check for nesting birds by a suitably experienced ecologist no earlier than 24hrs in advance of planned works. Any active nests shall be left in situ and undisturbed until the young have fledged.

Reason: In the interests of ecology and biodiversity, to protect the amenity and visual interest of the locality, and as recommended by the Derbyshire Wildlife Trust at Derbyshire County Council.

8. Biodiversity strategy including landscape planting and bird/bat boxes shall be implemented as per the layout plans (SG Design Studio drawings 222-68-06a and 222-68.04b).

Reason: In the interests of ecology and biodiversity, to protect the amenity and visual interest of the locality, and as recommended by the Derbyshire Wildlife Trust at Derbyshire County Council.

9. Prior to the commencement of the development hereby permitted, a detailed full and comprehensive scheme of landscaping, planting, and turfing/ seeding shall be submitted to and approved in writing by the Local Planning Authority. Planting list to include at least 6 different native tree/ hedge species.

Reason: To ensure that the approved scheme is implemented in a speedy and diligent way, to protect the amenity of the locality, and in the visual interest of the surrounding locality.

10. The approved full and comprehensive scheme of landscaping, planting, and turfing/ seeding shall be implemented in full in the first planting and seeding season following the date of this planning approval. Any trees or plants which die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the approved scheme is implemented in a speedy and diligent way, to protect the amenity of the locality, and in the visual interest of the surrounding locality.

Informatives

1. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
2. In the interests of existing Public Rights of Ways, and as recommended by the Rights of Way team at Derbyshire County Council:
 - The routes must remain open, unobstructed and on their legal alignments.
 - There should be no disturbance to the path surfaces without prior authorisation from the Rights of Way Section.
 - Consideration should be given to the safety of members of the public using the paths during the works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
 - There should be no encroachment of the paths, and no fencing should be installed without consulting the Rights of Way Section.
3. The application site is abutted by a Public Rights of Way Footpath Nos. 29, 30, 31 and 32 as shown on the Derbyshire Definitive Map. The routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock or by emailing ETE.PROW@derbyshire.gov.uk.

Item No. 1.3
Ref. No. [DMPA/2024/0031](#)
Valid date: 08/01/2024
Applicant: Simon Moore **Agent:** Wakebridge Limited
Proposal: **Demolition of restaurant (Use Class E) and erection of retail/commercial unit (Use Class E) at The Mandarin Chinese Restaurant, Egginton Road, Hilton, Derby, DE65 5FJ**
Ward: Hilton

Reason for committee determination

This item is presented to the Committee as the previously refused application was at Planning Committee on 28th November 2023 and this application proposes a revised scheme.

Executive Summary

The proposal follows the refusal of a previous scheme for a similar development in November 2023. The proposal includes the demolition of an existing restaurant and the construction of a retail/commercial (Class E) building with 459Sqm of floor space partly over two floors and subdivided into 3 units. There are no outstanding objections from statutory consultees subject to conditions. The building takes on a more traditional form and use of materials, is not excessive in scale and in keeping with the general character and appearance of the area. Any impact on residential amenity is considered to be controlled through conditions, such as hours of operation and deliveries. Landscaping is proposed to form boundaries to the site and provide an appropriate setting. Whilst the building is higher than that it replaces this is not considered to be a significant increase and whilst there will be some impact on neighbours, given the separation and extent of the changes to the built form this is not considered to be significant. The applicant has provided a sequential assessment to demonstrate that there are no suitable or available units within any local centres and it is considered that the documents submitted in support of the proposals demonstrate that the site can be brought forward in a way such that there would be no undue impact on the vitality and viability of these local centres, highway safety or residential amenity. The application is therefore recommended for approval subject to the conditions set out at the end of this report.

Site Description

The site is located at the northern part of the former Mandarin Restaurant Car Park site and building adjacent to the Egginton Road to the east of the Key Service Village of Hilton. The site is relatively flat and sits between Egginton Road and Astley Gardens. At present, the application site is predominantly open but contains some trees and has a mixture of boundary treatments including 1m high 'picket' fencing at some points adjoining Egginton Road and some newer close boarded fencing associated with the recent housing development of Astley Gardens.

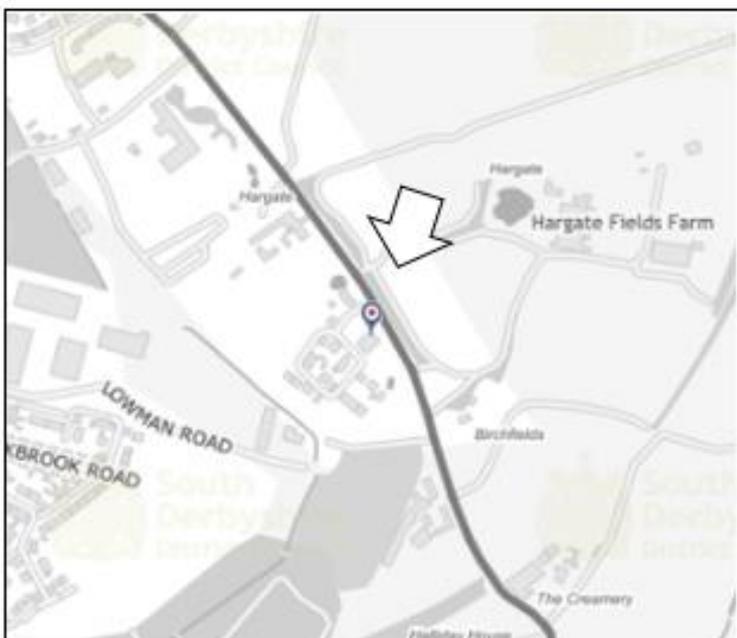
The proposal

The proposal includes the demolition of the vacant restaurant (Use Class E) and erection of a retail/commercial building (Use Class E) providing 459 Sqm of floor space. The new building would replace the former restaurant.

Applicant's supporting information

Bat Survey Report - The report concluded that no roosts were found to be roosting as a result of the surveys undertaken but bats were mobile within the area. Therefore recommendations are made with regards to timing, lighting and enhancement recommendations in relation to native tree planting.

**DMPA/2024/0031– The Mandarin Chinese Restaurant, Egginton Road, Hilton,
Derby, DE65 5FJ**



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South Derbyshire District Council. LA 100019461.2020

Highways Construction Management Plan - sets out the approach that will be taken to managing the development process whilst ensuring the works cause minimum disruption to local residents by achieving a safe working and living environment.

Marketing Report - The report sought to show the marketing of the site that has taken place for the Former Mandarin Restaurant by three different companies (DaveyCo , Omeeto and FisherWard) prior to the submission of the current planning application for the demolition of the Former Mandarin Restaurant

Preliminary Ecological Appraisal- This covers the wider site, the location of the Former Mandarin Restaurant, which has been split into two separate application which one dwelling previously approved following Planning Committee in December and this current application.

Planning, Design and Access Statement - sets out the issues stating why the proposal is considered to be in accordance with the National Planning Policy Framework, in particular the presumption in favour of sustainable development and concluding that the proposal would provide local facilities which will diversify and expand the range of sustainable employment activities on land on the edge of Hilton where existing facilities are sparse in an area which has grown significantly over the past twenty years and the proposed units have been designed to a high standard and the proposal will not result in significant loss of amenity for the occupants of neighbouring properties and safe and suitable access can be achieved via the existing access.

Retail Sequential Assessment - The report sought to complete a sequential assessment of the available commercial sites in and around the Hilton area using the A50 as the northern boundary of the search area, that must meet the business needs of the applicant and prospective occupier. A through search of sites for sale and to let that met the specific needs of the client was conducted and concluded that there was no sequentially preferable sites within the area that are capable of accommodating the proposed development. Therefore the sequential test is 'passed'.

Topographical Survey - A plan identifying existing trees, hedgerow and pond - the pond being within the site area but not within the red line of this application.

Relevant planning history

9/2016/0162 - Outline application (all matters to be reserved) for the residential development of up to 34 dwellings with associated access, public open space, sustainable drainage and landscaping - Refused 20/07/2016

APP/F1040/W/16/3160135 - Outline application (all matters to be reserved) for the residential development of up to 34 dwellings with associated access, public open space, sustainable drainage and landscaping - Allowed on appeal 06/02/2017

9/2019/0379 - Approval of reserved matters for access, layout, scale, appearance and landscaping of outline permission ref. 9/2016/0162 (as allowed by appeal ref. App/f1040/w/16/3160135) for the erection of 34 dwellings - Approved 25/09/2019

DMPA/2021/1789 - Retention of existing Restaurant (Class E) and the creation of a Gastro Pub (Sui Generis) to provide a flexible Class E/ Sui Generis Use - Withdrawn

DMPA/2022/0390 - The erection of two commercial units - Application Withdrawn 25 May 2022

DMPA/2022/0409 - Change of Use from Restaurant (Class E) to Restaurant (Class E) / Public House (Sui Generis)(Flexible Use) - Approved with conditions 1/07/2022

DMPA/2023/0528 - Demolition of restaurant (Use Class E) and erection of retail/commercial unit (Use Class E) - Refused 06/12/2023

DMPA/2023/0523 - The erection of a dwelling - Approved with conditions 06/12/2023

There are also a number of applications relating to discharge of conditions of 9/2016/0162 and 9/2019/0379.

Responses to consultations and publicity

County Highway Authority

It is considered that the proposed access, parking and turning arrangements are considered acceptable. The Construction Management Plan is considered acceptable.

Therefore there are no highway objections to the application subject to the requested conditions being imposed should approval be granted.

Derbyshire Wildlife Trust

First Comment - The site is located within 5km of Hilton Gravel SSSI and Old River Dove Marston SSSI, however the type of proposal is not included within Impact Risk Zones for these designated sites. The current building on site was assessed to have 'moderate' potential to support roosting bats. Further comments will be issued upon receipt of a Bat Survey.

Second Comment - Biodiversity Enhancements within the Landscaping Scheme & Site Layout are welcomed with further detail within a specified landscaping plan. Conditions are also requested relating to lighting, nesting birds and a biodiversity enhancement plan.

Derbyshire County Council – Archaeology – No objections subject to conditions

“The Mandarin Chinese Restaurant (formerly the White Swan Inn) dates back to at least the early-mid 19th century, and potentially earlier, as a building was depicted in this vicinity on Burdett’s map of Derbyshire (1767).” Further, the proposed development area also lies “within an archaeologically rich area of the Trent Valley, and there is some potential for unknown buried archaeological remains of prehistoric to medieval date to survive within the site, given its landscape location on the Egginton Common sand and gravel river deposits”

Therefore it is suggested a standing building survey of the extant structure to English Heritage Level 2 be undertaken to record the potential 18th and 19th century fabric and the subsequent additions, this will then deal with the historic elements of the standing building. Also it is recommended that, as the building stands within the area of the former Hargate Manor, identified in the same Desk Based Assessment it is recommended therefore that a programme of archaeological monitoring and recording is maintained during ground works on the site.

Environmental Health Officer

No objection subject to conditions.

Hilton Parish Council

Hilton Parish Council have submitted a representation raising the following comments:

- a) The sequential test does not take into account the A50 is not seen as a boundary of Hilton by the residents of the village who will access Willowpit Lane for available office space and Etwall for available shops;
- b) Concern the Ecological report covers the whole of the existing Mandarin site including the area granted planning permission under DMPA/2023/0523. Assurances would like to be made that the specific actions within the report are taken onsite and preferably increase the levels of biodiversity across the site, especially as 2023/0523 includes the filling in of the onsite pond;
- c) With regard to the Construction Management Plan the Parish Council would like to see the enforcement of no waiting/parking of contractors vehicles on Egginton Road and concerns are raised regarding the use of an on-site generator;
- d) If the Mandarin is to be demolished, if any artefacts or documents are discovered 'under the floorboards' then as these pertain to the history of Hilton, the council would ask that they are donated to the Hilton History Group;

- e) In the Parish Council's discussions with the developer, he has stated that he would support the council's and the residents of Astley Gardens request for improved street lighting along this section of Egginton Road. This would be welcomed;
- f) The developer has indicated in previous discussions that he would look at using reclaimed bricks from the demolition as part of the new buildings in an effort to keep the character of that part of street scene. This would be welcomed if possible.

Eleven representations were received from members of the public raising the following issues:

- a) Vacant retail units in the village;
- b) Not enough parking for the proposed units when accounting for staff;
- c) Impact upon Astley Gardens will be noticeable due to increased traffic;
- d) The current access from Egginton Road has poor and inadequate pedestrian access;
- e) Loss of privacy for the existing houses;
- f) Concerns of overshadowing for the existing houses;
- g) The front to the road will be the nicer aesthetic look, whilst to the rear that residents of Astley Gardens look on to will be like a metal warehouse structure;
- h) Opening hours of 8.30am to 11pm 7 days a week is a concern;
- i) Concerns for light pollution impacts from the units;
- j) Will the signage for the units be controlled to ensure the visual splay for those exiting Astley Gardens isn't affected;
- k) Not in keeping with the character of the area;
- l) This site would be more appropriate for more additional residential development.
- m) Although the application states for three units it looks to be possibility with the internal layout for it to be up to 5 occupiers or it could be just one main unit due to the proposed opening hours;
- n) Possible anti-social behaviour as a result of the development;
- o) Concerns for litter, noise and smells;
- p) What conditions will be put in place to retain the applied for number of units operating not increasing?;
- q) Concerns over the delivery of the landscaping plans
- r) The plans and details provided to residents via the parish council meeting with Applicant stated a desire to ensure the building blended with its estate neighbours and quoted a red Staffordshire tile roof, reclaimed brickwork, and timber fascias and barge boards however these details are now 'missing' from the submitted plan;
- s) There are no green energy measures evident for increased building efficiency;

Five representations were received received from members of the public in of support stating:

- a) The existing building is an eyesore;
- b) Hilton is short of retail facilities of this size;
- c) The development will help to improve the area;
- d) Will be a benefit to the local community;
- e) Will bring positive impact to local property market.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise.

The relevant Development Plan policies are:

2016 Adopted Local Plan Part 1 (LP1): S1 Sustainable Growth Strategy , S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S4 (Housing), S6 (Sustainable Access), E7 (Rural Employment), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport)

2017 Adopted Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas) and BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage); RTL1 (Retail Hierarchy).

Hilton , Marston on Dove and Hoon Neighbourhood Development Plan (NDP) : T1 (Active Travel); L3 (Hilton Village shopping Centre Development).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant National Policy and Guidance is:

National Planning Policy Framework (NPPF)

Planning Policy Guidance (PPG)

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle of development;
- Character, design and residential amenity;
- Ecology, trees and biodiversity;
- Highway safety and parking;
- Heritage and
- Drainage.

Planning assessment

Principle of development

The proposed development to demolish the Former Mandarin Restaurant and the erection of a retail/commercial unit (Use Class E) is located outside of the Hilton settlement boundary as defined within Policy STD1 and the Adopted NDP, therefore the proposal falls under consideration of Policy BNE5 and E7. Policy E7 supports a range of development proposals outside the settlement boundary within rural areas provided they can support the social and economic needs of the rural communities within South Derbyshire. Such development in rural areas is specifically supported under policy BNE5 part i). The site is the location of the Former Mandarin Restaurant. The more recent planning history (DMPA/2023/0523) has allowed for the erection of one dwelling on the car park of the Mandarin following committee approval. Prior to that in 2022, DMPA/2022/0409 shows that consent had been approved for the change of use from a Restaurant (Class E) to a Restaurant and Public House (Sui Generis)(Flexible uses).

Within the planning, design and access statement the applicant whilst not providing a separate business case has stated that the context of the site has changed from a rural location to a suburban as Hilton has grown with development focused upon the south of the village over the last twenty years and including recent development to the rear and side of the Mandarin. The adopted NDP quotes Hilton as being the second largest settlement within the District, having grown by 114% since 2001. The applicant has considered the proposed form of employment development to be "*an appropriate form of development for its location when having regard to the sites existing commercial / industrial uses and would represent an opportunity to create much needed rural employment opportunities within the countryside*". It is acknowledged that the business case provided by the applicant is weak and focuses upon the demonstration that the development is located within a sustainable location linked to the southern expansion of Hilton. It has been stated that whilst the Mandarin is an attractive building, neglect over a period of recent years since the closure of the restaurant has the building being in poor condition. Thus leading to significant costs for refurbishment in order to bring it in line with current energy efficiency standards. It is concluded by the applicant that the various schemes considered to make the building more usable "*would have altered the building's appearance so that it appeared*

unrecognisable" . As a result *"rebuilding is essential"* in order to provide the high-quality building the site justifies. In accordance with Policy B3 of the NDP which before the development of a business property can be supported it has to be actively marketed for 12 months, the agent has provided evidence of the site being marketed longer than this period, between May 2022 and December 2023 for a variety of uses. There was but there was not interest taken up for the site as a licenced premise, however between September and December there was interest that had been received for the use of the site with Class E use under the proposed scheme.

The applicant has supplied a retail sequential assessment alongside the application as the application is outside of the existing centre of Hilton. The NPPF paragraph 91 states that the sequential approach should not be applied to small scale offices or rural development, however a size threshold is not provided on what small scale development is within the NPPF. Rather that it applies to 'town centre' uses which include retail which fall under Class E. The supplied sequential assessment has undertaken a search area of that from the north of Hilton to the A50, beyond Egginton Road to the east, to Marston on Dove to the South and A511 to the west. The sequential assessment undertaken identifies the requirements and how sites are shown to be available. Following a thorough search it has been concluded within the assessment that there are no adequate sites that meet the needs of the applicant within the search area.

As there are no alternative available sites at this time and E7 allows for new buildings to provide employment related development outside settlement boundaries, including new buildings, the proposal is considered to comply with E7, BNE5 and RTL1 in relation to principle.

Character, design and residential amenity

The application site is not located within Hilton Conservation Area, neither it is a listed building. The current Former Mandarin building is of traditional construction made from brick and clay tiles, with several modern extensions. The proposed retail units design whilst still located within the northwestern corner has significantly changed since the previously refused application which was described as a dramatic modern box. This is following several discussions between the applicant / agent and the Design Officer. As a result, the proposed units have been successfully designed to look akin to a traditional agricultural build that has been converted for retail. Made from brick and larch timber cladding and Staffordshire Blue tiled roofing on all four sides. Whilst during the application process discussions did take place with both the Parish Council and the LPA regarding the use of reclaimed materials, it is understood that due to the varying quality of the materials on the current building it is not possible to re-use the materials within the development.

A comparison between the proposals for DMPA/2023/0528 and the current application DMPA/2024/0031 presented now is included below:

Current Site & Proposed Site



Development proposed under previous refused application - DMPA/2023/0528



DMPA/2024/0031 Proposed Front Elevation

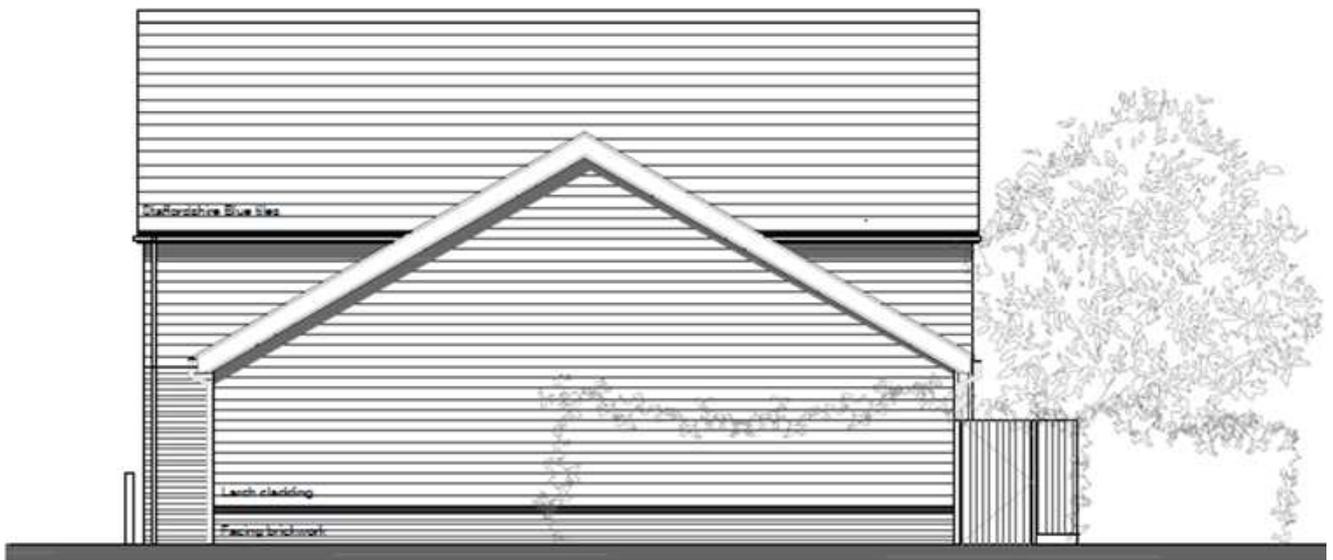


Front Elevation as Proposed

DMPA/2024/0031 Proposed Rear Elevation



DMPA/2024/0031 Proposed Side Elevations



As is evident the design has evolved following the refusal of the previous planning application and the proposal now includes a more architecturally 'traditional' building with a pitched roofline to help ensure the character fits in with the surrounding dwellings within the immediate area. This is further to the north than the existing Mandarin Pub/Restaurant as it avoids building on the same footprint and allows sufficient space for parking and turning within the site for delivery vehicles. The existing Mandarin building is approximately 7.5m to ridge and the new commercial building is 9.13m at the highest point and 7.03m along the main ridgeline. Whilst clearly taller it is considered that the overall design of the building offers a quality built form which reflects its context, in accordance with Policy BNE1.

Behind the proposed retail units there will be native hedgerow planting to help soften the appearance and overall massing of the building for the occupants of nearby residential properties. It has been illustrated showing that native hedgerow planting will also be included to the south and eastern boundaries of the site alongside 6ft close boarded fencing to the south and west of the site, which will ensure the building sits within an appropriately landscaped setting and ensure that the site is enclosed. The new building fronts onto Egginton Road with a large, glazed frontage with four proposed entrances at the ground floor and a double height glazed glass frontage above the first entrance to the left of the building. At the side elevation facing towards the proposed car park it is proposed to have the service

entrance for the deliveries units and entrance for unit 3 which is accessible via a stairway. The proposed application does not have a end user at present and is for three retail class E units of varying sizes totalling 459m². The application does not include a proposal for any fast food takeaway units as these are sui generis use class. In addition, the applicant seeks broad opening times of 06:30 until 23:00. Given that the units are in close proximity to residential dwellings a condition has been recommended to restrict the hours of operation to 8:30 and 11:pm and deliveries between the hours of 7:00am and 11:00pm .Subject to conditions relating to hours of construction noise , operation, and boundary treatment, the proposal is considered to comply with BNE1 and SD1, with no objections from SDDCs environmental health officers.

Ecology, trees and biodiversity

The location was used as a restaurant until 2020 and the site consisted of built development with associated car parking. Derbyshire Wildlife Trust have provided a response to this application, requesting conditions of a lighting strategy in order to help to safeguard bats and nocturnal wildlife that live within the site , nesting birds , badger mitigation and the submission of a biodiversity enhancement plan.

A Biodiversity Net Gain (BNG) calculation has not been prepared for the site; however, at the time of validation it was not mandatory to use the BNG Metrics it is still a planning policy requirement that all developments strive to achieve a net gain for biodiversity. A condition has been added to the recommendation as well as an informative to assist in achieving a net gain, which it is considered the proposal can achieve. Subject to these the proposal is considered to comply with BNE3.

Highway safety and parking

The access for the proposed retail development is from Astley Gardens using the existing road created at the entrance from Egginton Road created when the new estate was constructed. A timber clad sheltered cycle store is proposed to be included within the car park at the rear of the site. The Highway Authority have raised no objection subject to conditions relating to parking and turning facilities, and the submission of an EV vehicle infrastructure strategy plan the proposal is considered to comply with INF2.

Drainage

No drainage proposal has been provided with the application which is not unusual on a minor proposal of this size , and it is not necessary to consult with the Lead Local Flood Authority on minor applications. The application site is located within Flood Zone One, thus least likely to flood. The application site is a brownfield site with an existing large building and large area of tarmac which has the potential to increase surface water run off. Building Regulations will provide sufficient control to minimise surface water run off in relation to the proposal. The land falls to the south west and the SUDs scheme related to the Astley Gardens housing is located to the south west and is therefore not related to this application site. The proposal is considered to comply with SD2.

Other

The Mandarin Chinese Restaurant (formerly the White Swan Inn) dates back to the early-mid 19th century, and potentially earlier, as a building was depicted in this vicinity on Burdett's map of Derbyshire (1767).

The proposed development area also lies within an archaeologically rich area of the Trent Valley, and there is some potential for unknown buried archaeological remains of prehistoric to medieval date to survive within the site, given its landscape location on the Egginton Common sand and gravel river deposits.

Whilst the building is not listed either nationally or locally as a heritage asset it has the potential to hold some historic significance, and as such to mitigate this loss and to ensure that no undiscovered

archaeological remains are lost or disturbed it is considered that appropriate and reasonable to attach the conditions set out in the recommendation.

Conclusion and planning balance

The planning application proposes a main town centre use outside of a defined centre. However, following a retail sequential assessment the location has been demonstrated to be the only available site available for three retail units of this size within Hilton. Whilst outside of the Hilton settlement boundary, the proposal is considered to be a sustainable location. Consequently the proposal is considered to comply with Policies E7 , BNE5 and RTL1 as the proposal would enhance the provision of local services provided within the wider area and it would expand the range of sustainable employment opportunities on land outside of the settlement boundary.

The proposed development will have some impact on the character and appearance of the area, being over just 7m in height and 9m at the highest point of the building. However, on balance the appearance of the building is not considered to adversely affect the character of the area and it is considered that the impact on neighbouring properties and traffic levels would not be significantly greater than the previously approved use. The County Highways Authority has no objections subject to conditions. It is therefore recommended that the application is approved.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref.
 - MAN-MDB-Z1-XX-DR-W-02007-D5-P2 Landscaping Plan received 15th February 2024
 - MAN-MDB-Z1-XX-DR-W-02005-D5-P3 Proposed Plans and Elevations received 15th February 2024
 - F23022_02 - Swept Path Assessment (Rigid Truck) received 8th January 2024
 - F23022_01 - Swept Path Assessment (Refuse Vehicle) received 8th January 2024
 - MAN-MDB-Z1-XX-DR-W-2001-D5-P1 Site Location Plan received 8th January 2024

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

3. Gutters and downpipes shall have a black finish. No fascia boards shall be used.

Reason: In the visual interest of the building and local distinctiveness.

4. The Development hereby approved shall not be brought into use until the parking and turning facilities have been provided as shown on the approved drawings.

Reason: To ensure conformity with submitted details.

5. The development hereby approved shall not be brought into use until sheltered, secure and accessible bicycle parking has been provided at the location shown on the approved drawings. The storage area shall be permanently maintained for this purpose thereafter.

Reason: To promote sustainable travel and healthy communities.

6. An electric vehicle infrastructure strategy and implementation plan shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of any building hereby permitted. The plan shall contain details of the number and location of all electric vehicle charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851, and Derbyshire Highway Design Guide. Parking spaces that are to be provided with charging points shall not be brought into use until associated charging points are installed in strict accordance with approved details and are operational. The charging point installed shall be retained thereafter unless replaced or upgraded to an equal or higher specification.

Reason: To promote sustainable travel and healthy communities.

7. The approved Construction Management Plan shall be adhered to throughout the demolition/construction period of the development.

Reason: In the interests of safe operation of the adopted highway.

8. During the period of demolition/construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

Reason: To safeguard the amenities of nearby occupiers.

9. Prior to construction, a scheme for the control and mitigation of noise emanating from the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the use hereby permitted commences and thereafter operated in accordance with it with any mitigation maintained in situ/in working order

Reason: In the interests of protecting the amenity of the area and adjoining occupiers, recognising that initial preparatory works could cause unacceptable impacts.

10. If any unit is to be used for the preparation of hot food, a scheme of odour control is to be submitted and approved in writing by the Local Planning Authority prior to commencement. The scheme should be designed in accordance with the latest DEFRA guidance. Any physical measures within the approved scheme shall be implemented in full prior to the first use of the development, whereafter the use shall be carried out in accordance with the approved scheme.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers.

11. No extraction equipment shall be installed until a scheme of odour control has been submitted and approved in writing by the Local Planning Authority. The scheme should be designed in accordance with the latest DEFRA guidance. The approved scheme shall be installed prior to the first use of the extraction equipment and subsequently maintained as such.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers.

12. During the period of demolition/construction there should be no clearance of vegetation by burning, or disposal of other materials by burning.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby.

13. No development shall take place until a written scheme of investigation (WSI) for archaeological building recording and archaeological monitoring has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives; and:
- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason: To enable heritage remains and features to be adequately recorded, in the interests of the cultural heritage of the District, recognising that initial preparatory works could have unacceptable impacts.

14. Prior to commencement of the permitted use, a scheme for a continuous acoustic barrier constructed along the boundary of the site with neighbouring residential property shall be submitted to, and approved in writing by, the local planning authority. The barrier should be installed in accordance with the approved scheme prior to the commencement of the permitted use.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers in accordance with Policy BNE1

15. The premises shall not be open to the public other than between 8.30am and 11pm

Reason: To safeguard the amenities of nearby occupiers.

16. Deliveries should be restricted to between 7am and 11pm only.

Reason: To safeguard the amenities of nearby occupiers.

17. Prior to the first use of any unit hereby permitted, a scheme for the control and mitigation of noise emanating from the unit and associated external areas shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the use hereby permitted commences and thereafter operated in accordance with it with any mitigation maintained in situ/in working order

Reason: In the interests of protecting the amenity of the area and adjoining occupiers.

18. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts.

19. No tree, scrub or hedgerow clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts.

20. All excavations shall be covered overnight or else have an escape ramp to prevent entrapment of badgers, hedgehogs and other wildlife. All pipework greater than 150 mm shall be blanked off at the end of the day and chemicals shall be stored securely. Topsoil mounds shall be checked for badger activity prior to removal or re-use. An ecologist shall be contacted if any evidence of badger activity is found within the application area during development.

Reason: In order to safeguard protected from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts.

21. Prior to building works commencing, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall indicate the locations and specifications the following measures, which shall be implemented in full and maintained thereafter:

- Native and wildlife-attracting planting i.e., trees, hedgerow, shrubs and / or herbaceous perennials to provides resources for pollinators, birds and other wildlife, as detailed in the submitted Landscaping Site Layout
- Bat and bird boxes as detailed in the submitted Landscaping Site Layout

Reason: In order to safeguard and enhance habitat on or adjacent to the site in order to secure an overall biodiversity gain.

22. Notwithstanding the plans hereby approved, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective building to which they serve is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area.

23. Prior to the occupation of a unit a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Details of soft landscaping should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. Where areas of public open space are included in the proposals, the details shall be supplemented with details of play equipment, seating, litter and dog waste bins, signage and other ancillary structures (as necessary). All hard landscaping shall be carried out in accordance with the approved details prior to occupation of the unit, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the unit or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the visual setting of the development and the surrounding area.

Informatives:

- i. In the case that any of the units be used as a Food Business:
- The developer should contact the Business Compliance Team on all matters relating to food hygiene on Environmental.Health@southderbyshire.gov.uk

- Food businesses must register with the local authority at least 28 days prior to opening for business. <https://www.southderbyshire.gov.uk/our-services/business-and-investment/food-premises/food-premises-registration>

j. The applicant/developer is reminded that it is an offence to damage or destroy species protected under separate legislation, which includes, but is not limited to, nesting birds which may be present in hedgerows, trees or ground habitats on the site. Planning permission for a development does not provide a defence against prosecution under wildlife protection legislation. You are advised that it may be necessary, shortly before development commences, to commission an ecological survey from suitably qualified and experienced professionals to determine the presence or otherwise of such protected species. If protected species are found to be present, reference should be made to Natural England's standing advice and/or the Derbyshire Wildlife Trust should be consulted for advice.

Item No. 1.4
Ref. No. [DMPA/2020/1124](#)
Valid date: 08/12/2020
Applicant: Matthew Priestley **Agent:** N/A
Proposal: Retention of access, track and associated gates & gateposts, the retention of a storage barn and retention two additional floodlit secure runs at Dog Centre, Grasmere, Sandy Lane, Caldwell, Swadlincote, DE12 6RL.
Ward: Linton Ward

Reason for committee determination

This planning submission is being reported to Planning Committee due to the call-in request received from Cllr Pegg. Cllr Pegg has outlined the reasoning for this call-in as due to several resident concerns regarding noise, light pollution, opening hours, road safety and parking, potential works without planning permission, flood risk, and the retrospective nature of the application.

Site description

The application site is addressed as Dog Centre, Grasmere, Sandy Lane, Caldwell, Swadlincote, DE12 6RL. The site under consideration currently facilitates a Dogs Play Daycare facility. The site is situated to the east of Sandy Lane in Caldwell. The surrounding locality is predominantly rural in nature. The site is located outside of any settlement boundary and is considered to be within the rural part of the district. The site is not situated within the Green Belt, does not comprise of any Listed Buildings, and is not situated within a Conservation Area. The site under consideration does not comprise of any Tree Preservation Orders. The application site is however situated within the National Forest. The site falls within Flood Zone 1.

The proposal

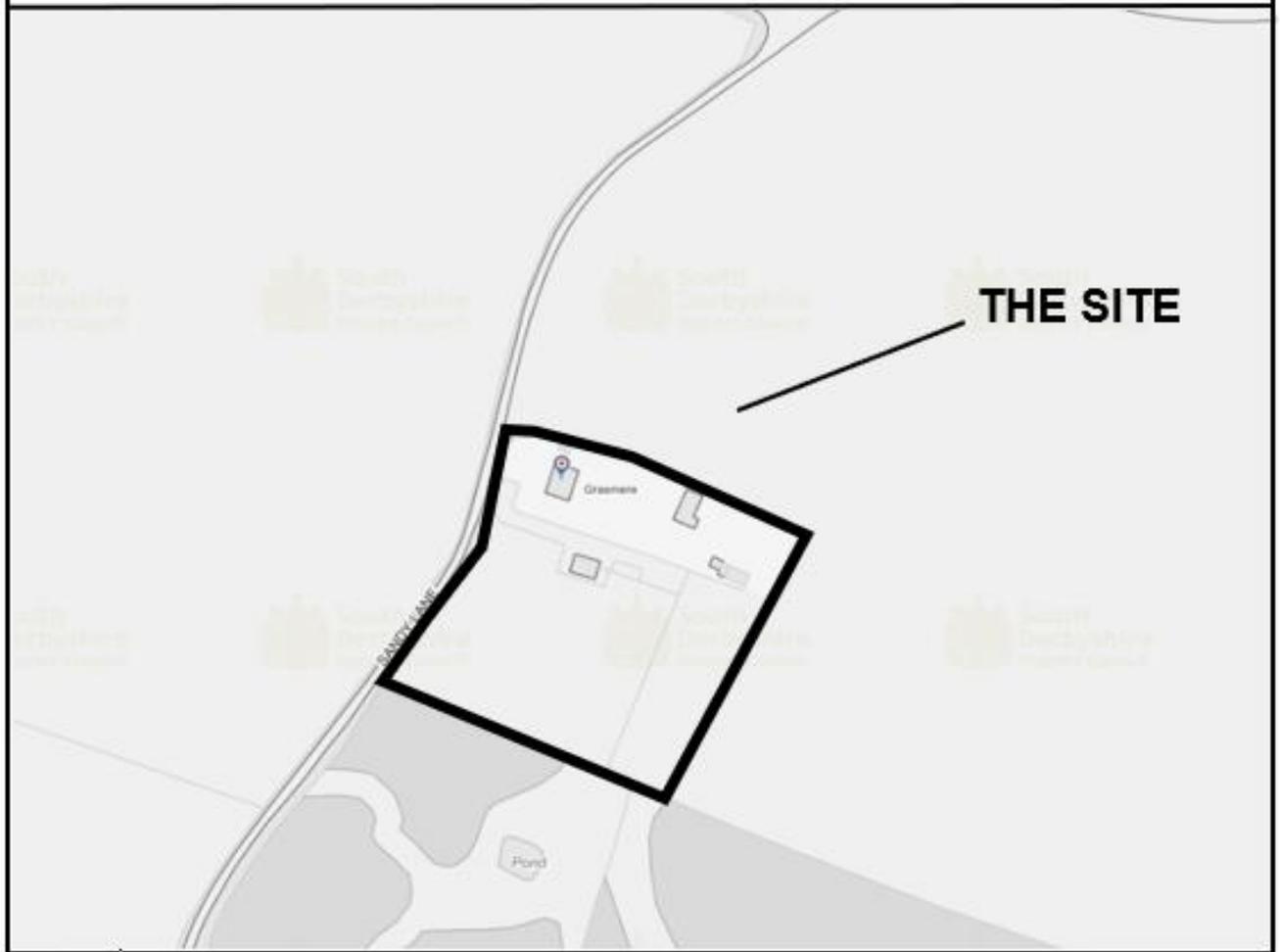
The applicant is seeking planning permission for the proposed retention of access, track and associated gates & gateposts, the retention of a storage barn and retention two additional floodlit secure runs at the site under the address of Dog Centre, Grasmere, Sandy Lane, Caldwell, Swadlincote, DE12 6RL.

Applicant's supporting information.

The applicant has submitted documentation setting out the proposals for approval.

- Application Form
- Location Plan - Title number DY475621
- Supporting Information - Step-by-step guide to keeping safe whilst at Dogs Play
- Site Plans - DIAG 1 to DIAG 8
- Concrete and Fence Details - 20_11_2020
- Barn Details - 20_11_2020
- Location and Site Plans - 08_12_2020
- Planning Statement - 08_12_2020
- Additional Supporting Information Email - 03 February 2021
- Additional Information Lighting Plan - 28.01.2021 - 03 February 2021
- Additional Information Site Layout - 2101 12 Jan' 2021 - 03 February 2021
- Additional Information Swept Paths - 2101 11 Jan' 2021 - 03 February 2021

DMPA/2020/1124 – Dog Centre, Grasmere, Sandy Lane, Caldwell, Swadlincote, DE12 6RL



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South Derbyshire District Council. LA 100019461.2020

- Additional Information Visibility Splays - 2101 10 Jan' 2021 - 03 February 2021

Summary of Recommendation

To approve planning permission subject to relevant planning conditions.

Relevant planning history

9/2015/0111 - Change of use of existing outbuilding and land to dog day care business, erection of security fencing and erection of replacement building for use as additional dog care facility (phase 2) at Grasmere, Sandy Lane, Caldwell, Swadlincote, Derbyshire, DE12 6RL - Approved 17 April 2015.

DMPA/2022/1229 - The erection of a two storey extension to the front and side of the dwelling with alterations at Grasmere, Sandy Lane, Caldwell, Swadlincote, DE12 6RL - Approved 22 December 2022.

DMPA/2023/0551 - The erection of a two storey extension to the front and side of the dwelling with alterations at Grasmere, Sandy Lane, Caldwell, Swadlincote, DE12 6RL - Approved 20 June 2023.

Responses to consultations and publicity

Summary of consultation responses:

- The Environment Agency raise no objections.
- The SDDC Landscape Architect requests additional information.
- The National Forest Company neither object or support but do express concern in relation to light pollution and protected species.
- Asset Protection Waste Water East neither object or support the proposal.
- Environmental Health raise no objections.
- County Highways request additional information.

Responses to publicity:

38 representations were received from neighbours as a result of publicity undertaken.

18 representations were received in support of the application. A summary of the responses received is as follows:

- A valued local business providing an essential service, responding to public demand
- Minimal impact on neighbour amenity
- Offers local employment
- Logical access arrangements

20 representations were received in objection of the application. A summary of the responses received is as follows:

- Impact on highway safety
- Light pollution
- Impact on neighbour amenity
- Unlawful works to existing drainage measures

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental

Quality), SD2 (Flood Risk), BNE1 (Design Excellence), BNE3 (Biodiversity), INF2 (Sustainable Transport), INF8 (The National Forest).

- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development, BNE5 (Development in Rural Areas).

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF).
- Planning Practice Guidance (PPG).

Additional local guidance is provided within the following:

- South Derbyshire Design Guide Supplementary Planning Document.

Planning considerations

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application is/are:

- Principle of development
- Amenity of neighbouring properties
- Highways considerations
- Impact on the National Forest

Planning assessment

Principle of development

The application seeking the change of use of the land to a dog exercise park. This includes access, track, gates & gateposts, a storage barn and floodlighting. An additional four parking spaces are also proposed. This is a retrospective application relating to the expansion an established business, 'Dogs Play', that has been operating from the site for a number of years. 'Do It Yourself Dogs Play' in an expansion of this business and it is understood the use has been operating from the site since September 2020.

The site is located to the east and beyond the settlement boundary of 'rural village' Caldwell and is, therefore, considered to be in the rural area. Indeed, in rural areas development will be limited to that considered acceptable inter alia by Policy BNE5. It should be noted that purpose of Policy BNE5 is to support sustainable development and preserve and protect the countryside. Of most relevance to the proposals, Policy BNE5 states that within the rural areas of the district planning permission will be granted for development that is "unavoidable outside settlement boundaries".

The nature of the proposals mean that a large area of private open space is required. It is considered that there is limited opportunity and space for this within the settlement boundary of the village. As such, it is accepted that the development is unavoidable outside settlement boundaries, and therefore, in accordance with criterion iii) of Policy BNE5.

It should be noted that the proposed change of use from agricultural to a dog exercise park will not lead to the introduction of any new built form on the site, beyond the replacement of a number of existing dilapidated sheds with a new corrugated metal equipment shed. The site will remain as an open field for use by dogs rather than farm animals. The proposed fencing and access gates are minimal in nature and are largely in keeping with either the host property or are necessary to the function of the established business. As such, the proposed development will not unduly impact on the landscape character and quality of the area. In addition, the site is not known to be best and most versatile

agricultural land. The development is, therefore, considered to be in accordance with Policy BNE5 iv) and v).

Amenity of neighbouring occupiers

The site is located in a somewhat isolated position outside of the village's settlement boundary. Beyond the site, where the Applicant and business owner also resides, the nearest residential dwelling is over 250m away as the crow flies. Given this distance and the baseline levels of impact on neighbour amenity arising from the existing business operating on site, the expansion of the business as proposed is not considered to have any detrimental impact on neighbour amenity. The operating hours of the dog field (8am-10pm daily) and the associated impact in term of noise and light are seen to be reasonable and compatible with the site's secluded location. Environmental Health are in agreement with this view. Furthermore, there is adequate natural screening surrounding the site, by way of hedgerows and mature trees, to minimise views into the dog enclosures from the public highway. On the basis of the above, it is considered that the proposed development would be in accordance with Policy SD1.

Highways considerations

As part of the proposal, an existing but formerly unused access point is reinstated and the provision of four additional car parking spaces. The expansion of the business will generate additional vehicle trips on a single carriageway road of relatively narrow width. Notwithstanding this, based on usage data provided by the Applicant, there were on average five additional cars per day (therefore ten trips) as a result of the proposed development. Whilst this would naturally fluctuate based on a number of factors, it does provide a realistic portrayal of typical vehicle movements. The additional vehicle movements are not significant and within the context of the existing business, the view is taken that there would be no undue highways safety implications arising from the proposed development. Furthermore, the local authority is content that the relevant visibility splays can be achieved. Overall, the proposal is considered to satisfy the relevant criteria of Policy INF2 with regards to highways safety.

Impact on The National Forest

The site is located in the National Forest and as such, Policy INF8 is a consideration. The application site is under the 0.6ha threshold for requiring dedicated planting. Given the site will primarily remain as open and otherwise undeveloped greenspace, green infrastructure is maintained, providing ecological connectivity to and from the woodland to the south. Whilst the National Forest did express some concern over the lighting specification, it is evident that Applicant has proposed as minimally intrusive scheme as possible; lights are between 50-90w, on a timer, angled at 65 degrees and operating on an IP65 rated switch to ensure lights will only be used when the level of natural light requires. No artificial lighting in relation to the dog enclosures will be lit after 10pm. In the planning balance, the measures proposed are considered to be entirely adequate insofar as ensuring the operational needs of a local business are met, whilst ensuring there is no detrimental impact on the surrounding National Forest and broader habitats. Accordingly, the view is taken that the proposal accords with Policy INF8.

Taking these main issues into account, the proposal would not result in a conflict with the policy requirements of the Local Plan and is considered to be acceptable. The relevant constraints have been considered in the planning balance and no material harms have been identified that would warrant refusal of the application.

Recommendation

Approve with conditions.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and

to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Proposed conditions

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the submitted plans, particulars and drawings validated on 8th December 2020; unless as otherwise required by condition attached to the permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.
Reason: For the avoidance of doubt and in the interests of achieving sustainable development.
3. The dog exercise park hereby permitted shall not operate other than from 08:00 hours to 22:00 hours Mondays to Sunday.
Reason: To safeguard the amenities of nearby occupiers.
4. In accordance with the information submitted in support of the application, the facility shall only be used by a maximum of two vehicles at any one time. Customers shall pre-book use of the facility and a diary, which shall be available for inspection at the request of the Local Planning Authority, shall be kept showing customer booking details.
Reason: In the interests of protecting the amenities of the area and in the interests of highway safety.

Item No. 1.5

Ref. No. [DMPA/2023/1526](#)

Valid date: 07/12/2023

Applicant: Andrew Moseley

Agent:

Proposal: **The erection of extension and the erection of outbuilding at Nutwood, Shepherds Lane, Melbourne, Derby, DE73 8HT**

Ward: Melbourne

Reason for committee determination

This item is presented to committee as it has been called in by Councillor Carroll.

Site Description

Nutwood, Shepherds Lane (the site) is a two storey barn conversion within a woodland clearing in the countryside accessed via a track off Shepherds Lane to the North East. The site lies between the villages of Ticknall and Melbourne and falls outside of the defined settlement boundaries. The floor plan currently incorporates a bathroom, kitchen/diner and sitting room at ground floor level, and a bedroom at first floor level.

The proposal

The proposal is for a single storey extension. The proposed extension would extend from the lean-to element of the existing barn conversion forming an L-shaped layout. The extension would comprise of an office, bedroom and shower room.

Applicant's supporting information

Planning Application Drawings

Proposed floor plans (amended) 26 January 2024

Proposed West and South elevations (amended) 26 January 2024

Proposed East and North elevations (amended) 26 January 2024

Proposed Block Plan (amended) 16 April 2024

Location Plan 7 December 2023

Existing floor plans and elevations

Design and Access Statement

Relevant planning history

9/2008/0182 - Prior notification for the erection of a barn – No objection

9/2009/0316 - Prior notification for the creation of forestry roads – No objection

9/2014/0504 - Prior approval for the change of use of a barn to a dwellinghouse and associated operational development - refused and dismissed at appeal

9/2014/0741 - Prior notification for the creation of forestry roads - permitted

9/2014/0807 - Prior notification for the creation of forestry roads - permitted

9/2017/1046 - Prior approval for change of use of existing barn to a dwellinghouse (use class C3) along with associated operational development - withdrawn

9/2018/0887 - Conversion of existing timber frame barn to a dwelling - permitted

9/2019/0651 and APP/F1040/W/19/3240900 - The variation of condition no. 2 and the removal of conditions 4, 5 and 6 of permission ref. 9/2018/0887 (relating to the conversion of existing timber frame barn to a dwelling) - allowed at appeal



South
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DMPN/2024/0220 - Prior notification for the erection of an agricultural machinery store and an open fronted feed / log store - not required

Responses to consultations and publicity

Melbourne Parish Council

Raises no objections

Melbourne Civic Society

Following completion of the development, the subdivision of the plot to two dwellings should be prevented.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

South Derbyshire Local Plan Part 1

H1 (Settlement Hierarchy)

S2 (Presumption in Favour of Sustainable Development)

SD1 (Amenity and Environmental Quality)

BNE1 (Design Excellence)

South Derbyshire Local Plan Part 2

H27 (Residential Extensions and other Householder Developments)

H28 (Residential Conversions)

SDT1 (Settlement Boundaries and Development)

BNE5 (Development in rural areas)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

- Principle of the proposed development
- Impact on the host dwelling and the character and appearance of the area
- Residential amenity

Planning assessment

Application Site

Nutwood, Shepherds Lane (the site) is a C21 two storey barn conversion within a woodland clearing accessed via a track off Shepherds Lane to the North East. The site lies in the rural area between the villages of Ticknall and Melbourne and falls outside of the defined settlement boundaries.

The conversion of the timber frame barn was permitted through application 9/2018/0887, and an application to extend the barn by erecting an extension to the lean-to element (as well as remove certain conditions) was allowed on appeal on 9th March 2020. The inspector commented as follows 'Whilst the proposed extension would be somewhat larger than that approved, the design would incorporate additional glazing which would reflect the open character of the original building, allowing the internal frame of the middle bay to be revealed and mirroring the glazing on the other side of the

building. The extension would still be well set back from the north elevation and the significant amount of glazing on the middle bay section would limit the visual impact of the extension. The canopy is modest in size and would not appear as a dominant feature.'

It should therefore be noted that an extension has already been granted for this conversion scheme which was considered to be acceptable and not extensive, thus in accordance with Policy H28.

Description of Proposed Development

Planning permission is sought for the erection of a single storey L-shaped extension. The extension would extend beyond the 'lean to' element of the dwelling and have a gable roof almost to the height of the existing barn conversion. The extension would comprise of an office, bedroom, and shower room. To the West elevation, a window is proposed to serve the shower room. To the South elevation, windows are proposed to serve the bedroom. To the East elevation, a window is proposed to serve the office. To the North elevation, three windows are proposed to serve the office, bedroom and shower room. The extension would be accessed via the lobby area of the kitchen/diner of the existing barn conversion.

Initially a two storey car port and two storey extension were proposed. Following Officer feedback, the extension has been reduced in height and the amended scheme is now presented. The car port element has been removed from the scheme. The applicant has stated that 'barn 2 [of prior notification DMPN/2024/0220] could be made surplus to requirements if the provision for the workshop had been allowed'. However, the decision to remove the barn from the prior notification cannot be done through this householder planning application. Unless the prior notification expired or was not implemented, the applicant could still implement barn 2. Weight therefore cannot be given to the prior notification (whether implemented or not) to justify the inclusion of a two storey car port within the scheme.

Principle of Proposed Development

Policy BNE5 relates to developments outside of settlement boundaries and states that permission will be granted in these areas where allowed for under a number of policies including H27 and H28.

Policy H27 which supports extensions and alterations to dwellings or the erection or alteration of outbuildings, annexes, structures and boundary treatments within residential gardens where they

- i) are of a scale and character in keeping with the property, and
- ii) are not detrimental to the living conditions of adjoining properties or the general character and appearance of the area.

In this instance, it is considered the proposed extension is not of a scale and character in keeping with the property, due to the conflict with the relevant policy H28.

Policy H28 of the Local Plan Part 2 relates to Residential Conversions. The dwelling is a barn conversion, where permitted development rights have been removed and as such, when an application is subsequently received, the proposal needs to be considered through the same policy as the original conversion.

H28 states that 'outside settlement boundaries the conversion of a building to provide residential accommodation will be permitted provided the building:

- iii) is suitable for conversion without extensive alteration, rebuilding and/or extension.'

It is considered that the proposed extension is extensive due to the large scale of the footprint, and the L-shape which is not considered subservient to the existing building. The extension measures a footprint of approximately 56m² which is considered to be significant when compared to the ground floor footprint of the existing dwelling of approximately 98m². For context, a typical accessible double bedroom would be 4m x4m resulting in floor space of 16m² (internal) and an accessible bathroom would be 7m² (internal). Note: it is accepted that the footprint of these measurements would be slightly higher.

The development is proposed to extend further from the 'lean to' which has already been extended is ~~already an extension in itself, which~~ and would create a disjointed design which could be considered to read like a separate dwelling. The principle of the development is therefore considered unacceptable as it is considered to be contrary to policy H28.

The South Derbyshire Design Guide SPD provides additional guidance on this matter. The South Derbyshire Design Guide SPD (pages 130/131) states 'Where a scheme of residential conversion is granted the permitted development rights which normally apply to dwellings will be withdrawn as a condition of the approval. This means for instance that windows, doors and roof coverings cannot subsequently be changed and small extensions like porches cannot be erected without planning permission. Proposals for such subsequent changes will be considered by the same criteria as the original conversion.' The design Guide SPD goes on to state 'An extension may be acceptable where it allows for a more sympathetic conversion of the existing building but will not be permitted where its purpose is to facilitate a high density conversion.'

It is also noted that the applicant has stated within the Design and Access Statement that 'this modest extension is in line with the guidance set out in the local plan and will help create a house suitable for the owners work life needs into the future'. The applicant has provided details of two chronic degenerative health conditions which are likely to affect mobility. Whilst taking note of the individual circumstances, the proposed extension is considered to be larger than a reasonable standard size for an accessible bedroom and bathroom. It is therefore considered that the circumstances do not outweigh the normal policy presumption against such development. The significant size and disjointed design of the extension is considered to result in harm which would be contrary to policies H27 and H28.

In summary, the Local Plan policy states sympathetic conversions should retain the agricultural character and large extensions should be avoided. As set out above, the building already benefits from planning permission for a sympathetic conversion which includes an appropriate extension. The current scheme as submitted is considered to be unacceptable due to its large size and the disjointed design (L-shape form) which would have a negative impact on the host dwelling.

Residential Amenity

The site is positioned on private land in a woodland clearing with no immediate neighbouring properties. It is considered that the proposed development will not unduly harm the amenity of nearby properties. The scheme therefore complies with policies H27 and BNE1 of the development plan and advice within the Design Guide SPD in that regard.

Other matters – pre application advice

The applicant has also submitted a pre-application enquiry following the suggestion of Officers, with a view to working towards an acceptable scheme. A site meeting was also arranged and undertaken with different proposals considered both on site and via email exchange. Following this, further advice was provided with the suggested options were considered by Officers, including the Design Officer, to be an improvement but still too extensive. The applicant has been given the opportunity to present amended plans but for clarity, these do not form part of this application.

Conclusion and Planning Balance

While the needs of the applicant are noted, there are ways of securing additional accommodation via an extension to the building that are capable of being consistent with Policy H28. The proposal as submitted is not considered to comply with the Council's adopted policy on rural conversions and would have a detrimental impact on the host dwelling due to its large scale and disjointed design. The extension is 'extensive' due to its large floor space which appears to seek more than a standard accessible bedroom/bathroom. The proposal therefore is deemed to conflict with the aims of the development plan policies and Design Guide SPD. On that basis, the scheme as presented is considered to warrant refusal of planning permission in this instance.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Refusal of planning permission.

1. The proposed extension by virtue of its scale and form would be unacceptable in principle and would be contrary to policies H27 and H28 of the Local Plan Part 2, and the South Derbyshire District Council Design Guide Supplementary Planning Document.

Item No. 1.6

Ref. No. [DMPA/2024/0099](#)

Valid date: 05/12/2023

Applicant: Melbourne Cricket Club **Agent:** H. Dawkins

Proposal: The replacement of the two-lane all weather cricket net at Melbourne Sporting Partnership, Cockshut Lane, Melbourne, Derby, DE73 8DG

Ward: Melbourne

Reason for committee determination

This item is presented to the Committee as South Derbyshire District Council owns the land to which the planning application relates.

Site Description

The site forms part of Melbourne Sports Pavilion, located on the eastern side of Cockshut Lane and to the south of the built edge of Melbourne. The sports facility site includes a clubhouse with 6 changing rooms, 2 grass football pitches, an artificial grass pitch, three grass rugby pitches and a training area, a cricket pitch and secondary artificial strip, a 3 court multi-use games area (MUGA) primarily used for tennis and netball and 3 artificial grass tennis courts. The site is not located within Melbourne Conservation Area. The nearest residential properties are located to the north on Hope Street and Hatton Court, and to the west on Cockshut Lane.

The proposal

The proposal is to replace the existing two-lane all weather cricket nets. The nets would be situated in the same location as the existing nets, as per the block plan and would be in the north-eastern corner of the wider sports pavilion site with the allotments to the immediate east and rear of properties within Hatton Court to the north. The nets would incorporate two lanes each of 7.92m total width, an overall length of 25.92m and height of 4.0m, situated on artificial ground and with posts for the net secured by shallow concrete foundation.

Applicant's supporting information

- Location Plan (received by the LPA 19 January 2024)
- Block Plan (final version received 12 April 2024)
- Cricket Net Dimensions Plan (received 12 April 2024)

Note, initially a cricket net of 33m length was submitted and consulted on, and the final design received 12 April 2024 is for a shorter length net of 30.0m.

Relevant planning history

There have been numerous planning applications related to the sports pavilion site, of which the following is relevant:

- 9/2011/0179 The erection of a two lane, all weather cricket net – approved April 2011

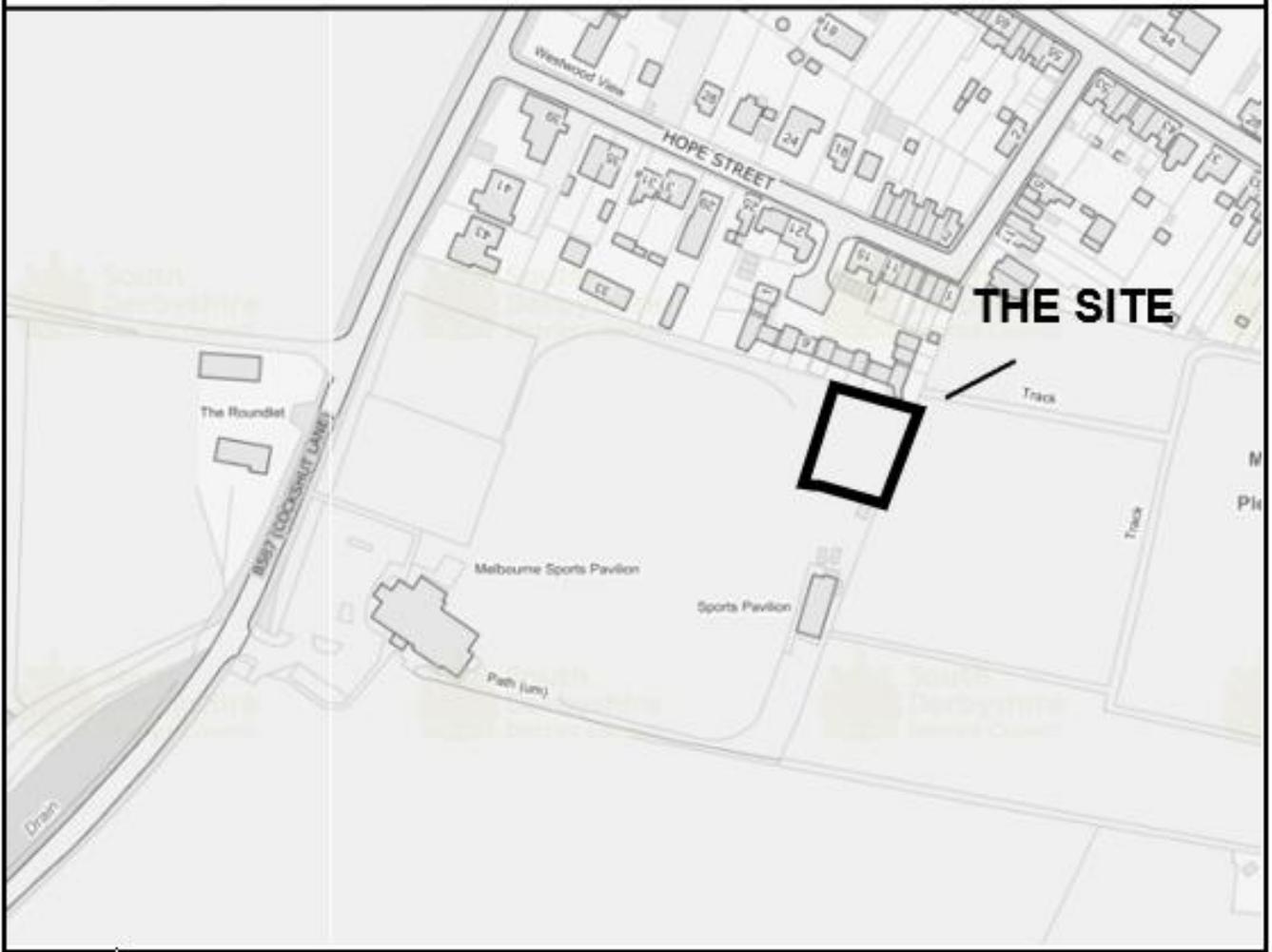
Responses to consultations and publicity

Melbourne Parish Council
No objections (20/02/2024)

DCC Rights of Way

Melbourne FP 18 is some distance from the proposed all weather cricket net, and will therefore be unaffected. (12/03/2024)

**DMPA/2024/0099 – Melbourne Sporting Partnership, Cockshut Lane, Derby,
DE73 8DJ**



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South Derbyshire District Council. LA 100019461.2020

Melbourne Civic Society

The Society is not making any comments on this type of minor application outside the Conservation Area and within the village boundary and is leaving it to SDDC officer experience. (06/03/2024)

Public Responses

None received.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): BNE1, SD1, INF9
- Melbourne Neighbourhood Plan: DP2

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF);
- Planning Practice Guidance (PPG).

Planning considerations

The determining issues are as follows:

1. Principle of the development;
2. Amenity and Design Considerations;
3. Other Matters.

Planning assessment

Principle of the Development

Policy INF9 of the Local Plan states that the current provision of open space, sports and recreation facilities in the District is not sufficient; and opportunities for creating new or enhanced facilities will be sought. The site is located within the established Melbourne Sports Partnership (MSP) complex. The proposal is for the replacement of the existing cricket nets with new nets in the same footprint, which would be in accordance with the aims of policy INF9 and acceptable in principle.

Amenity and Design Considerations

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD. Policy SD1 states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments. Policy DP2 of the Neighbourhood Plan states that 'All development proposals within the rural areas will be assessed in terms of their impact on the existing character and setting of Melbourne (and Kings Newton), and proposals that would adversely impact those settlements' features would not be supported.'

The new nets would replace the existing nets. They would be of similar dimensions and located in the same position within the north-eastern corner of the sports pavilion site. The replacement of existing nets would have limited impact on the surroundings from the perspective of design and residential amenity. The proposal would be appropriate within the context and acceptable under Policy BNE1 of the Local Plan and Policy DP2 of the Neighbourhood Plan.

Other Matters

A public right of way runs through the Melbourne Sports Pavilion site, however Derbyshire County Council (DCC) has confirmed no objections or comments to make on the proposal as the right of way is distanced from the nets and would not be affected.

Conclusion and Planning Balance

The proposal for replacement cricket nets within the same location as the existing nets in Melbourne Sports Partnership complex would be in accordance with the aims of policy INF9 and acceptable in principle. Having reviewed the material considerations related to the potential impact on the amenities of the area and design, there are no concerns arising from the proposal that would outweigh the principle, and it is considered that the proposal would comply with the requirements of Policies SD1 and BNE1 and Policy DP2 of the Melbourne Neighbourhood Plan and accordingly is recommended for approval.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve with conditions.

The planning application seeks permission for the replacement of the existing two-lane all weather cricket net at Melbourne Sports Pavilion. The nets are located in the north-eastern corner of the sports pavilion site with the allotments to the east and rear of properties in Hatton Court to the north. The replacement nets would be situated in the same position as the existing nets and would have similar dimensions. Policy INF9 is supportive of proposals that enhance open space, sports and recreational facilities in the District and the principle of replacement nets would comply with this in principle. The consultees including Parish Council, Civic Society and Derbyshire County Council made no comments and raised no objections on the application and no public comments were received. As the nets are replacement of the existing, there would be no material impact on the surroundings from design considerations or perspective of residential amenity. The application is recommended for approval subject to conditions.

1. The works hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the following plans/drawings and details: Location Plan (received by the LPA 19 January 2024), Block Plan (final version received 12 April 2024), Cricket Net Dimensions Plan (received 12 April 2024), unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of and in accordance with Policies BNE1 and SD1 of the Local Plan.

Item No. 1.7

Ref. No. [DMPA/2024/0258](#)

Valid date: 16/02/2024

Applicant: Christopher Worman

Agent: JUMP Architects

Proposal: **Works to Oversetts recreation ground to include the following items: New changing room facilities , Multi-Use Games Area , Outdoor Gym & Equipment , Enlarged Parking Provision , Outdoor Walking Trail , Remodelled Access Road , Enabling Works , Existing Football Pitch Area to be retained. Oversetts Road Recreation Ground, Oversetts Road, Newhall, Swadlincote**

Ward: Newhall and Stanton

Reason for committee determination

This item is presented to the Committee as South Derbyshire District Council is both the land owner and the applicant.

Executive Summary

Overall, the scheme is considered appropriate and acceptable and is recommended for approval subject to the recommended conditions and reasons set out in this report.

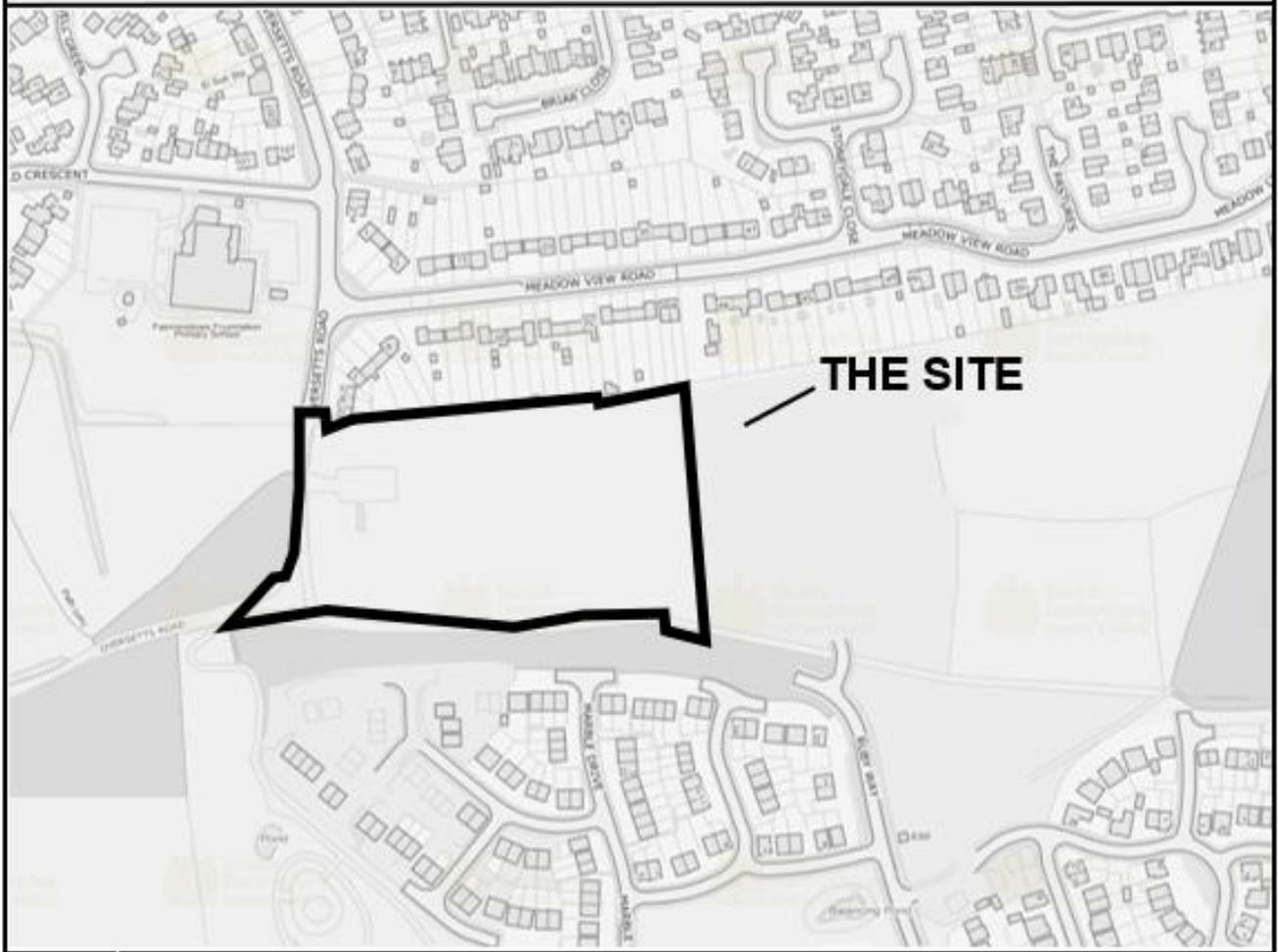
The application proposes the improvement of existing facilities and infrastructure at Oversetts Park. The site is owned by South Derbyshire District Council and the improvement of facilities is supported within the development plan. The key issues of relevance are the implications of past land use and mining activity, the impact upon neighbouring residents and the provision of improved access and facilities. The improvements are not considered to result in either an adverse impact upon amenity of surrounding residents or to result in harm to any protected species or their habitats. The improvements do provide more suitable pathways and vehicular and pedestrian accesses that enhance the permeability of the site having the potential to encourage wider use, the proposed improvements will serve not only new residents of Cadley Hill Park but also by virtue of the location of the park and improved accesses represent a betterment of the existing provision for existing residents and users. The achievement of these improvements without economic, social or environmental harms is considered to provide a clear justification for approval of the application.

Site Description

The application site is Oversetts Park which lies to the west of Swadlincote centre and is bound to the north, south and east by residential dwellings. To the west, the site is bound by, and accessed from Oversetts Road, beyond which lies a nature reserve. The site is already in use as a public park which currently provides some storage facilities and a small car park and is used for recreational activity and football on a grassed pitch. In addition to the access from Oversetts Road at the west of the site pedestrian access points are provided from the south and east providing good linkages to neighbouring residential areas. The site is wholly within Flood Zone 1 and within areas at risk of contaminated land is a high risk area for previous coal mining activities. There are a number of protected trees within the site confines. The site lies within an unparished area of Newhall and Stanton Ward.

A number of public rights of way extend around the site and provide links between neighbouring residential areas. Swadlincote FP 45 runs between Meadow Lane and Cadley Village and lies circa 260m from the eastern boundary of the site. Immediately south of the site lies Swadlincote FP 46 which runs parallel to but outside the site area, to the west of the site and within the red line area lies Swadlincote FP 106.

**DMPA/2024/0258 – Oversetts Road Recreation Ground, Oversetts Road,
Newhall, Swadlincote**



South
Derbyshire
District Council

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South Derbyshire District Council. LA 100019461.2020

The proposal

The application proposes the installation of new changing rooms with storage facilities that are proposed for use with the existing football pitch, a Multi-Use Games Area (MUGA) that will facilitate a number of sports and activities outdoor gym, an extended and improved car parking area, a new pathway from Cadley Park to Oversetts Road a 500m active footpath to the perimeter of the park which will provide an all-weather walking route around the park. The proposed car park improvement and extensions includes the provision of 3no accessible car parking spaces, 5no Sheffield cycle hoops, providing sufficient cycle parking for 10no cycles and 20no car parking spaces. The improvements to the access from Oversetts road will retain the existing lockable vehicular gates and will provide an improved access to the new car park that will be suitable for emergency vehicles.

The proposed gym covers an area of 79.2 square m and will have a porous macadam safety surface. The gym equipment will include the following:

- Power Smart Hand Bike
- Spinning Bike
- Cross Trainer
- Recumbent Bike
- Single Sit Bench
- Leg Press
- Lat Pull Down/Shoulder Press
- Chest Press/Seated Row
- Pull Up/Assisted Pull Up
- Parallel Bars
- Triple Pull Up

The tallest piece of equipment will reach a maximum height of 2.46m from the ground level.

The proposed MUGA will provide marked out facilities for netball, tennis, mini tennis, five aside football and basketball and will measure 37m by 19m having an area of 703 square m. The supporting plan notes that the MUGA will be designed to Sport England guidance *A Guide to the design, specification and construction of Multi Use Games Areas, Parts 1 - 3*. The MUGA will be enclosed by a 3m fence that will be powder coated wire mesh fencing.

The proposed changing and storage facilities are located adjacent each other in a rectangular formation and have a combined 20.1m length and a depth of 8.7m, the maximum height of the units is 2.5m of a flat roofed design. Internally the units provide 2no separate changing rooms each served by separate external accesses and include shower and toilet facilities, a third smaller changing room with shower and toilet facilities for Officials and an externally accessible store in addition to 2no separate store areas accessed independently.

The proposed all weather walking route will broadly follow the the shape of the park forming a perimeter track around the outside of the existing pitch and proposed car park, games area and changing rooms. Links between the path an proposed facilities and existing football pitch are also provided. the path includes spurs providing pedestrian access to Meadow View Road to the northeast, the parkland pathway to the southeast and southwest and to Oversetts road to the northwest. A further pedestrian connection from the access road is proposed to join the existing Cadley Park footpath.

Applicant's supporting information

Design and Access Statement, Document reference: J23-005 A-701, dated 23/11/2023, received 16/02/2024

The design and access statement provides an overview of the site and proposals and the intention to link the existing recreation ground coherently with the surrounding residential development and improve existing vehicular access to the site.

Phase 1 Desk Top Study Report, prepared by Collins Hall Green, dated May 2019, received

16/02/2024

The document sets out the objective of the study is to determine the environmental nature of the site and any environmental concerns and liabilities with particular reference to past contaminative uses based on the data and mapping available and to plan the scope of works for a phase 2 ground investigation. The site geology (section 5) summarises either 'no hazard' or 'very low' hazard potential. The report identifies past coal mining activity as well as other past and potential evidence in relation to coal mining. Previous adjacent landfill uses adjacent the site were also identified with the reports stating that the most likely implication of such was potential of ground gas. The report concludes that risks are moderate for contaminants in soils, and Made Ground, groundwater and ground gas and that for all other sources risks are low. It follows to make recommendations for the content of a Phase II Investigation.

Coal Mining Risk Assessment Report, prepared by Solmek Ltd. Ref M23-062, dated 31/01/2024, received 16/02/2024

The Coal Mining Risk Assessment Report sets out the purpose of evaluating the underlying ground conditions of the site and planning the scope of any required subsequent investigation. It reviews the findings of a mining report (included within an appendix to this document) that identifies the site in an area where 7 seams have been worked within the zone of physical influence. The report concludes that the main seam is at a sufficient depth to provide a suitable ratio that exceeds the 10x seam thickness. The report also concludes that due to the presence of possible ancient shallow coal mine workings it is recommended that a series of rotary boreholes are required as part of any site investigation for the new development and states these as necessary to investigate potential voids, collapsed workings and possible weak/broken areas of rock due to mine workings underlying the proposed new development. The report also identifies the need for a ground gas assessment for any proposed enclosed structures.

Biodiversity Net Gain Assessment Report, Oversetts Road Sports Facility, on behalf of Solmek, Ref: PEG477-08B, dated 09/02/2024, received 16/02/2024

The report concludes that no irreplaceable habitat or statutory designated sites will be impacted by the proposed development. Under current landscape plans, the proposed development would result in an overall net gain (+20.05%) in habitat units, and a net gain (+13.55%) in hedgerow units. The key improvements and new habitats are summarised within the report as:

- Creation of 0.02ha of 'Modified Grassland'
- 0.08km of 'Species-rich Native Hedgerow' will be planted along the eastern boundary of the site
- 0.03ha of heathland and shrub will be planted

The report concludes that whilst the area of improvements and new habitats is modest this offers a net gain of 20.05% in habitat units.

Noise Impact Assessment, Technical Report, Proposed Sports Facility, Oversetts Road, Newhall, Swadlincote, Ref 40845-R1, prepared by Sound Solution Consultants, dated 25/01/2024, received 16/02/2024

The noise impact assessment reports that unmitigated noise levels will exceed 50dB at a number of residential receptors to the north and east of the development, however notes that the unmitigated exceedances on Meadow View Road are + 1dB which can be considered negligible or minor exceedance. The report recommends in order to mitigate this impact a 3m high noise barrier would be required at the north and west boundaries of the site and notes that this could be achieved through a combination of earth bund and acoustic screen. Noise from vehicular activity is assessed as being 'low impact' at the nearest receptors and no mitigation is recommended. The assessment of noise from any external plant is assessed as being 'low impact' dependent upon the type of plant that could be installed and advises the LPA may wish to regulate this using conditions.

Plans:

- Proposed changing rooms, MUGA and outdoor gym, Site location and block plans, Drawing No: J23-005 A-100, Rev A, dated 20/11/2023, received 16/02/2024
- Existing site layout, Drawing No: J23-005 A-102, dated 21/11/2023, received 16/02/2024

- Proposed changing room pavilion and football pitches, Drawing No: J23-005 A-101, Rev D, dated 25/07/2023, received 16/02/2024
- Proposed Key Site Sections, Drawing No: J23-005 A-301, dated 21/11/2023, received 16/02/2024
- Proposed Changing Room Units, Drawing No: J23-005 A-120 Rev B, dated 21/11/2023, received 16/02/2024
- Proposed MUGA & City Gym, Drawing No: J23-005 A-125, dated 21/11/2023, received 16/02/2024
- Proposed Changing Room Units, Drawing No: J23-005 A-121, received 16/02/2024
- Typical Hard Landscaping Details, Drawing No: J23-005- A-501, dated 21/11/2023, received 16/02/2024

Relevant planning history

None.

Responses to consultations and publicity

Coal Authority- No objection - 08/03/2024

The Coal Authority agrees the findings of submitted information and requests conditions and informative notes be included. Conditions are requested for a scheme of investigative works to establish risks posed by past coal mining activity and the carrying out of remediation works. A further condition is requested to provide confirmation that the site is made safe prior to first use. The Coal Authority also advise that the LPA seek advice as to whether any gas hazards exist at the site and secure any appropriate measures.

Derbyshire County Council - Local Highways Authority (LHA) - No objection subject to conditions -13/03/2024

Final - Following the response of the applicant the LHA have no further objections and make recommendation for conditions in relation to:

- Completion of access improvement and parking arrangements prior to first use

Initial - Note the proposals and welcome improvements to pedestrian and vehicular accesses and the introduction of parking spaces and cycle stands, request further information in relation to visitor numbers to show the parking provision will meet demand and ensure that parking on neighbouring roads is avoided. Request the applicant demonstrate sufficient parking to meet demand. 04/03/2024

Derbyshire County Council - Lead Local Flood Authority (LLFA) - No response at the time of writing

Derbyshire County Council -Rights of Way - No response at the time of writing

Derbyshire Wildlife Trust - No response at the time of writing

National Forest Company – No objection – 16/04/2024

Final - Confirm no requirement for National Forest planting based upon the area of the development.

Initial - The NFC note that the total site area would trigger the requirement for planting under the provisions of Policy INF 8 however if the area of development is below 1ha the proposals would fall below the threshold. They state it is disappointing that no tree planting is proposed given the location within the National Forest. 29/02/2023

Peak and Northern Footpaths Society - No objection - 28/02/2024.

Comments that it is not possible to discern the precise location of the two public rights of way (Footpath 106 on its western side and Swadlincote Footpath 46 to the south) They state that they are unable to see what effects the proposals may have on the footpath and advise the Planning Officer must be satisfied that the full width of both paths would be maintain unobstructed by the proposals and that the safety of walkers would not be jeopardised during the construction phase, noting conflict with vehicles as a concern.

Derby and South Derbyshire Ramblers Association - No objection - 19/03/2024

The Ramblers footpath Secretary noted the presence of the three PROW's around and within the site. They noted the content of the Design and Access Statement that sets out *A new footpath connection from Oversetts Road to Cadley park* and query whether this will require a diversion of Swadlincote FP 106. They note that during any work on the site and after completion of the work Public Rights of Way Swadlincote 106 & 46 must be open and passable for public use. Should a diversion of either Public Right of Way be required they note the relevant authorities should be contacted.

Severn Trent Water - No response at the time of writing.

South Derbyshire District Council - Environmental Health Officer (EHO) - The EHO offered no objection and requested the inclusion of conditions for:

- Phase II contaminated land assessment, the carrying out of any identified remediation and the verification of any necessary remediation.
- Limiting of construction activities and hours
- Construction of an acoustic barrier as referenced within the Noise Impact Assessment and verification of its performance
- Construction noise management plan
- Lighting strategy
- Control of plant and equipment installation

South Derbyshire District Council - Property Services - No response at the time of writing.

South Derbyshire District Council - Tree Officer - No response at the time of writing.

Members of the public

1 comment was received from 1 member of the public and is summarised below:

- a) Query if there is scope for the addition of a play park with swings slides and other play equipment that they consider would be beneficial to parents with more than one child and a benefit to have all facilities in one place
- b) Inquire as to whether any CCTV is planned

Relevant policy, guidance and/or legislation

The **relevant Development Plan policies** are:

2016 Local Plan Part 1

Policy S1: Sustainable Growth Strategy; Policy S2: Presumption in Favour of Sustainable Development; Policy S6: Sustainable Access; Policy SD1: Amenity and Environmental Quality, Policy SD3: Sustainable Water Supply, Drainage and Sewerage Infrastructure; Policy SD4: Contaminated Land and Mining Legacy Issues; Policy BNE1: Design Excellence; Policy BNE3: Biodiversity; Policy BNE4: Landscape Character and Local Distinctiveness; Policy INF2: Sustainable Transport; Policy INF7: Green Infrastructure

2017 Local Plan Part 2

BNE7 Trees, Woodland and Hedgerows; BNE8 Local Green Space

The **relevant local guidance** is:

Supplementary Planning Documents: Trees and Development

The relevant national planning policy and guidance is:

National Planning Policy Framework and National Planning Practice Guidance

The relevant legislation is:

The Town and Country Planning Act 1990

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle of the development in this location
- Design and impact of the development upon the character of the surrounding area
- Impact upon the amenity of neighbouring residents
- Ecology and biodiversity
- Highway Access and parking
- Other Issues

Planning assessment

Principle of development

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for South Derbyshire District Council comprises the Local Plan Part 1 and Part 2.

The NPPF places sustainability at the heart of plan making and decisions making, recognising that there are three key elements in achieving sustainable development, namely economic, social and environmental objectives. The social objective identifies prioritising of supporting strong, vibrant and healthy communities, fostering well-designed, beautiful and places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being. Of relevance to this application within the environmental objective is the need to protect and enhance our natural environment including making effective use of land and improving biodiversity.

Policy S1 of the Local Plan Part 1 provides the overarching strategy of the development plan to promote sustainable growth through the plan period and that the development of this strategy will be mobilised through the two parts of the development plan that will ensure the economic, social and environmental objectives (LPP1) confirms that in bringing forward new development the Council will seek to ensure that the schemes respond to and address environmental and social issues and improve access to services and facilities. The application site lies within the Swadlincote settlement boundary. Policy BNE1 focuses on Healthy Lifestyles in paragraph J where it advises that *New development should address social sustainability issues, by supporting healthy lifestyles, including through the promotion of active travel, the provision of public open space, sports and other leisure facilities.*

Policy INF9 recognises that current Open Space, Sport and Recreation provision is insufficient to meet local need within the District and commits to working with partners to provide sufficient high quality green space and recreation facilities including sports pitches and built facilities to meet the needs of new residential development and, where possible, to meet the needs of the existing population. The policy further sets out that opportunities for creating new or enhanced facilities will be sought particularly where there are quantitative or qualitative deficiencies identified in the Council's most up to date Open Space, Sport and Recreation Assessment.

The proposed development, lying within the settlement boundary and adjacent both new and longstanding residential development is considered to improve and enhance the existing recreational facilities, both in the provision of the MUGA, all weather path and outdoor gym which are not currently present at the site and in the provisions of parking and changing facilities that will largely serve the existing football pitch. Further improved connections and the provision of cycle parking are considered to offer users of the existing and proposed facilities easier access to the park via sustainable methods of travel. The development is considered acceptable in principle, subject to the material considerations which are set out below.

Design and Impact upon the character of the surrounding area

The National Planning Policy Framework emphasises the importance of good design and is noted within the social objective to play a role in shaping beautiful and safe places and sustainable communities, good design is also considered important to make effective use of land, assimilate development into the surrounding area, provide a good range of travel options and fundamentally provide places that are attractive and that people want to live in. Section 12 concentrates on well designed places and sets out that planning decisions should ensure that development functions well and adds to the quality of an area for their lifetime, are visually attractive due to the architecture, layout and landscaping and are appropriately sympathetic to the surroundings.

Policy BNE1 of the Local Plan sets the districts requirements for good design quality setting out how this can be achieved using a number of design principles, of which the following are of relevance to this application: movement and legibility, community safety, ease of use and accessibility, national forest, visual attractiveness, neighbouring uses and amenity and healthy lifestyles. In terms of addressing these principles it is considered that the proposals will not have a negative impact on community safety, increased permeability of the site coupled with enhanced facilities that stand to increase use and therefore reduce isolated use of the park are considered beneficial. The proposals will provide enhanced movement routes thus increasing the opportunities for pedestrian and cycle access to the park and increasing the accessibility to different user groups through the provision of dedicated accessible parking provision. The site is within the national forest and though a larger development it retains the existing character and planting within and around the site is considered sufficient at this stage to preserve the National Forest character in this area. The proposals are considered to present a reasonable addition to the landscape and be functional in their visual appearance that will sit well within the context of this park. Predominantly the design of the development improves social sustainability by promoting active travel to the park and providing improved sports and leisure facilities.

Impact upon the amenity of neighbouring residents

The NPPF requires in paragraph 180 e) that planning decisions should contribute towards the local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution. It progresses to advise in paragraph 191 that decisions should ensure new development is appropriate for its location taking into account the likely effects on health and living conditions and in doing so mitigate and reduce to a minimum potential adverse impacts resulting from noise from new developments.

Policy SD1 of the Local Plan part 1 sets out that the Council will support development that does not lead to adverse impacts in the environment or amenity of existing and future occupiers within or around proposed developments. The latter part of the policy considers the need for a strategic buffer between conflicting land uses in order that they do not disadvantage each other in respect of amenity issues such as noise.

The application is supported by a noise impact assessment which notes some levels of noise marginally above the above the acceptable limit for residential receptors may be experienced when both the football field and MUGA are in use at the same time and recommends the installation of an acoustic bund to mitigate the exceedance. It further advises that conditions may be necessary to ensure further noise disturbance does not originate from any plant associated with the changing facilities. The Councils EHO has reviewed the application and confirms no objection to the proposed

development subject to the inclusion of conditions to secure the construction of an acoustic bund, limit the hours of construction activities, the submission of a construction noise management plan and a further condition to control the installation of plant and equipment. In relation to lighting the EHO also requests a condition to secure appropriate lighting that will not result in disturbance to residential dwellings. These conditions are considered reasonable and necessary to ensure that the different uses of the park and dwellings do not result in conflict and are therefore included in the recommendation in order to ensure acceptability of the proposals.

Contaminated Land and coal mining legacy

Section 11 of the NPPF focuses on making effective use of land and sets out that planning decisions should promote this to meet the needs for different uses, while safeguarding and improving the environment. Paragraph 124 of the NPPF requires LPAs give substantial weight to the value of using suitable brownfield land in settlements for homes and other identified needs.

Policy SD4 requires that applicants demonstrate that schemes in areas known to be at risk of instability or contamination demonstrate, through investigations, that the scheme will incorporate any necessary remediation methods to render the development proposed safe.

The Phase 1 desktop study has reviewed the site history and sets out the site itself has historically been used for recreational uses however it identifies that the site surroundings have a history of coal mining activity and a landfill site previously lay to the south of the site. The report concludes there is potential risk of ground gasses due to the shallow coal and infilled ground and the potential for asbestos within made ground to the western portion of the site; recommendation of a coal mining report and a phase II report, the contents of which are advised.

The coal mining report has been undertaken and the findings are agreed with the Coal Authority who make recommendation for conditions in relation to a scheme for intrusive investigations and any necessary remediation, and a verification report prior to the commencement of development and the requirement for an informative notes relating to ground investigations and ground works and shallow coal seams.

A further condition is requested to provide confirmation that the site is made safe prior to first use. The Coal Authority also advise that the LPA seek advice as to whether any gas hazards exist at the site and secure any appropriate measures.

The EHO confirms in their comments the requirement for conditions in relation to a Phase II Contaminated Land Survey, any necessary remediation to make the site suitable for the intended use and the verification of any necessary remediation.

The requested conditions are considered necessary to ensure the safety of future users of the site and are therefore included within this recommendation, subject to compliance with these the proposed development is considered to comply with the relevant requirements and is therefore acceptable.

Ecology and biodiversity

The National Planning Policy Framework (NPPF) sets out that planning decisions should contribute to and enhance the natural and local environment through the use of different mechanisms. Of relevance to this application is the requirement that development should minimise impacts on, and provide net gains for, biodiversity. Paragraph 186 expands upon this stating that planning permission should be refused if it is not possible to avoid, mitigate or compensate for significant harm to biodiversity resulting from the development proposal.

Policy BNE3 of the Local Plan sets out that the LPA will support development that contributes to the protection, enhancement, management and restoration of biodiversity and delivers net gains in biodiversity wherever possible.

The application is supported by a biodiversity report and metric, the report concludes that no irreplaceable habitat or statutory designated sites will be affected by the proposed development. The

metric demonstrates that the proposed development will achieve an overall net gain (+20.05%) in habitat units, and a net gain (+13.55%) in hedgerow units against the assessed baseline value of the site. The current requirement is for sites to deliver a 10% net gain, and as such net gain to habitat of more than 20% and additional net gain to hedgerows of more than 13% are both considered benefits of the proposals that conform with development plan and national policies. In order to secure these benefits a Habitat Management and monitoring Plan (HMMP) is recommended to outline how the net gain will be managed through the required 30 year period, this is included within the recommendation.

Highway Access and parking

The National Planning Policy Framework requires in paragraph 114b that development proposals should ensure that safe and suitable access to the site can be achieved for all users. Where this is unachievable it advises that development can be refused.

Local Plan Policy S6 relates to sustainable access and sets out that the council will seek to minimise the need to travel and encourage modal shift from private car toward walking and cycling. It aims to achieve this by seeking patterns of development that enable travelling distances to be minimal and make the best use of existing transport infrastructure and services. The policy further sets out that new and enhanced cycle and pedestrian routes will support the achievement of modal shift and sustainable access. Parking standards are not set within the districts guidance and therefore flexibility is afforded in this respect.

The application proposes improved and enhanced pathways that provide connection to existing pathways linking to residential development surrounding the park the paths have a width of 3m and as such are sufficient for pedestrian and cycle users. In addition improvements to the vehicular access and a marked out parking area that provides 23no parking spaces and cycle parking are provided as part of the proposals. The County Council Highway Officer has confirmed that the parking provision is sufficient to meet the needs of the proposed use and that the access improvements are acceptable. They request a condition to secure installation of the access prior to the use of the new facilities. The proposed development is considered to meet the standards required and to offer benefits to sustainable access to the park and connections to the neighbouring residential areas and is therefore considered to comply with policy in relation to access and parking.

Other Issues

The Peak and Northern Footpath Society draw attention to the presence of 2 public rights of way and offer advice to the Planning Officer in respect of the maintenance of these rights of way in situ and the need to ensure there are no risks to users during the construction period. The image below is a map taken from the Derby shire County Council definitive map and depicting 3no public footpaths in close proximity to the site lying to the western, southern and eastern peripheries of the site.

benefits of linkages between the PROW's and the proposed development are considered both good design and to support wider health and social benefits of the existing network and proposed development. A further informative note is included within this recommendation to ensure that the applicant is aware of the rights and responsibilities relating to Public Rights of way.

Conclusion and planning balance

The NPPF states that there are three dimensions to sustainable development, namely economic, social and environmental and that these should be considered collectively and weighed in the balance when assessing the suitability of development proposals.

The development proposed is considered to secure environmental benefits through the delivery of net gains to biodiversity without resulting in harm to any habitats or species. Social benefits through the provision of well-designed modern facilities that will provide enhanced pedestrian and cycle linkages between the surrounding development, that encourage the use of, and sustainable travel to, the park and proposed facilities. Economic benefits will be secured through the construction of the development. Whilst there may be some conflict between residents in terms of noise and users of the adjacent PROWs, it is considered that these matters can be appropriately mitigated through conditions and the benefits of the scheme as a whole outweigh any harm.

Consequently the application is recommended for approval subject to the conditions set out in this recommendation.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions:

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in complete accordance with the following plans and drawings: Proposed changing rooms, MUGA and outdoor gym, Site location and block plans, Drawing No: J23-005 A-100, Rev A, dated 20/11/2023, received 16/02/2024, Existing site layout, Drawing No: J23-005 A-102, dated 21/11/2023, received 16/02/2024, Proposed changing room pavilion and football pitches, Drawing No: J23-005 A-101, Rev D, dated 25/07/2023, received 16/02/2024, Proposed Key Site Sections, Drawing No: J23-005 A-301, dated 21/11/2023, received 16/02/2024, Proposed Changing Room Units, Drawing No: J23-005 A-120 Rev B, dated 21/11/2023, received 16/02/2024, Proposed MUGA & City Gym, Drawing No: J23-005 A-125, dated 21/11/2023, received 16/02/2024, Proposed Changing Room Units, Drawing No: J23-005 A-121, received 16/02/2024 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

3. Before the development hereby approved is commenced
 - a) Phase II contaminated land site assessment shall be undertaken to include trial holes and soil samples, including a standard suit, asbestos, plasticity testing and organic content as well as

ground gases, as recommended by the phase I report submitted with the application referenced F811 dated May 2019 and to undertake recommendations recommended by the coal mining risk assessment of a series of bore rotary holes to investigate voids, collapsed / weak areas of rock and a ground gas assessment.

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.

b) Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it in accordance with the requirements of Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

4. No above ground development shall commence until:
 - a) a scheme of further intrusive site investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure the risks associated with mining legacy are properly addressed in the interests of safety and In accordance with the requirements of Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework

5. The development hereby approved shall not be brought into first use until:
 - a) the approved remediation works required by Condition 3 above have been carried out in full in compliance with the approved methodology and best practice.
 - b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in condition 3 and satisfy part a of condition 5.
 - c) Upon completion of the remediation works required by 3 and 5a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it in accordance with the requirements of Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

6. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0900 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

Reason: In order to adequately safeguard the amenity of neighbouring residents in accordance with the requirements of Policy SD1 of the Local Plan and the National Planning Policy Framework.

7. No development shall commence until a scheme of intrusive site investigation for coal mining legacy has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details and a report of the findings arising from the intrusive site investigations, along with any remedial works required (including a timetable for the carrying out of such works), shall be submitted to and approved in writing by the Local Planning Authority prior to any construction works commencing. The approved remedial works shall thereafter be implemented in accordance with the approved timetable.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and/or transport routes from undue illumination impacts or distraction, and to minimise light pollution at night.

8. Before the development hereby approved is commenced a scheme to safely manage areas of development in or adjacent to Public Rights of Way shall be submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to ensure construction activities are properly managed to prevent harm to users of the public footpath network.

9. Before the commencement of the development hereby approved a noise management plan, to include but not be restricted to the points raised in the noise impact assessment ref 40845-RI, points 5.9 and 5.14 as well as proposed hours of use, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the construction period.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers, recognising that initial preparatory works could cause unacceptable impacts and in accordance with the requirements of Policy SD1 of the Local Plan and the National Planning Policy Framework.

10. Before the development hereby approved is commenced a Habitat Management Plan (HMP) shall be submitted to, and be approved in writing by the LPA. The aim of the HMP is to provide details of how habitats will be created, enhanced, and sympathetically managed. The HMP should include the following: -
 - a) Description and location of features to be retained, created, enhanced and managed.
 - b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
 - c) Appropriate management methods and practices to achieve aims and objectives.
 - d) Prescriptions for management actions.
 - e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
 - f) Details of the body or organization responsible for implementation of the plan.
 - g) A monitoring schedule to assess the success of the habitat creation and enhancement measures at regular intervals for the period of the plan.
 - h) A set of remedial measures to be applied if conservation aims and objectives of the plan are

not being met.

i) Requirement for a statement of compliance upon completion of planting and enhancement works.

The approved plan shall be implemented in complete accordance with the approved details for the lifetime of the plan.

Reason: In order to encourage enhancements in biodiversity and habitat, in accordance with the requirements of Policy BNE3 of the Local Plan and the National Planning Policy Framework.

11. Prior to the first use of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: In accordance with the requirements of Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

12. Prior to the first use of the facilities hereby approved, the existing access to Oversetts Road shall be modified in accordance with the approved plans.

Reason: In accordance with the applicant's stated intentions and to ensure the site is served by appropriate access in accordance with requirements of Policy S6 and Policy BNE1 of the Local Plan and the National Planning Policy Framework.

13. Prior to commencement of the permitted use, an acoustic barrier constructed in line with the specification referenced in sections 5.7, 5.8 and figure 2 of the noise impact assessment reference 40845-RI shall be erected. Upon completion of the barrier required by noise assessment reference 40845-RI, a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers in accordance with the requirements of Policy SD1 of the Local Plan and the National Planning Policy Framework.

14. Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, has been submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and/or transport routes from undue illumination impacts or distraction, and to minimise light pollution at night in accordance with the requirements of Policy SD1 of the Local Plan and the National Planning Policy Framework.

Informatives:

- k. The County Councils Definitive Map of Public Rights of Way shows Swadlincote FP 45, Swadlincote FP 46 and Swadlincote FP 106 (footpaths) within and adjacent to the site. The attention of the applicant shall be drawn to the existence of these routes and to the requirement that any planning permission given does not construe the right to divert, extinguish or obstruct any part of the public path.
- l. There is a public right of way running through the site which must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to

certain conditions. Further information may be obtained by contacting the Rights of Way Section:
ETC.PROW@derbyshire.gov.uk.

- m. Ground Investigations and groundworks: Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property.
- n. Shallow coal seams: In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities

Item No. 1.8

Ref. No. [DMPA/2024/0128](#)

Valid date: 24/01/2024

Applicant: Emily Billson

Agent: Elsigood Associates Limited

Proposal: Garage conversion, first floor front extension, boundary fence with gated entrance to driveway

Ward: Repton

Reason for committee determination

This item is presented to the Committee at the request of Councillor Lowe as local concern has been expressed about a particular issue.

The application was deferred for a site visit at committee on 19/03/2024.

Update summary

Since the application was deferred from Planning Committee on 19/03/2024 the applicant has removed the garage/office element of the proposals. Amended plans have been submitted which reflect this change and the description has been amended to make this clear. Reconsultations commenced on 17/04/24 and any comments received will be reported verbally to committee. The report below has been left unchanged, with the sections relating to the garage struck through as this element does not form part of the consideration of the application.

Site Description

The 4 detached houses and 6 bungalows that make up Hollies Close were constructed in the 1960s.

7 Hollies Close (the Site) is a two storey detached dwelling constructed in brick, with some render to the front and rear elevations, and with a pitched tiled roof. A porch and single storey extension to the north side of the property were added in the 1980s. There is also a timber shed to the front of the side extension. The property is located in a corner position with the north/side facing the rear of properties on Blacksmiths Lane and the west/rear facing the rear of properties on Primavera which were developed in the early 2000s.

The Site is within the defined settlement boundary of Newton Solney as referred to in policy SDT1 and shown on the Settlement Boundary Maps in Appendix A to LP2.

The proposal

Permission is sought for conversion of the existing integral garage, a first floor front extension, ~~the erection of a detached garage with office space above to the front of the property~~ and boundary fence with gated entrance to the driveway.

Applicant's supporting information

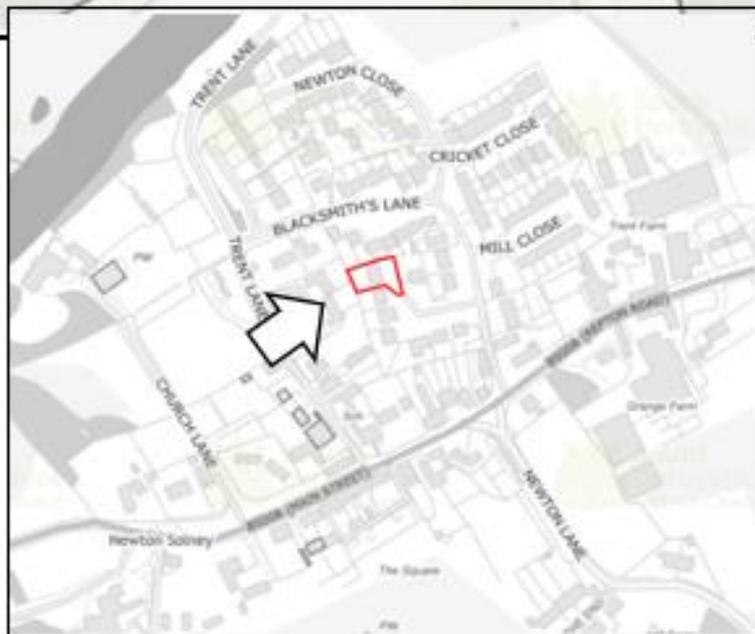
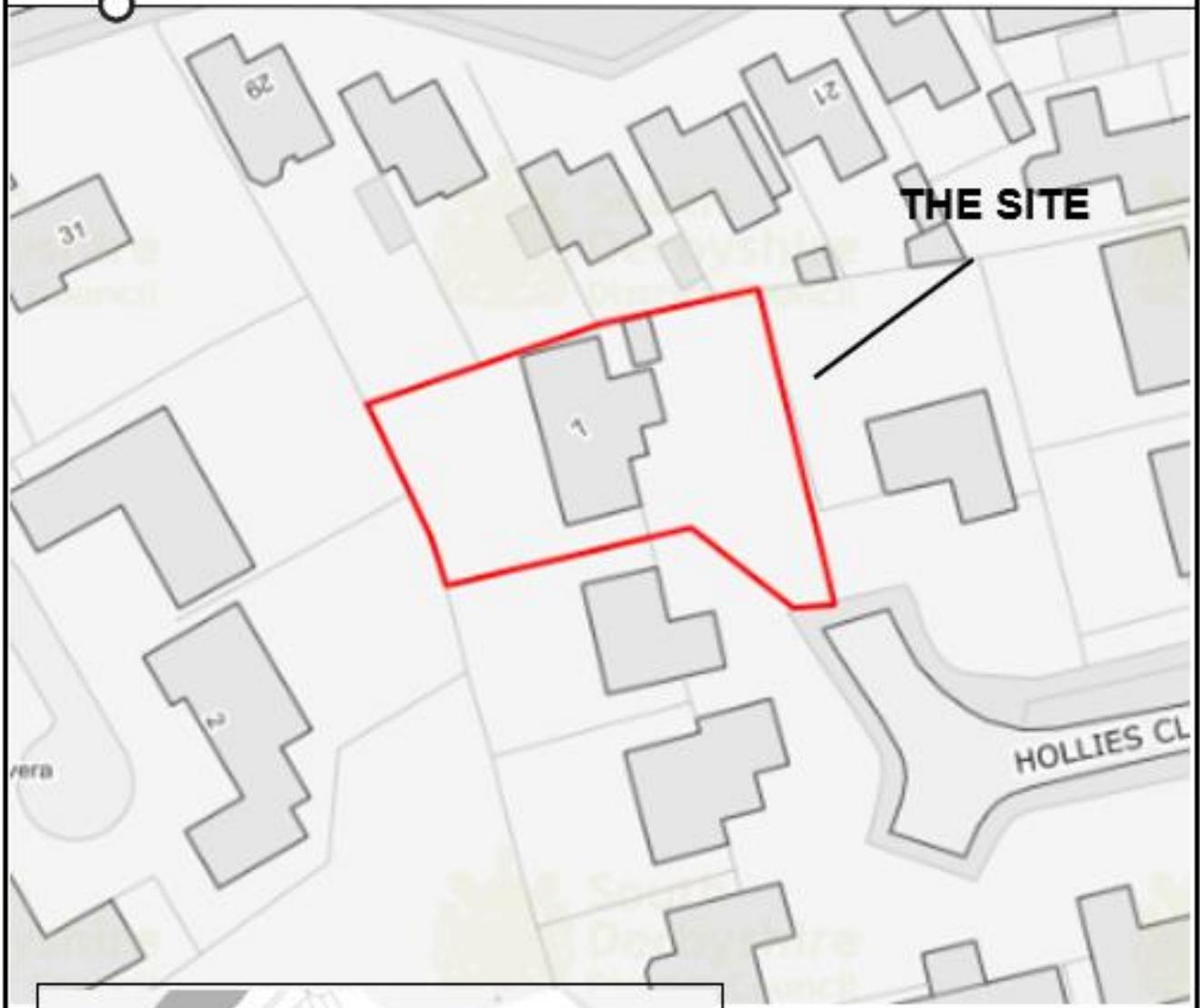
The applicant has submitted drawings for the proposals which have been amended during the course of the application. The plans to be considered are:

23-022-LMBP-RevAC Location & Block Plans

23-022-EPPE-RevC Existing & Proposed House Plans & Elevations

~~23-022-G-PPE-RevB Garage Plans & Elevations~~

DMPA/2024/0128 – 7 Hollies Close, Newton Solney, Burton On Trent, DE15 0SB



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South Derbyshire District Council

South Derbyshire District Council, LA 100019461.2020

Relevant planning history

REP 965/33 4 detached houses and 6 bungalows - approved with conditions 10/02/1966
9/1179/1062 - extension and front porch - approved with conditions 23/01/198

Responses to consultations and publicity

Newton Solney Parish Council: Believe the proposed garage will be overbearing and intrusive to the properties behind it on Blacksmiths Lane resulting in a lack of privacy and a substantial loss of light.

Comments have been received from the occupants of 4 neighbouring properties. These can be summarised as follows:

- a) Concerns that the proposed garage will overshadow the bungalows on Blacksmiths Lane
 - b) Concerns regarding privacy for the residents of the bungalows on Blacksmiths Lane from the
 - c) top of the stairs to the upper floor of the proposed garage
 - d) The garage and fence/gates being out of keeping with the street scene
 - e) Concern that gates will encourage visitors to sit in the turning point if they cannot gain access i.e. delivery drivers, that could lead to the blocking of the driveways of neighbouring properties
- Privacy concerns regarding the proposed Juliette balcony to the rear elevation of the dwelling

Re-consultation has been carried out on amended plans submitted and these are open for further comments until 8th March 2024.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

(2016) Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development); SD1 (Amenity and Environmental Quality); BNE1 (Design Excellence); INF2 Sustainable Transport 2017 (Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development); H27 Residential Extensions and other Householder Development

The relevant local guidance is:

- South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF);
- Planning Practice Guidance (PPG).

Planning considerations

In taking account of the application documents submitted amended and the site and its environs; the main issues central to the determination of this application are:

- Impact upon the host dwelling, character and appearance of the area
- Residential amenity
- Adequacy of parking provision and highway safety

Planning assessment

Principle of the proposed development

Policies H27, SDT1, BNE1, and SD1 of the development plan support in principle householder development, where it does not harm the character and appearance of the host dwelling and the character of the area, is of an appropriate design quality and is not unduly detrimental to the living conditions of adjoining properties. The SPD reinforces policies H27, SDT1, BNE1 and SD1 by citing the importance of design, context, amenity and impact upon the host dwelling in the decision-making process.

Impact upon the host dwelling, character and appearance of the area and residential amenity

Given their distance from the highway the proposed fence and gates would be considered permitted development. Regardless of this fallback position they are considered to be an acceptable addition to the site as their set back position means they will not be overly prominent in the street scene.

Although none of the other garages on Hollies Close appear to have been converted, the principle of converting the existing integral garage into additional living space is acceptable as there is sufficient off street parking within the site and new garage space is to be proposed to be provided. Due to the orientation and corner position of the site the change in appearance from garage doors to windows will have minimal impact on the street scene.

The original proposals submitted for the first floor front extension resulted in a gable which was considered to be too wide and to create an unbalanced appearance to the property with the proposed window arrangements. Amended plans have been submitted to reduce the width of this element to be over the existing garage at ground floor level. The windows at first floor level will be in line with those at ground floor level to create a balanced elevation. The associated replacement of the existing porch with a timber structure with pent roof will break up the blank elevation on the side and create a focal feature entrance to the property. Due to sufficient separation distances, it is not considered that the relocation of the first floor windows will have any impact on the amenity of neighbouring properties.

To the rear of the property there are minor changes to ground floor windows including the installation of bi-fold doors and the extension of the flat roof on the previous single storey side extension to create a small canopy to the rear. As these changes are to the rear and at ground floor level they are not considered to have any impact on the character of the property, or area or amenity of neighbouring properties.

~~The proposed detached garage to the front of the property will sit in the corner of the plot. There will be an office space to the first floor of the structure accessed by an external staircase. The original orientation of the stairs did raise concerns over privacy for the properties to the rear of this structure on Blacksmiths Lane but these have since been amended to allow for the addition of a privacy screen to the landing at the top of the stairs which can be conditioned to be retained in perpetuity to protect the amenity of the residents to the rear. The proposed garage has been orientated so that its side elevation will be facing the properties on Blacksmiths Lane. The height to eaves of the structure will be 2.4m (400mm above a permitted development boundary treatment). Whilst the building has an overall height of 5.45m, the roof slopes up and away from the shared boundary with properties on Blacksmith Lane. Whilst there will be some impact to the occupants of 23 and 25 Blacksmiths Lane the garage has been positioned so it doesn't extend across either properties entire rear boundary and on balance, due to its design and positioning it is not considered that the structure will be unduly overbearing on the adjacent properties.~~

Overall, due to the layout and orientation of surrounding properties it is not considered that the proposed extension ~~or detached garage~~ would cause any undue overbearing effects, or lead to an unacceptable loss of privacy, overshadowing, or loss of sunlight to neighbouring properties.

Adequacy of parking provision and highway safety

~~Whilst the internal dimensions of the proposed garage are slightly below those in the Design SDP the difference is considered negligible and they are still considered to be of an adequate size to provide suitable parking provision. There is also ample parking provision within the remaining driveway area in excess of the aspirational provision set out in the Design Guide and there is thus no offence to Policy INF2.~~

The proposed gates are set back 9.6m from the rear edge of the highway which is in excess of the 5m advised by the County Highway Authority to allow for a vehicle to pull off the road to open the gates.

Representations from interested parties

Concerns were raised regarding privacy implications from the top of the stairs to the upper floor of the proposed garage on the bungalows on Blacksmiths Lane. Amended plans have been submitted that reverse the direction of the stairs to the upper floor of the proposed garage and add a full height screen to the rear of the landing. These are considered to address any privacy concerns regarding the properties on Blacksmiths Lane to the rear of this element of the scheme.

Concerns have been raised regarding the proposed garage overshadowing the bungalows on Blacksmiths Lane have been raised. However, due to the orientation of the proposed garage the side facing the properties on Blacksmiths Lane will be a roof slope rather than a gable and will be approximately 8m from the rear of the adjacent properties at its closest point, increasing in height with additional distance. Overall it is not considered that this structure will be unduly overbearing on the adjacent properties.

Concerns have been raised that the erection of gates will encourage visitors to sit in the turning point if they cannot gain access i.e. delivery drivers, that could lead to the blocking of the driveways of neighbouring properties. The proposed gates are set back 9.6m from the rear edge of the highway which in excess of the 5m advised by the County Highway Authority to allow for a vehicle to pull off the road to open the gates.

It has been suggested that there may be a restrictive covenant within the deeds of the properties on Hollies Close prohibiting the erection of fences at the front of the properties. This would not be a planning consideration and given their distance from the highway the proposed fence and gates are considered to fall within the limits for householder permitted development rights.

Whilst there are no other detached garages within Hollies Close each application is considered on its own merits and given the corner location of number 7 it is considered that the proposed garage is acceptable.

A Juliette balcony has been removed from the scheme, thus removing any privacy concerns associated with this element of the original scheme.

Conclusion and Planning Balance

Whilst the proposal will have some impact on the adjoining occupants on Blacksmiths Lane it is not considered that this impact would significantly affect their amenity through loss of privacy or any overbearing impact such that permission should not be granted. It is not considered that the proposals will have any adverse impact upon the host dwelling, character and appearance of the area, or adequacy of parking provision and therefore the accords with the aforementioned policies of the development plan.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions.

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the plans listed below unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

23-022-LMBP-RevAC Location & Block Plans

23-022-EPPE-RevC Existing & Proposed House Plans & Elevations

~~23-022-G-PPE-RevB Garage Plans & Elevations~~

Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

- ~~3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garage stairs hereby approved shall not be brought into use until the screen to the rear of the landing has been installed in accordance with the submitted details. The screen shall thereafter be retained in situ and maintained as such in perpetuity.~~

~~Reason: To maintain control in the interest of the effect upon neighbouring properties.~~

4. The first floor windows in the side (north facing) side elevation shall be fitted with obscure glazing to Pilkington level 4 or 5 (or an equivalent to be first agreed in writing) and shall be retained as such in perpetuity.

Reason: To protect the privacy of neighbouring properties to the north in accordance with Policy BNE1 of the Local Plan Part 1.

Item No. 1.9

Ref. No. [DMPA/2023/1339](#)

Valid date: 03/11/2023

Agent: Planning by Design

Applicant: S. Stephens

Proposal: Change of use of site to a secure dog field on land at Stenson Road, Stenson, DE73 7HL

Ward: Stenson

Reason for committee determination

This item is presented to the Committee at the request of Councillor Shepherd as local concern has been expressed about a particular issue. The application was previously deferred from the 19th March 2024 Planning Committee to allow for a site visit.

Site Description

The application site comprises a roughly rectangular piece of land to the south of Stenson. It is bordered by Stenson Road to the east, the railway line to the south, woodland to the west, and the Trent and Mersey Canal and footpath (a Public Right of Way) to the north. The site is located outside of the Conservation Area. There is an embankment that runs alongside the northern boundary of the site, and the majority of the application site is set broadly level with the railway line and is therefore lower than the canal to the north and Stenson Road to the east. The access to the site is positioned in between the railway bridge to the south and the Stenson Lock and Attached Bridge (Grade II) to the north. Cars were observed to be parking in the access point at the time of the Officer's site visit. Within the site the land is predominantly grass with some ruderal vegetation and a hedgerow along the embankment. There is a small timber shed in the north-eastern corner of the site.

The proposal

The application seeks to change the use of the land to a secure dog field. A parking area would be established in the north-eastern corner of the site that would provide parking for up to 5no. vehicles. Fencing would be erected around the perimeter of the site, which would be 1.8m tall steel mesh with timber post and rails. The applicants intend to utilise a booking system, with just one to two dog walkers at the site at any given time. Bookings for use of the site would be made online via an appointment scheduler. Once paid and scheduled the person would be given a gate code for access and the rules of use for the site. Dog walkers would be encouraged to take the waste home for disposal, and would also provide bins and bags within the site that would be disposed of by a pet waste disposal company.

Applicant's supporting information

Application Plans

Location Plan (18 October 2023)

Existing Block Plan (01, 18 October 2023)

Proposed Block Plan (02, 18 October 2023)

Existing Site Plan (03, 18 October 2023)

Proposed Site Plan (04A, 16 November 2023)

Post and Rail Fence Details (05, 30 October 2023)

Visibility Splays (06B, 10 January 2024)

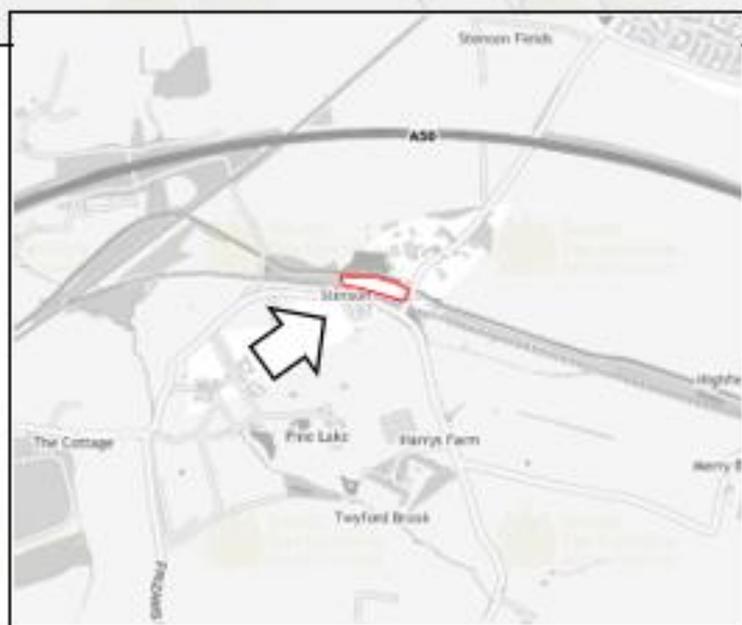
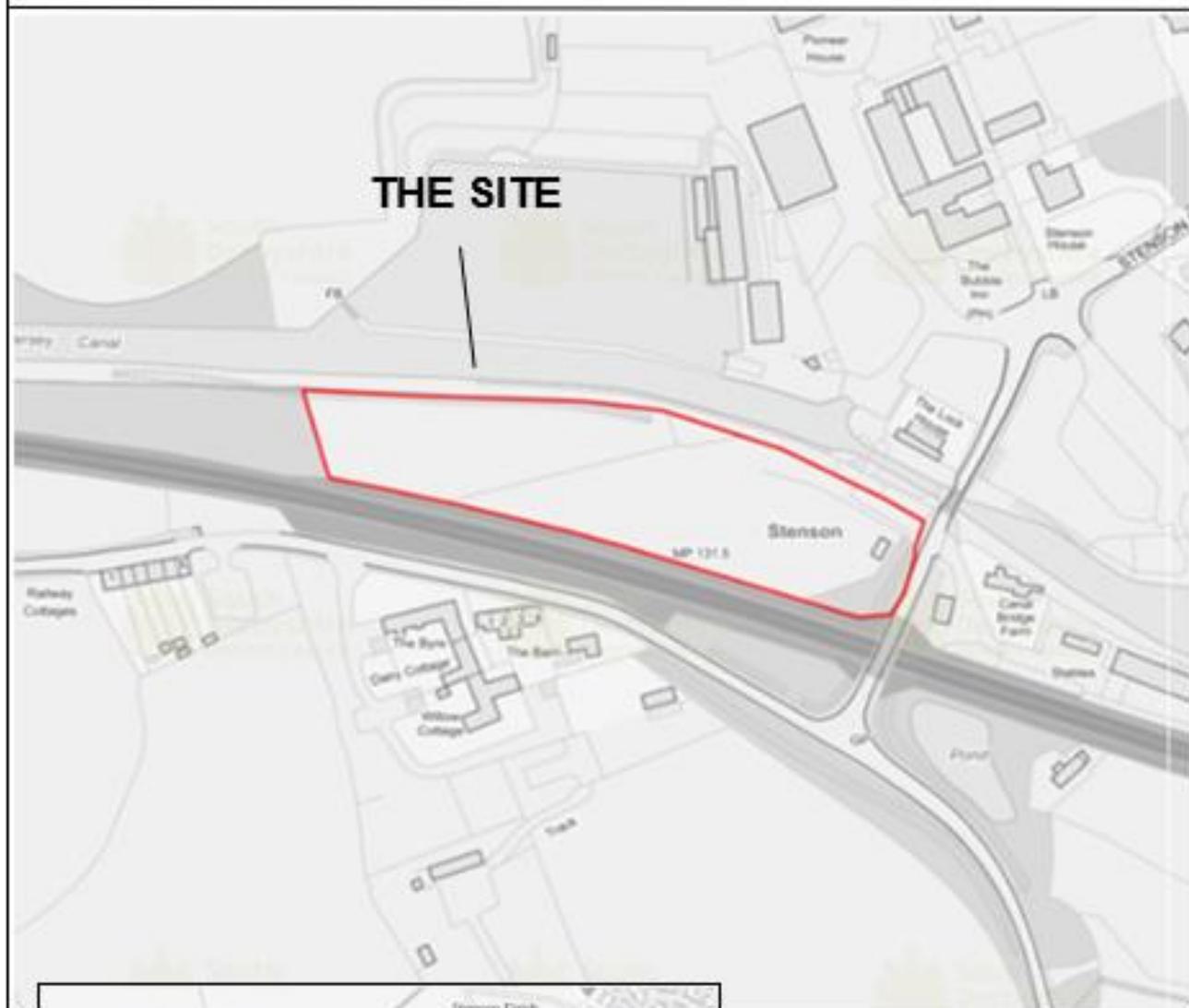
Design and Access Statement

A statement that adds further explanation of the development and provides an assessment of the scheme in the local policy context that has been undertaken by the applicant's planning agent.

Heritage Impact Statement

DMPA/2023/1339 – Land at Stenson Road, Stenson, DE73 7HL

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South Derbyshire District Council, LA 100019461.2020

Assessment of the impact of the scheme on nearby heritage assets, prepared by the applicant's agent.

Business Plan

A statement that provides additional information on the need for the development, approach to management of the business and proposed hours of opening.

Relevant planning history

No relevant planning history.

Responses to consultations and publicity

Economic Development

Our business advisor has taken a look at this case and has no concerns that there should be demand and that it should be a viable business. (26/01/2024)

Highway Authority

Initial Response – It should be noted that the access visibility splays should be in accordance with the following criteria in the interests of highway safety. Visibility splays should be provided from a point 0.6m above carriageway level at the centre of the access to the application site and 2.4m back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 35m in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6m from the edge of the carriageway. These splays should be free of all obstructions to visibility over 0.6m in height above carriageway level. The applicant is requested to demonstrate that visibility splays can be achieved that are in accordance with the above. Upon receipt of the requested information further comments will be issued. (21/12/2023)

Subsequent Response - The applicant has provided this additional information and demonstrates that a visibility splay to the north of 2.4 x 20m can be achieved. To the south a visibility splay of 2.4 x 35m can be provided with some minor trimming of adjacent hedgerows. As this is an existing access, the traffic likely to be generated by the proposed development will be low and vehicle speeds on Stenson Road in the vicinity of the access will also be low it is considered that the proposed access is acceptable. The proposed parking and turning arrangements are also acceptable but it should be noted that the access gate should be relocated to a position at least 5m behind the highway boundary to ensure no blocking of Stenson Road as vehicles enter the site. A condition to this effect is requested. Taking the above into account the highway authority has no objections to the application subject to the conditions being imposed related to the provision of parking and placement of the access gates. (12/01/2024)

Environmental Health:

Initial Comments – no objections or comments (12/12/2023)

Amended Comments - in light of the proximity of the residential moorings and objections received.

We have no objections but would like to propose the following conditions:

- a) Use to be restricted to between 8am and 8pm daily.
- b) A two year temporary permission is granted to enable to impact of the new use to be monitored and ensure it does not have an adverse impact on the existing community.
- c) No work shall take place on the site until details of a management scheme for the site is submitted and agreed in writing by the Local Planning Authority. This should limit the number of dogs using the at one time to 2 and include details on the storage and disposal of animal waste. The management scheme shall be implemented upon first use of the development hereby approved and subsequently maintained. (23/01/2024)

Conservation Officer

Change of use of the land with minimal visual change to the existing boundaries. The existing boundaries will not form the compound for dog walking – a new inner fenced area will be installed, leaving the existing boundaries in place. There will be minimal change to the existing appearance of the field or its boundaries. Minimal visual impact to setting. No objection (06/12/2023)

Canal and Rivers Trust:

The application site is located adjacent to the Trent & Mersey Canal conservation area and just south of Stenson Lock (Lock 6) and Bridge 19 (which carries Stenson Road over the canal), both of which are Grade II listed structures. We consider that the proposed use itself should have little, if any, impact on these heritage assets, although we note that some new galvanised steel fencing is required to ensure that the site will be fully secure. In the interests of minimising the visual impact of this fencing we ask that it be painted green to allow it to blend in better with its surroundings. We request that a planning condition is imposed to require approval of details of the colour to ensure an appropriate shade is selected.

We note that some shrubs and bushes are suggested to possibly require removal to better facilitate access into the field from the new car parking area. We would comment that we would not wish to see views into the site opened up to any significant extent as the existing hedgerow alongside the towpath here makes a positive contribution to the character and setting of this section of the conservation area and the listed lock. We therefore ask that any vegetation removal is kept to a minimum. (21/12/2023)

Public Rights of Way:

No response received.

Public Responses: There have been a total of 34 responses of objection on the application, with key points summarised as follows:

- a) Concerns related to noise nuisance and barking, with particular reference to the impact on nearby moorings and nuisance already caused by a nearby kennels;
- b) Concerns related to the impact of the scheme on highway safety (particularly the conflict between vehicles and pedestrians), increase in traffic, parking (in an area already limited in parking spaces for the pub, swimming pool etc.) and visibility from the access point (due to location in between two bridges);
- c) Concern that there would be more than 5no. vehicles parking within the car park;
- d) It was noted that Stenson Road is subject to consultation for restricted parking and double yellow lines;
- e) Specifically, a comment questioned the visibility splays which were based on the gate open with the vehicle halfway in and out the site and plans indicating that the existing gates would be retained in place;
- f) The use of gravel for the car park is highlighted as unsuitable due to spill over onto the highway;
- g) The need for the facility was questioned with kennels and exercise facilities cited as in place at Findern, Weston on Trent, and Sinfin;
- h) Some ambiguity was raised related to the applicant's address and it was advised that the applicant's address should be 'Canal Side Farm Office' and the ownership of the site was queried.

One letter of support was received in response to the application which stated that 'a field would be extremely useful' for dog walking and owners.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

(2016) Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), E7 (Rural Development), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness).

(2017) Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas); INF2 (Sustainable Transport)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

The relevant local guidance is:
South Derbyshire Design Guide Supplementary Planning Document

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

Principle of development

Highways

Residential Amenity

Impact on the Character and Appearance of the Area (including Heritage Assets)

Planning assessment

Principle of development

This application seeks a change of use of the land from agricultural use to a secure dog field including customer parking area. Stenson is located within the rural area outside of the defined settlements listed in Policy H1. In rural areas the principle of new development in the countryside is established by Policy BNE5, which supports development that is allowed for under Policy E7 provided it would not unduly impact landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets.

Policy E7 of the Local Plan provides policy support for employment development in the rural area provided it is supported by a sound business case, the local highway network is capable of accommodating the traffic generated, the development will not give rise to any undue impacts on neighbouring land, it is well designed and of a scale commensurate with the proposed use, and visual intrusion and the impact on the character of the locality is minimised.

Policy E7 therefore offers support for a proposal of this nature in the rural area, provided it can demonstrate that that the proposal is for a business that can support the social and economic needs of rural communities, that is supported by a sound business case, and is acceptable within the context of the criteria stated (traffic, impacts on neighbouring land etc.) in the policy wording and also in Policy BNE5.

The applicant has provided a business case which highlights the need for this type of facility and appears sound in accordance with criterion (i) of Policy E7. Members of the local community questioned the need for the facilities, however the Council's Economic Development team confirmed that there would be demand and that the proposal should comprise a viable business. There would be limited visual intrusion or impact on the character of the locality as the site would remain visually open, with the mesh fencing having a transparent effect. There would be no built development and thus no permanent impact on agricultural land (Grade 3 in this case). Provided that the other criteria of Policies E7 and BNE5 of the Local Plan can be met (appraised below), it is considered that the proposed development would be acceptable in principle.

It is also noted that the nature of the proposals mean that a large area of private open space is required, which would not be possible within a settlement boundary. As such, it is accepted that the development would also be considered unavoidable outside settlement boundaries, and therefore, in accordance with limb iii) of Policy BNE5.

Highways

The NPPF (Paragraph 115) states that: '*development should only be prevented or refused on highways ground if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*'

Policy INF2 sets the local policy framework for sustainable transport and states that planning permission will be granted for development where appropriate provision is made for safe and convenient access to and within the development for users of the private car and other modes of transport. As above, Policy E7 also requires consideration of whether the local highway network can accommodate the traffic generated.

The access for the site is located between the railway bridge and canal bridge. The Highway Authority was consulted on the application and requested visibility splays for the access, which were subsequently provided. The first set of visibility splays were obstructed by the canal bridge (a Grade II listed structure) to the north. The Highway Authority was reconsulted and advised that a lesser visibility splay would be acceptable in this location due to the slow speed of traffic movement and a 2.4 x 20m was instead requested to the north with 2.4 x 35m splay to the south. The applicant revised the visibility splays and demonstrated that the requested measurements could be achieved with minor trimming of the hedgerow as shown on the plan referenced 06B, 10 January 2024. The Highway Authority confirmed that this would be acceptable subject to a condition to reposition the gates 5m back from the highway and implementation of the scheme in accordance with the submitted plans.

There is a lot of concern in the local community about the suitability of the access and other matters related to highway safety as noted above. The site has been visited by Officers and the constraints of the bridges were noted. Given the nature of Stenson Road, the Highway Authority has advised that traffic would not be able to drive at high speeds, and the requisite visibility splays have been demonstrated. The Highway Authority raises no objection and confirms that the proposed access would be acceptable on the basis of the visibility splays provided, subject to conditions. It would not be reasonable to recommend refusal of the scheme on this basis under policy INF2.

Additionally, it is noted that traffic generation from the scheme is likely to be low as the Design and Access Statement states that the booking system would allow one to two dog walkers at the site at any given time, and the number of users could be restricted as part of the planning conditions. There would be 5–10-minute gaps in between bookings and the car park would have additional capacity in case of overlap. It is considered the local highway network would be able to accommodate the limited traffic expected to be generated as required by Policy E7, and the proposal would meet its own needs in terms of parking requirement and would not therefore impact on the surrounding parking provision (or be affected by the consultation for restricted parking and double yellow lines).

One member of the local community highlighted that the use of gravel for the car park would be unacceptable. The Highway Authority has recommended a condition to ensure the first 5m of the driveway would be constructed from tarmac, which would overcome this concern.

Residential Amenity

Policy SD1 states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.

There are residential dwellings within 20-30m of the site and barges on the Trent and Mersey Canal. The Environmental Health Officer has been consulted on the planning application and initially raised no objections. Members of the local community however raised concern related to the potential for noise and disturbance from barking dogs within the field. In this respect it is noted that such disturbance could arise from walkers along the canal towpath where there would be no restrictions for use. Nonetheless, the EHO was reconsulted for further advice. In amended comments it was recommended that the hours of use of the field be restricted to between 0800 and 2000 daily, the number of dogs within the site be limited to 2 and a Management Scheme secured for the site. It was also recommended that a temporary permission be issued in the first instance to enable monitoring of any disturbance that may arise.

The latter proposal for a temporary permission is not recommended, as it would be reliant on the receipt of complaints from the public and difficult to distinguish noise from the field compared to the adjacent towpath. There would be merit in controlling the hours of use. The applicant proposed slightly

longer hours of use in the summer (0700-2100) than the EHO has recommended (0800-2000). The EHO hours of use take into account the proximity of the nearby moorings and would be considered reasonable and necessary to ensure that amenity is protected. The proposal for a Management Scheme is also considered reasonable, however the restriction to 2 dogs at any one time within the field is not, as many private individuals would have more than one or two dogs. It would also be unreasonable to prevent the use of the site by commercial dog walkers, and noted that such dog walkers would have their own restrictions on the number of animals to be walked through insurance requirements etc. The number of users would be limited to one or two walkers at the site at any given time, as set out in the Design and Access Statement. The provision of a Management Scheme, prior to first use, that incorporates site rules (including requirements for animal behaviour), sets out how users of the site would be made aware of the rules, how managers of the site would monitor users, and what penalties would be imposed on users should the rules be broken, should be sufficient to control any potential disturbance when taken together with the hours of use and number of users proposed. With these conditions in place it is considered that the proposal would comply with Policy SD1.

Impact on the Character and Appearance of the Area (including Heritage Assets)

Policy BNE1 sets out principles for design excellence, which is supported by the detail within the South Derbyshire Design Guide SPD and requires that new development create places with locally inspired character that responds to its context. Policy BNE4 requires developers to retain key valued landscape components (such as mature trees) and states that development which has an unacceptable impact on landscape character, visual amenity and sensitivity and cannot be satisfactorily be mitigated, will not be permitted. Local Plan policies BNE2 and BNE10 make provisions to protect, conserve and enhance South Derbyshire's heritage assets.

The application is primarily a proposal for the change of use of the land. Built development is limited to provision of the security perimeter fencing and creation of the car parking area, which would result in the removal of some vegetation. The Council's Conservation Officer and Canal and Rivers Trust have been consulted on the application and raised no objections. Both consultees commented that the proposal would have limited, if any, impact on the nearby heritage assets. The fencing would be wire mesh, which would have a transparent appearance. The Canal and Rivers Trust has requested that the colour of the fencing be controlled by suitably worded planning condition, which is reasonable. It is considered that the loss of vegetation in the car parking area could be compensated through submission of landscaping details, secured by planning condition. The proposal is considered to have limited visual impact and would comply with the above policies, and also the requirement of Policy E7.

Other Matters

Some ambiguity was raised related to the applicant's address and it was advised that the applicant's address should be 'Canal Side Farm Office' and the ownership of the site was queried. This point was raised with the applicant and following some clarifications the Application Form was updated confirming that Certificate B had been served.

Conclusion

The principle of rural economic/employment development is supported by Policy E7. The key material considerations in determination of the case relate to highway safety and the impact of the proposal on residential amenity, which can be adequately addressed through appropriate planning conditions, and the impact on the character and appearance of the area. Taking all of the above into consideration, the application would comply with the requirements of the Development Plan and is therefore recommended for approval subject to conditions.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and

Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the submitted plans and details: Existing Block Plan (01, 18 October 2023), Proposed Block Plan (02, 18 October 2023), Existing Site Plan (03, 18 October 2023), Proposed Site Plan (04A, 16 November 2023), Post and Rail Fence Details (05, 30 October 2023), Visibility Splays (06B, 10 January 2024), unless otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

3. The use of the facility shall be for the purpose of dog walking only and shall exclude other dog related activities (such as shows, competitions, or dog agility).

Reason: To safeguard the amenities of nearby occupiers and the public highway in accordance with Policies SD1 and INF2.

4. The use of the facility shall be restricted to within the hours 0800 to 2000 only.

Reason: To safeguard the amenities of nearby occupiers and in accordance with Policy SD1.

5. In accordance with the Design and Access Statement submitted in support of the application, the facility shall only be used by a maximum of two customers at any one time. Customers shall pre-book use of the facility and a diary, which shall be available for inspection at the request of the Local Planning Authority, shall be kept showing customer booking details.

Reason: To safeguard the amenities of nearby occupiers and the public highway in accordance with Policies SD1 and INF2.

6. Prior to any first use of the site, a Management Plan should be submitted to and approved by the Local Planning Authority. The Management Plan should provide details of the site rules (including requirements for animal behaviour), how users of the site would be made aware of the rules, how managers of the site would monitor users, and what penalties would be imposed on users should the rules be broken. Once approved, the Management Plan shall be adhered to for the lifetime of the development.

Reason: To safeguard the amenities of nearby occupiers and the public highway in accordance with Policies SD1 and INF2 of the Local Plan.

7. The Development hereby approved shall not be brought into use until the access, parking and turning facilities have been provided as shown on the approved drawings.

Reason: In the interests of highway safety and in accordance with Policy INF2 of the Local Plan.

8. The development hereby approved shall not be brought into use until the access gates have been set back 5 metres from the adjoining carriageway edge and made to open inwards only.

Reason: In the interests of highway safety and in accordance with Policy INF2 of the Local Plan.

9. The development hereby permitted shall not be brought into use until such time as the access has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with Policy INF2 of the Local Plan.

10. A detailed scheme of hard and soft landscaping for the car parking area shall be submitted to and approved in writing by the Local Planning Authority. The hard landscaping should incorporate details of proposed surfacing. The soft landscaping should evidence the proposed locations of each tree species, the size of each type of tree (standard, select standard, or heavy standard with girth dimensions), the mix of any proposed grass areas, and the proposed locations and sizes of any ornamental shrubs (in litre pots). The works shall be undertaken in accordance with the agreed details prior to first use of the development. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the date of this decision; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

Reason: In the visual interest of the area and in accordance with Policies BNE1 and BNE4 of the Local Plan.

11. Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, shall be submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with it.

Reason: In the visual interest of the area and in accordance with Policies BNE1 and BNE4 of the Local Plan.

12. The Post and Rail fence shall be 1.8m high with timber colour posts and grey or green steel meshing.

Reason: In the visual interest of the area and in accordance with Policies BNE1 and BNE4 of the Local Plan.

Informatives

The application site is abutted by a Public Rights of Way Footpath No. 11 as shown on the Derbyshire Definitive Map. The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock or by emailing ETC.PROW@derbyshire.gov.uk.

2. Planning and Other Appeals

(References beginning with a DMPA, DMPN, DMOT or 9 are planning appeals and references beginning with an ENF or E are enforcement appeals)

| Reference | Place | Ward | Outcome | Decision level |
|--------------------------------|--------------|---------------------|----------------|-----------------------|
| DMPA/2022/1059 | Newhall | Newhall and Stanton | Allowed | Committee |



Appeal Decision

Site visit made on 19 December 2023

by **Samuel Watson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th March 2024

Appeal Ref: APP/F1040/W/23/3323098

The Paddock (Cadley Park), Land South of Copperas Road, Newhall DE11 0UH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Cameron Homes Ltd. against the decision of South Derbyshire District Council.
 - The application Ref is [DMPA/2022/1059](#)
 - The development proposed is the erection of 8 dwellings, two detached garages and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 8 dwellings, two detached garages and associated works. at The Paddock (Cadley Park), Newhall DE11 0UH in accordance with the terms of the application, Ref DMPA/2022/1059, dated 20 July 2022, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

2. The main issues are:
 - Whether the appeal site is suitable for new residential development; and,
 - The effect of the proposal on infrastructure, with particular regard to schools and health care.

Reasons

Whether Suitable for Residential Development

3. Policy H1 of the South Derbyshire Local Plan Part 1 (June 2016, the LP1) sets out the settlement hierarchy with Swadlincote being an Urban Area. Within the settlement boundaries of Urban Areas the policy supports development of all sizes. Exception and cross subsidy sites, that are for less than 25 houses, are also supported outside of these settlement boundaries where the site is adjacent to it. This policy is supported by SDT1 of the South Derbyshire Local Plan Part 2 (November 2017, the LP2) which identifies the settlement boundaries relevant to Policy H1.
4. It is clear from the submissions before me that the appeal site is outside, but adjacent to, the settlement boundary for Swadlincote. Residential development is currently being carried out on land that bounds three sides of the site and there are existing properties to the north on Copperas Road. Once the development is complete the appeal site will appear as a gap in the built up area, rather than a part of the wider countryside to the other side of Copperas

Road. Although settlement boundaries are a starting point, a judgement must be made on the situation as it stands on the ground. In this case, given its close relationship with the surrounding built-up area and the highway network, I find that the appeal site is both visually and functionally within the Urban Area of Swadlincote. Consequently, for the purposes of this appeal, I have considered the appeal site to be within a settlement boundary where residential development is supported.

5. Even if I were to find that the appeal site is outside of the settlement boundary, LP2 Policy BNE5 provides exceptions where development in rural areas can be acceptable. In this case I find that exception (iv) is relevant as it relates to the infilling of small gaps that are in keeping with the area. Although the exception normally only covers developments of no more than 2 dwellings, it is clear from the wording that exceptions to this are permissible. In this case and relative to the extent of the settlement surrounding it, I find that the scale of the gap, and the number of dwellings proposed, would be commensurate to represent infilling. Moreover, as noted above, the appeal site visually reads as being part of the wider settlement and so I find that it would be in keeping with the character of the locality.
6. Irrespective of the route taken above, the proposal would result in a development that would align with the settlement hierarchy and locational strategy for residential development as set out within the development plan. As such the proposal would comply with LP1 Policy H1 and LP2 Policies SDT1 and BNE5. As outlined above, these policies collectively, and amongst other matters, set out the settlement hierarchy for residential development and suitable exceptions to this hierarchy and the overarching strategy.
7. I note the reference to a recent decision¹ that was subsequently quashed but find that this relates to whether development complies with exception or cross subsidy sites. These matters have not been determinative in my considerations and so this example is not directly relevant.

Effect on Infrastructure

8. The proposal would provide 8 new dwellings of a size capable of accommodating families. The site's location means that future occupiers would likely make use of the services and facilities associated with the Urban Area of Swadlincote to meet, at least, most of their daily needs. Swadlincote is identified as the largest type of settlement in the Council's hierarchy and is where most development is directed.
9. I have not been provided with any detailed evidence to define the extent of any deficiencies in infrastructure provision local to the appeal site. It has also not been demonstrated what effect the proposal might have on this provision. Whilst the Council have referred to the 2014 permission² for 68 dwellings on the adjoining land, this decision is of some considerable age and for a significantly larger scheme. Therefore, the context and impact are also likely to be different to that before me.
10. Although providing 8 family homes, the proposal would be a small proposal resulting in only a slight increase in population relative to the Urban Area as a whole. Lacking any substantive evidence to the contrary, I find that the

¹ Appeal Reference: APP/F1040/W/19/3232081

² Council reference: 9/2014/0886

infrastructure required by the small increase in the population stemming from the scheme is already present.

11. The proposal would not, therefore, adversely affect the provision of infrastructure, with particular regards to schools and health care. The proposal would therefore comply with LP1 Policy INF1 which requires developments to meet any increased need for infrastructure. The proposal would also comply with the wider requirements set out under LP1 Policies S1 and H1 and LP2 Policies SDT1 and BNE5 regarding the accessibility of services and sustainability.

Other Matters

12. It is clear from the submissions before me that the vehicular access serving the proposal would not be through Woodview Road and Copperas Road. I therefore find that there would be no adverse highway safety or living conditions impacts along these roads stemming from increase vehicular movements.

Conditions

13. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
14. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
15. From the evidence before me and my observations on site, there is a risk of contamination at the appeal site. A condition is therefore necessary to ensure that this is investigated and, if necessary, remedied. It is necessary that this condition is pre-commencement as works on site may disturb any contamination or make remedial works more difficult to undertake.
16. In order to ensure highway safety, I have attached a condition requiring parking spaces, including any garages, are provided prior to the first occupation of any of the dwellings. I have also attached a condition requiring wheel washing during the construction works to minimise the spread of debris and protect highway safety.
17. In the interests of protecting and enhancing biodiversity on and around the site, I have attached conditions requiring the provision of a Landscape Biodiversity Enhancement and Management Plan, which shall, amongst other matters, include plantings, roosts and hedgehog gaps. I have also attached a condition restricting the removal of vegetation between March and August in order to ensure the protection of any nesting birds.
18. To ensure a proper and efficient waste and recycling collection I have imposed a condition requiring details of the location serving each dwelling and their permanent provision thereafter.
19. Sufficient details have been provided on drainage to demonstrate how it will be carried out and, as such, a condition is not necessary requiring the submission of further details. Given the scale of the proposal and the appeal site, I find it is

also not necessary to impose a condition requiring details of drainage during the construction period. However, a condition is required to ensure that the drainage works proposed have been carried out successfully.

20. Given the scale of the development, and that it is accessed off an existing highway network, a condition regarding a works access would not be necessary in the interests of highway safety. Likewise, given the small scale of the development, I find that it would not be necessary to require a construction management plan for the purposes of living conditions, health and safety, and highway safety.
21. The appeal site is not within an area of any especial character, or designated status and so, mindful of the submissions before me, I find that sufficient details of the dwellings' and boundary treatments' design and materials have been submitted. It is not, therefore, necessary to require further details to be submitted in these regards. However, for the purposes of character and appearance, I have attached a condition requiring mortar be used on the roof verges.
22. The requirement for electric vehicle charging points is covered by other legislation and so it is unnecessary to duplicate it here under a condition.
23. Given the site's close proximity to existing residential development and a wider built-up area, it is not necessary to require a lighting strategy to be provided in order to protect bats and other nocturnal wildlife.

Conclusion

24. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

Samuel Watson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 2278-01-02 Location Plan
 - 2278-02-Topographical Plan
 - 2278-03-02-C-Proposed Site Plan
 - 2278-11-02-Streetscenes
 - 2278-H-2-856-BENSON-AS-SWADLINCOTE-A PROPOSED ELEVATIONS AND FLOOR PLANS
 - 2278-H-2-856-BENSON-OP-SWADLINCOTE-A PROPOSED ELEVATIONS AND FLOOR PLANS (HANCED)
 - 2278-H-3-870-BIRCH-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS

- 2278-H-3-870-BIRCH-SWADLINCOTE-OP PROPOSED ELEVATIONS AND FLOOR PLANS (HANDED)
 - 2278-H-3-978-CARDEW-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS
 - 2278-H-4-1421-HATTON (ELES)-SWADLINCOTE-AS PROPOSED ELEVATIONS AND FLOOR PLANS
 - 2278-H-4-1421-HATTON-SWADLINCOTE-AS-A PROPOSED ELEVATIONS AND FLOOR PLANS (HANDED)
 - 2278-H-4-1621-BLACKWELL (ELES)-SWADLINCOTE-AS PROPOSED ELEVATIONS
 - 2278-H-4-1621-BLACKWELL (ELES)-SWADLINCOTE-OP PROPOSED ELEVATIONS (HANDED)
 - 2278-H-4-1621-BLACKWELL-SWADLINCOTE-AS-A PROPOSED FLOOR PLANS (HANDED)
 - 2278-H-4-1621-BLACKWELL-SWADLINCOTE-OP-A PROPOSED FLOOR PLAN
 - Proposed Garage Plan
 - 19061 External Works
 - 19061 PH2 - 138 Proposed Drainage Plan
 - Detailed Soft Landscape Proposals – Planning 22-004-P-01 Rev B
 - 19061-PH2 Drainage Statement
 - Ecological Appraisal
 - 071767-CUR-00-XX-RP-GE-001-Phase II Ground Investigation Report Swadlincote Plot A
 - Tree Survey AIA
 - 6084 Planning Statement
 - Drainage Area Plan Sheet 1 and 3 Dwg 19061 Rev B
 - Ecological Technical Note – Biodiversity Net Gain Calculations Jan 2023
 - 11022 VF BNG Matrix Rev A
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 7 days of the report being completed and approved in writing by the local planning authority.
- 4) Prior to the first occupation of any dwelling hereby permitted, space shall be provided within the plot curtilage for the parking of vehicles, laid out in accordance with the application drawing and maintained for this purpose

throughout the lifetime of the development free from impediment to its designated use.

- 5) No construction above foundations level shall commence until a scheme and timetable for the creation of suitable nesting sites for swallows has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.
- 6) Prior to the completion of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as part the agreed scheme, provide the details of any management company and state the national grid reference for any key drainage elements (such as surface water attenuation devices/areas, flow restriction devices and outfalls).
- 7) The roof verges on the dwellings hereby permitted shall be carried out with a mortar finish that shall be retained thereafter.
- 8) No vegetation clearance shall take place between 1 March and 31 August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.
- 9) Prior to the completion of the development a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to and approved in writing by the Local Planning Authority. This should include:
 - a. Description and evaluation of any features to be created and managed, such as areas of wildflower grassland, flowering lawns, trees and shrubs.
 - b. Locations of bat boxes, swift bricks and swallow nests in line with British Standard BS42021:2022.
 - c. Details of hedgehog connectivity gaps, including a plan showing locations.
 - d. Aims and objectives of on-site management.
 - e. Ecological trends and constraints that might influence management.
 - f. Appropriate management methods and practices to achieve aims and objectives.
 - g. Prescriptions for management actions.
 - h. Preparation of a work schedule.
 - i. Preparation of a work schedule (including a five-year work plan capable of being rolled forward in perpetuity).
 - j. Details of the body or organisation responsible for implementation of the plan.
 - k. Ongoing monitoring and remedial measures including benchmarking of the site enhancement areas against DEFRA conditions sheets reportable to the authority at 5, 10, 15 and 30 years post completion.
- 10) The land and features secured by the condition above for the use of securing the Biodiversity Net Gain shall be held for that use for the lifetime of the development.

- 11) Throughout the period of construction vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.
- 12) Notwithstanding the submitted drawings, bin collection points shall be provided within private land at the entrance to shared private accesses and/or courtyards, sufficient to accommodate two bins per dwelling served, in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The bin collection points shall be provided prior to the first occupation of a dwelling to which they serve and shall be retained thereafter free from any impediment to their designated use as such.