

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 18 July 2017 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**  
Councillor Roberts (Chairman), Councillor Mrs Brown (Vice-Chairman) and  
Councillors Mrs Coe, Ford, Mrs Hall, Harrison, Muller, Stanton and Watson

**Labour Group**  
Councillors Dr Pearson, Shepherd, Southerd and Tilley

## **AGENDA**

### **Open to Public and Press**

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To receive the Open Minutes for the following Meetings:-  
  
Planning Committee 9th May 2017 Open Minutes **3 - 7**  
  
Planning Committee 6th June 2017 Open Minutes **8 - 11**
- 3** To note any declarations of interest arising from any items on the Agenda
- 4** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 5** REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES **12 - 54**

### **Exclusion of the Public and Press:**

- 6** The Chairman may therefore move:-  
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 7** To receive the Exempt Minutes for the following Meeting:-  
Planning Committee 9th May 2017 Exempt Minutes
- 8** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.

PLANNING COMMITTEE

9<sup>th</sup> May 2017

**PRESENT:-**

**Conservative Group**

Councillor Roberts (Chairman) and Councillors Atkin, Mrs Coe, Coe (substituting for Councillor Mrs Brown), Hall, Harrison, Murray (substituting for Councillor Ford), Stanton and Watson

**Labour Group**

Councillors Dr Pearson, Richards (substituting for Councillor Southerd), Shepherd and Tilley

PL/226 **APOLOGIES**

Apologies were received from Councillors Mrs Brown, Ford (Conservative Group) and Southerd (Labour Group).

PL/227 **MINUTES**

The Open Minutes of the Meetings held on 21<sup>st</sup> March 2017 (PL/195-PL/211) were taken as read, approved as a true record and signed by the Chairman.

PL/228 **DECLARATIONS OF INTEREST**

Councillor Harrison declared a personal interest in Item 1.5 on the Agenda by virtue of being Chairman of the Melbourne Sporting Partnership.

Councillor Murray declared a personal interest in Item 2.2 on the Agenda by virtue of being a Derbyshire County Councillor.

PL/229 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

**MATTERS DELEGATED TO COMMITTEE**

PL/230 **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

The Director of Community and Planning Services submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/231 **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE ERECTION OF 5 DWELLINGS (THREE TOWN HOUSES AND TWO APARTMENTS) WITH ASSOCIATED PARKING ON LAND TO THE REAR OF 61 HIGH STREET, NEWHALL, SWADLINCOTE**

It was reported that members of the Committee had visited the site earlier in the day.

Mr Bob Jarvis (objector) attended the Meeting and addressed Members on this application.

Councillor Richards addressed the Committee as Ward Member for Newhall and Stanton, confirming that whilst he supported the application, there were concerns regarding flooding.

Other Members commented on the drainage / flooding issues, the poor visibility at the top of Chapel Street and the proposed road closure. It was suggested that the wording of Condition 20, relating to the disposal of surface and foul water, be enhanced to better address the issues raised. The Planning Services Manager addressed the above matters.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Director of Community & Planning Services, subject to amendment to the wording of Condition 20 at the discretion of the Planning Services Manager.***

PL/232 **THE ERECTION OF 13 DWELLINGS AND ANCILLARY WORKS AT FORMER CHURCH GRESLEY COUNTY INFANT AND NURSERY SCHOOL, YORK ROAD, CHURCH GRESLEY, SWADLINCOTE**

The Planning Services Manager informed Committee that although the report refers to eleven 3 bedroom dwellings, it should read as eleven 2 bedroom dwellings.

Mr Anthony Rice (applicant's agent) attended the Meeting and addressed Members on this application.

Councillor Richards queried the position regarding Section 106 contributions and the 100% affordability status. The Planning Services Manager clarified the position, suggesting an additional condition be applied to consolidate the matter.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Director of Community & Planning Services, subject to an additional condition requiring affordable housing only.***

PL/233 **APPROVAL OF RESERVED MATTERS FOR LAYOUT, SCALE, APPEARANCE AND LANDSCAPING ONLY OF PLANNING PERMISSION REF: 9/2015/0291 ON LAND AT SK3824 2697, ASHBY ROAD, MELBOURNE, DERBY**

The Principal Area Planning Officer outlined amendments to the conditions.

It was reported that members of the Committee had visited the site earlier in the day.

Mr Trevor Banbrook (applicant's agent) attended the Meeting and addressed Members on this application.

Councillor Harrison addressed the Committee as Ward Member for Melbourne, emphasising that whilst he was aware of the concerns expressed by those opposing the application, he felt that they had been addressed and he now supported the recommendation to grant planning permission.

Councillor Dr Pearson commented on the application site's high visibility on the approach to the village, his view that the development was out of character and queried the protection of the hedgerows post development. The Principal Area Planning Officer responded to the above issues.

Other Members commended the scheme, welcomed the improvement of an unattractive site, noted the stability of the nearby quarry rock face, whilst also making comment on the potential poor egress visibility near Plot 5.

***RESOLVED:-***

***That approval of reserved matters be granted as recommended in the report of the Director of Community & Planning Services.***

PL/234 **DEMOLITION OF REAR FLAT ROOFED EXTENSION AND THE ERECTION OF REAR EXTENSIONS AND ALTERATIONS AT 27 MAIN STREET, NEWTON SOLNEY, BURTON ON TRENT**

Miss Claire Atkin (objector) attended the Meeting and addressed Members on this application.

Councillor Stanton addressed the Committee as Ward Member for Repton, confirming that Newton Solney Parish Council had withdrawn its objection following the reduction in height of the roof.

***RESOLVED:-***

***That planning permission be granted as recommended in the report of the Director of Community & Planning Services.***

PL/235 **THE VARIATION OF CONDITION 4 OF PLANNING PERMISSION REF: 9/2013/0759 TO USE THE FLOOD LIGHTS THROUGH THE NIGHT**

**BEYOND 9.30PM FOR ONE EVENT A YEAR AT MELBOURNE SPORTS PAVILION, COCKSHUT LANE, MELBOURNE, DERBY**

The Planning Services Manager confirmed that no objections had been raised by Melbourne Parish Council.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Director of Community & Planning Services.***

PL/236 **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS AND LAYOUT TO BE RESERVED) FOR THE DEMOLITION OF EXISTING BUILDINGS AND THE ERECTION OF 6 DWELLINGS AT LAND TO THE REAR OF 230 STATION ROAD, MELBOURNE, DERBY**

It was reported that members of the Committee had visited the site earlier in the day.

Mr Jon Pope (objector) and Mr Andrew Large (applicant's agent) attended the Meeting and addressed Members on this application.

The Principal Area Planning Officer read out a letter received from Councillor Hewlett, Ward Member for Melbourne, who had been unable to attend the Meeting.

Councillor Harrison addressed the Committee as the other Ward Member for Melbourne, outlining his concerns regarding the current state of the location, his appreciation of the need to act in accordance with the Local Plan Parts 1 & 2 guidance to avoid potentially setting any precedents, but that further action should be taken in order to achieve some progress.

Other Members expressed surprise at the site's condition, queried permitted development options, building conversion and commented on the fall in market garden sustainability. It was widely accepted that whilst the location needed attention, the application could not be supported as it fell outside accepted policy. The Planning Services Manager and Principal Area Planning Officer both addressed the various points raised.

**RESOLVED:-**

***That planning permission be refused as recommended in the report of the Director of Community & Planning Services.***

Abstention: Councillor Stanton.

Councillor Murray left the Meeting at 7.25pm.

PL/237 **DEMOLITION OF EXISTING CHILDRENS HOME AND ERECTION OF NEW-BUILD CHILDRENS HOME, LOCATED ON THE OLD FOOTPRINT ALONG WITH RETENTION OF EXISTING OUTBUILDING ON THE CORNER OF**

**THE SITE AND RE-LANDSCAPING OF GARDENS (COUNTY REF: CD9/0317/107) AT LINDEN HOUSE, CHURCH STREET, SWADLINCOTE**

Councillor Tilley addressed the Committee as Ward Member for Swadlincote, expressing his views on what he saw as an iconic building in a conservation area, one that should be preserved, renovated to meet the desired standards rather than be demolished.

**RESOLVED:-**

***That Derbyshire County Planning Authority be advised that South Derbyshire District objects to the grant of planning permission as recommended in the report of the Director of Community & Planning Services.***

PL/238 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:-**

***That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

**EXEMPT MINUTES**

***The Exempt Minutes of the Meeting held on the 21<sup>st</sup> March 2017 (PL/212-PL/213) were taken as read, approved as a true record and signed by the Chairman.***

**EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

***The Committee was informed that no questions had been received.***

The meeting terminated at 7.30pm.

COUNCILLOR A ROBERTS

CHAIRMAN

PLANNING COMMITTEE

6<sup>th</sup> June 2017

**PRESENT:-**

**Conservative Group**

Councillor Roberts (Chairman), Councillor Mrs Brown (Vice Chairman) and Councillors Coe (substituting for Councillor Ford), Mrs Coe, Mrs Hall, Harrison, Mrs Patten (substituting for Councillor Muller), Stanton and Watson.

**Labour Group**

Councillors Rhind (substituting for Dr Pearson), Shepherd, Southerd and Tilley

**In Attendance**

Councillors Bambrick and Richards

PL/1 **APOLOGIES**

Apologies were received from Councillors Ford, Muller (Conservative Group) and Dr Pearson (Labour Group).

PL/2 **MINUTES**

The Open Minutes of the Meetings held on 11<sup>th</sup> April 2017 (PL/214-PL/225) were taken as read, approved as a true record and signed by the Chairman.

PL/3 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations of interest had been received.

PL/4 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

The Committee was informed that no questions from Members of the Council had been received.

**MATTERS DELEGATED TO COMMITTEE**

PL/5 **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

The Director of Community and Planning Services submitted reports for consideration and determination by the Committee and presented oral reports

to the Meeting to update them as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/6 **THE ERECTION OF 14 HOLIDAY LETS AND THE CREATION OF AN ALL WEATHER PITCH, ACCESS TRACK AND HARDSTANDING ALONG WITH ASSOCIATED LANDSCAPING AND RETENTION OF FISHING PEGS ON LAND AT SK2816 1014 COLLIERY LANE LINTON SWADLINCOTE**

The Principal Area Planning Officer presented the report to Committee informing that a response from the Derbyshire Wildlife Trust had been received which would be addressed by the inclusion of an additional condition and further amendment to a recommended condition..

Some Members sought clarification on the type and impact of lighting. The Planning Services Manager addressed these issues and it was agreed that an Informative would be added to provide clarification for the avoidance of doubt.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Director of Community & Planning Services, with the amendment to Conditions and additional Informative.***

PL/7 **PART CHANGE OF USE FROM OFFICE TO TAXI BOOKING OFFICE AT PHOENIX AFTER SCHOOL AND HOLIDAY CLUB AT THE EBENEZER CHURCH HALL MAIN STREET NEWHALL SWADLINCOTE**

The Planning Services Manager presented the report informing that the applicant had clarified that this would not be used as a taxi rank, but as a private hire vehicle office.

Mrs Julie Cresswell (objector) attended the Meeting and addressed Members on this application.

The Planning Services Manager responded to the concerns raised in relation to the name of the building, explaining that the Local Land and Property Gazeteer (LLPG) address system recognises a property by its last known use as a means of identifying the location even if this is not its current use.

Councillors Bambrick and Richards were in attendance as local Ward Members and raised concerns about the potential use of the facility, hours of operation, types of vehicles and its potential impact on local residents. Other Members concurred with the issues raised and agreed that the matter be addressed by amending the conditions on the application to specify that use of the three parking spaces be restricted to staff working in the office and not for private hire drivers.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Director of Community & Planning Services, subject to an amendment to Condition 4.***

***Abstention: Councillor Roberts***

PL/8

**CERTIFICATE OF LAWFULNESS FOR USE OF THE DWELLING WITHOUT COMPLIANCE WITH THE AGRICULTURAL TENANCY CONDITION AT THE BUNGALOW ROSLISTON FARM FORESTRY CENTRE BURTON ROAD ROSLISTON SWADLINCOTE**

The Planning Services Manager presented the report informing the Committee that the lease for the bungalow was due for renewal and a new operator for the site was being sought.

***RESOLVED:-***

***That approval of a Certificate of Lawfulness be granted as recommended in the report of the Director of Community & Planning Services.***

PL/9

**OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 150 DWELLINGS, LAND FOR A COMMUNITY BUILDING, PUBLIC OPEN SPACE, LANDSCAPING AND SUSTAINABLE DRAINAGE SYSTEM (SUDS) AND VEHICULAR ACCESS POINT FROM WESTON ROAD ON LAND AT SK4129 0030 WESTON ROAD ASTON ON TRENT DERBY**

The Area Planning Officer presented the report to Committee summarising its key points.

Mr Albert Willow (objector) attended the Meeting and addressed Members on this application.

Councillor Watson addressed the Committee as Ward Member for Aston on Trent, reiterating that adoption of the Local Plan Part One and potential adoption of Part Two provides a blueprint for the Council in outlining development plans for the next twenty years. In this light, the Councillor endorsed the reasons set out in the report to refuse the application.

***RESOLVED:-***

***That planning permission be refused as recommended in the report of the Director of Community & Planning Services.***

PL/10

**PLANNING AND OTHER APPEALS**

The Committee noted the planning appeal decisions in relation to the following applications:

9/2016/0452	Derby Road, Swarkestone Aston
9/2016/0479	The Castle Way, Willington
9/2016/0818	Bretby Lane, Bretby Repton

9/2016/0860 Wragley Way, Stenson Fields Stenson  
9/2016/0865 Wallfields Close, Findern  
9/2016/1053 Brambling Crescent, Mickleover, Etwall  
9/2016/1222 Fishpond Lane/Duck Street, Egginton, Etwall  
9/2016/1245 Springwood Fisheries, B587, Melbourne

In relation to application reference 9/2016/0860 Wragley Way, Stenson Fields, Councillor Shepherd as Ward Member expressed disappointment with the Inspector's decision.

PL/11 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:-**

***That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.***

**EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

***The Committee was informed that no questions had been received.***

The meeting terminated at 6.45pm.

COUNCILLOR A ROBERTS

CHAIRMAN

# **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

**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.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
9/2017/0455	1.1	Burnaston	Etwall	14
9/2017/0193	1.2	Eggington	Etwall	24

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 Director of Community and Planning Services' report 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 Director of Community and Planning Services, 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.

**Item** 1.1

**Ref. No.** 9/2017/0455

**Applicant:**  
Toyota Motor Manufacturing (UK) Ltd  
Burnaston  
Derby  
DE1 9TA

**Agent:**  
Toyota Motor Manufacturing (UK) Ltd  
Burnaston  
Derby  
DE1 9TA

**Proposal:** THE EXTENSION TO TOYOTA DESPATCH YARD CAR PARK, INCLUDING CREATION OF FURTHER FLOOD ATTENUATION MEASURES, EARTH SCREENING AND ECOLOGICAL LANDSCAPING AT TOYOTA MOTOR MANUFACTURING UK LTD BURNASTON DERBY

**Ward:** ETWALL

**Valid Date** 28/04/2017

#### **Reason for committee determination**

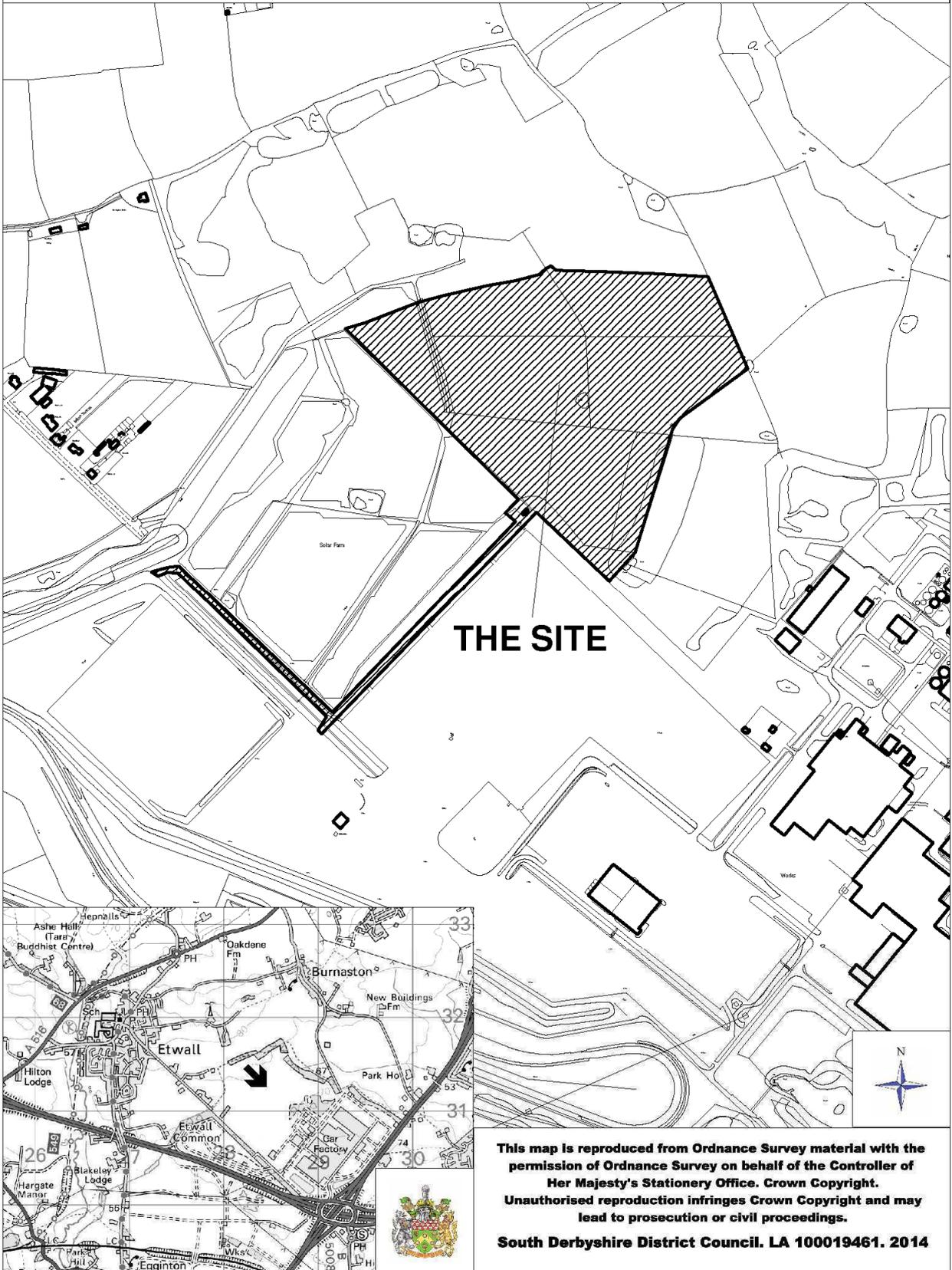
The item is presented to Committee at the discretion of the Planning Services Manager.

#### **Site Description**

The application site is large motor manufacturing company located to the south-east of the village of Etwall, south of the village of Burnaston and lying in the north-western quadrant of the A38/A50 roundabout interchange. The site is substantial and contains a large element of commercial floorspace but there are, nonetheless, numerous residential properties in close proximity to the site. Public footpaths run adjacent to the site linking Willington Road in Etwall to Green Lane in Burnaston via Etwall Footpath 11 and Burnaston Footpath 6.

#### **Proposal**

The proposed development is to provide for an expansion to the existing dispatch car park to accommodate an additional 3,500 new vehicles to replace current off-site storage arrangements. Access to the new storage area would be through existing site accesses and internal site access roads, with 'new product' vehicles moved from the new car park to existing transporter areas within the site. Vehicles would then be exported from the site to dealerships throughout Europe. The car parking area would be screened from the villages of Burnaston and Etwall by a landscaped earth bund, with the car park sitting at a level similar to that of the existing ground to the rear. The development would comprise a car park of approximately 6.2ha of impermeable bituminous construction, with large capacity drainage channels to remove water from the surface. This area would drain to a new surface water attenuation pond specifically to serve this development.



## Applicant's supporting information

The Arboricultural Report states that the majority of the trees ranged between young (21%), semi-mature (35%) and early-mature (26%) with fewer trees qualifying as mature (18%). The predominant species are Oak, Ash, Hawthorn and Willow with other species including Alder, Birch, Scots Pine, Elder, Blackthorn, Hornbeam, Sycamore, Elm, Hazel and Holly. The trees were predominantly classified as 'C' category (54%), with the remaining trees being classified as 'B' category (32%), four individual trees (7%) were classified as 'A' category and four trees (7%) were classified as 'U' category. The 'A' category trees (T23, T24, T25 and T45) are located within field boundary hedges and groups. The majority of the vegetation across the survey area provides both visual amenity and ecological benefits acting as green corridors for local wildlife.

The proposed development would result in the removal of field boundary hedges and tree groups and several individual trees, some of moderate and high quality. This includes four 'A' category trees within the centre of the development site. This is not considered to have an impact on the amenity of the wider area as these trees are not widely visible from publicly accessible areas. Screen planting around the perimeter of the application site also ensures that public visibility of the majority of the tree stock is limited. As such, the main impact for this scheme would be to the local environment, in particular wild life habitats and corridors provided by the various field hedges and tree groups. The temporary access road to the west of the survey area passes within the RPAs of moderate quality trees that form an avenue along the existing track. It is recommended that appropriate ground protection and sensitive canopy lifting is undertaken to minimise the potential for impacts to these trees.

The Ecology Report states that the survey results confirmed that there is Great Crested Newt (GCN) population within Pond 19. GCN were recorded previously 0.3km north of the Site (Pond 3) and 1.8km north-west of the Site. Aquatic and eDNA surveys are recommended to determine the presence or likely absence of GCN's. Twenty one trees within the application area have bat roost potential and further activity and emergence surveys are recommended. Records indicate there are Badger setts in the vicinity of the site and a survey is recommended to determine if there are established setts within the application site. The site has potential for reptile habitat and a reptile survey is recommended. A Barn Owl nest box is to the west of the site and as such a survey is recommended. A wet ditch is located within Area 3 where drainage works are proposed and therefore an otter and water vole survey is recommended.

The Flood Risk Assessment states that the site lies wholly within Flood Zone 1 with a fluvial flood risk of less than 1 in 1000 years (<0.1% Annual Exceedance Probability) (low probability) but as the site has a developable area in excess of 1 ha, a formal Flood Risk Assessment is required. There are no records of historic flooding in the vicinity of the proposed development. The risk from fluvial flooding is therefore considered to be 'Low'. The provision of a new 6.2ha paved parking area would result in an increase of surface water run-off from this area, with the increased run-off being managed within a new attenuation pond close to the new car park. The proposed surface water drainage system would be designed to contain all flows up to and including the 100 year event with a 40% allowance for climate change. This is in line with the plausible predicted future (year 2080) climate change figure quoted within the SDDC Preliminary Flood Risk Assessment. Given the use of the development as a car park for 'new product' vehicles, and the desire for this area to remain free from flooding, the use of the higher return period and climate change allowance would

minimise any risk of flooding. The provision of an oil separator and two attenuation areas, should make sure that any hydrocarbons and/or sediment that is present in the surface water run-off, should be reduced, minimising any impact on the downstream Willington Brook. Discharge of the new car park surface water via the existing balancing pond and flow controls would ensure that the outflow remains within the currently permitted discharge constraint of 1000l/s to Willington Brook.

The Phase 1 Desk Top Study states that the site is at negligible risk from potential ground gas production / migration as there are no plausible sources of gas that could result in significant ground gas generation below the site area. The site is located within a low geotechnical risk setting, low ground contamination risk setting for Human Health and low ground contamination risk setting for Controlled Waters due to the lack of plausible sources.

A Supporting Statement on vehicle movements states that Toyota are able to manufacture approximately 300,000 cars per year at the Burnaston site, however, at the current production volume is only around 50% of capacity. The number of vehicle movements to/from the site is therefore significantly reduced when compared to those experienced at full capacity. This would include vehicle movements onto/off site via the main entrance at the A50/A38 interchange for Member cars and parts deliveries. The number of transporter movements onto/off site via the dedicated A50 Eastbound despatch yard entrance is also therefore significantly reduced. The proposed extension would generate an increase of car transporter movements through the A50 access of around 40-60 movements per week, spread across a full 24 hours of operation, minimum 5 days a week. Currently, there is an average of between 70-100 transporters per week, rising to between 110-160 with the proposed expansion. The higher numbers would only be applicable during peak times of the year (Feb/Mar/Aug/Sept). The lower volumes being typical for the remainder of the year.

## **Planning History**

9/2010/0153 - The erection of a temporary 60m wind monitoring mast for twelve months – Refused 29-07-10

9/2010/0385 - The display of a banner across the front of the administration/reception building – Granted 27-05-10

9/2011/0180 - The installation of ground mounted solar panels up to 5mw (peak) power generation capacity together with 2.4m high security fence – Granted 11-04-11

9/2011/0335 - Modification of assembly 2 link ground floor elevation forming same line as existing first floor elevation, providing additional floor space for training workshop – Granted 16-06-11

9/2011/0423 - The installation of 245 ground mount solar panels – Granted 16-06-11

9/2012/0274 - The erection of a viewing platform – Granted 29-05-12

9/2014/0377 - The erection of an extension to paint shop and the installation of equipment to provide a new regenerative thermal oxidiser plus associated works – Granted 14-05-14

9/2016/0762 - The erection of signage denoting 'academy' with separate Toyota and Lexus signs – Granted - 03-01-17

## **Responses to Consultations**

The County Flood Team has no objection as they are satisfied surface water drainage matters are already accommodated for as part of the overall site subject to the approved drainage system being installed and maintained.

The Environment Agency has no comments.

The Environmental Health Officer has no comments.

The Highways Agency offers no objection on the basis of an increase of 70 vehicles per week expected spread throughout the week, the impact on the A50 and A38 and A50/A38 interchange is expected to be minimal.

The County Highways Authority considers that the proposal is unlikely to result in any adverse impact on the Highway network.

The Contaminated Land Officer has no objection.

Derbyshire Wildlife Trust examined the original Preliminary Ecological Appraisal and felt that in this case as it has identified habitat and presence of protected species that further surveys would be required before the application could be determined. Those assessments are currently being undertaken but have yet to be received and as such appropriate mitigation has yet to be identified.

## **Responses to Publicity**

One letter of objection received which raises concerns in regards to noise and lighting intrusion as well as wildlife impacts.

Etwall Parish Council has no objection.

Burnaston Parish Council has no objection.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1, S2, E2, SD1, SD2, SD3, BNE3, BNE4, INF2
- 1998 Local Plan (saved policies): EV1, EV9

## **Emerging Development Plan Policies**

The relevant policies are:

- Submission Local Plan Part 2: SDT1, BNE5, BNE7

## **National Guidance**

- National Planning Policy Framework (NPPF) 7, 11, 14, 17, 18, 19, 28, 32, 103, 109, 118, 119, 196, 197.
- Planning Practice Guidance (PPG)

## **Local Guidance**

- SPG - Industrial and Office Design and Layout

## **Planning Considerations**

The main issues central to the determination of this application are:

- The principle of development;
- Landscape and visual impacts;
- Highway safety impacts;
- Flood risk;
- Trees and Biodiversity; and
- Amenity.

## **Planning Assessment**

### The principle of the development

The application site is an established car production factory located in the countryside having started production in 1992. Policy E2 of the Adopted Local Plan Part 1 states that the development of land for business will be permitted where, amongst other things, it is an existing business expanding. It also states that development should be in scale with the existing built development and should not give rise to undue impacts on the local landscape, natural environment or cultural assets.

Saved Policy EV1 of the 1998 Local Plan states that outside settlements new development will be permitted where, amongst other things, it is unavoidable in the countryside and the character of the countryside, landscape quality, wildlife and historic features are safeguarded and protected. It also states that they should be designed to have as little impact as practicable on the countryside. The development is in connection with an expansion of one of the existing operations of the business on site and as it relates to the business in this location is considered to be unavoidable in the countryside.

One of the most important considerations in regards to the proposals is the economic benefits that arise from the development. Toyota are a successful company and have been producing cars at the Burnaston site for almost 25 years and are one of the largest employers in the area. In terms of the number of employees that are connected to the despatch yard operations alone, the current number is 65 full time and 25 part time whilst the proposal would increase those numbers to 120 full time and 60 part time, an increase of 55 full time and 35 part time employees.

The proposal would, therefore, allow the significant expansion of this local business adjacent to their existing site and would assist in economic regeneration and as such the proposals are considered to accord with these policies in principle.

## Landscape and visual impacts

Policy S1 of the LP1 highlights that “it is essential that the District’s heritage assets, landscape and rural character are protected, conserved and enhanced”. Policy BNE1 seeks, amongst other objectives, to ensure that new developments create places with locally inspired character that responds to their context and have regard to valued landscapes, townscape, and heritage characteristics; with new developments expected to be visually attractive, appropriate, and respect important landscape, townscape and historic views and vistas. Further considerations are set out in Policy BNE4 where the character, local distinctiveness and quality of the District’s landscape will be protected through careful design and the sensitive implementation of new development.

The site is open countryside and contains a significant level of hedgerow and associated trees (none protected by TPO). However, the land the subject of the application whilst not developed was always part of the land portfolio of Toyota. Whilst a car park in itself would not be overly intrusive in terms of built form it would, nevertheless, be a significant change in this rural landscape. Public footpaths run adjacent to the site linking Willington Road in Etwall to Green Lane in Burnaston via Etwall Footpath 11 and Burnaston Footpath 6. In order to mitigate this impact a landscape bund would be provided running around the northern periphery to the site.

Looking at the impact of the development as a whole it is considered that the proposal would maintain the intrinsic qualities of the surrounding landscape and subject to appropriate mitigation, would not lead to any undue adverse impacts, even taking into account the removal of a significant length of hedgerow and trees.

## Highway safety impacts

The application site lies in the countryside immediately to the north-west of the existing developed land and solar farm. Access to the site is via the existing Trunk Road network i.e. the A50 and the A50/A38 interchange at Toyota Island. Whilst the development would inevitably lead to additional HGV movements these would be directly on to those strategic roads. Policy INF2 of the Adopted South Derbyshire Local Plan Part 1 (2016) states that planning permission will be granted for development which, amongst other things, has an appropriate, safe and convenient access to and within the development. The National Planning Policy Framework (NPPF) at paragraph 32 states, amongst other things, that when making decisions account should be taken of whether safe and suitable access to the site can be achieved. The NPPF also makes it clear in paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. Highways England does not consider the proposal would cause unacceptable impacts in terms of traffic generation, or highway safety on the Trunk Road network and the County Highway Authority is satisfied that the development would not impact unduly on highway safety on the local road network. As such in highway safety terms, the proposal is considered to be acceptable.

## Flood risk

Whilst the site is not at risk from flood itself, clearly the creation of such an extensive area of hardsurfacing would significantly affect surface water run-off at the site. In order to examine this point the application is accompanied by a Flood Risk Assessment which recommends the provision of an additional surface water attenuation pond to serve the development

designed to contain flows to the 1 in 100 year flood event with a 40% allowance for climate change and to ensure that the discharge from the main balancing ponds on the wider site remain within the currently permitted discharge constraints to Willington Brook. The County Flood Risk Management Team and the Environment Agency raise no objection to the proposals and as such in flood risk terms the development is acceptable in accordance with Policy SD3.

### Trees and biodiversity

The proposal would result in the loss of a significant number of trees, though none are protected by preservation orders. These trees are prominent and their loss significant to the visual amenity of the area. In order to create such a large car park significant numbers of tree, some being classified as 'B' category and four individual trees were classified as 'A' category. It is noted that Saved Policy EV9 (Protection of Trees and Woodland) of the 1998 Local Plan normally seeks to protect specimen trees from development, however, as set out above, it should be noted that additional planting on the perimeter of the site would be provided to compensate for the loss of trees and ensure long term visual impacts are mitigated.

The submitted Ecology Report confirmed that there is a Great Crested Newt (GCN) population nearby and they were recorded previously 0.3km north of the site (and 1.8km north-west of the Site). The report recommends further survey work be undertaken to determine the presence or likely absence of GCN's. It also recommends further activity and emergence surveys relative to Bats and survey work relative to Badger setts; reptiles; Barn Owls; Otters and Water Voles. This work is in the process of being undertaken but has yet to be supplied. A verbal update at committee will be provided on this biodiversity matters though it is anticipated that consideration of the additional reports may take this past the date of the committee. As a result it is considered necessary to delegate authority to the Planning Services Manager to consider the ecological impact of the development and secure the appropriate mitigation for that impact in consultation with Derbyshire Wildlife Trust. This would ensure that the impact of the development on ecology would be acceptable and comply with policy BNE3 of the LP1, saved policies EV9 and EV11, and emerging policy BNE7, as well as the Habitats Regulations.

### Amenity

Whilst sizeable, the car park would not have any undue impact on the amenity of residents of nearby properties resulting from the car park and associated lighting due to the separation distances involved and taking account of the bunding and landscape screening that would be provided. The additional HGV traffic at the site would directly access the Trunk Road network and notwithstanding the comments received it is noted that the Council's Environmental Health Officer has raised no objection to the proposal on this issue and it is considered that this increase in HGV movements both during the day and evening is not considered to lead to such any undue adverse impacts on occupiers of nearby dwellings or those on the routes to the main road network to reasonably justify withholding permission.

### Conclusion

The development is considered to be acceptable and would lead to a substantial investment, creating a significant number of employment opportunities. Whilst there are acknowledged adverse impacts in terms of amenity, additional traffic, landscape impact and loss of trees

and hedgerows, these matters do not outweigh the significant benefits that would result from the development in terms of economic growth.

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.

## Recommendation

**A.** That delegated authority be granted to the Planning Services Manager to consider the impact of the development relative to ecology and secure the appropriate mitigation in consultation with Derbyshire Wildlife Trust;

**B.** Subject to a successful mitigation strategy being identified, **GRANT** permission subject to the following conditions:

1. The development permitted 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 plans validated by the Local Planning Authority on 28<sup>th</sup> April 2017 unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

3. Unless otherwise agreed in writing by the Local Planning Authority, the development permitted by this planning permission shall be carried out in accordance with the recommendations contained within the approved Flood Risk Assessment (ref: 60533308-ACM-00-00-RT-CE-00102 produced by AECOMM dated May 2017) as well as the Drainage Arrangement Plan Sheet Number 60533308-ACM-00-00-DR-CE-00503 and the Flood Risk Assessment Drainage Arrangement Plan Sheet Number 60533308-ACM-00-00-DR-CE-00505.

Reason: To reduce the risk of flooding.

4. No external lighting shall be provided until a lighting strategy (designed in accordance with the guidelines issues by the Institute of Lighting Engineers) which shall include precise details of the intensity, angling and shielding as well as the area of spread of any external lighting to serve the development have been submitted to and approved in writing by the Local Planning Authority. All lighting shall be installed in accordance with these details and thereafter retained in conformity with them.

Reason: To reduce the impact of lighting on the countryside.

5. Notwithstanding the submitted details, before any works commence, other than the creation of the surface water drainage facilities, a scheme of landscaping shall be submitted to and approved by the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the land, the details of those to be retained, together with measures for their protection during the course of development which accord with the BS 5837:2012 Recommendations for Tree Work and shall specifically identify trees to replace the four "Category A" trees removed as part of the proposal. All planting, seeding or turfing comprised in the approved details of landscaping

shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development or the approved scheme (whichever is the later) 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. All trees in the scheme shall be at least extra heavy standard size.

Reason: In the interests of the appearance of the area, recognising that initial clearance and development will result in the loss of trees.

6. Notwithstanding the submitted details or the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), prior to the erection of any boundary treatments details of any boundary treatment, including any barrier controls, shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall only be completed in accordance with the approved details.

Reason: In the interests of visual amenity.

7. Notwithstanding the submitted details, prior to the car park being first brought into use, an independent Chartered Civil Engineer shall certify that the surface water drainage scheme has been installed in accordance with the approved details.

Reason: In the interests of flood prevention.

Informatives:

To attach any informatives considered necessary by the Planning Services Manager.

**Item** 1.2

**Ref. No.** 9/2017/0193

**Applicant:**  
Mr J Rickard  
61 Mileash Lane  
Darley Abbey  
Derby  
DE22 1DE

**Agent:**  
Mr Bryan Wolsey  
Bryan Wolsey (Planning) Ltd  
29 Chapel Street  
Ticknall  
Derby  
DE73 7JY

**Proposal:** **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF MAXIMUM OF TWO DWELLINGS AT 10 THE ORANGERY CHURCH ROAD EGGINTON DERBY**

**Ward:** ETWALL

**Valid Date** 23/02/2017

#### **Reason for committee determination**

The item is presented to Committee as the applicant is a relative of Councillor Brown.

#### **Site Description**

Church Road is the main road through the village and is classified as well as forming part of the National Cycle Network Route 54 which links Etwall to Burton.

The application site is located to the rear of The Orangery, 10 Church Road, Egginton, a detached dwelling with large, mature, side and rear gardens. The site includes most of the existing dwelling's gardens. The rear of the property has a number of single storey outbuildings which would be demolished to allow for development to the rear of the property.

To the north-west of the site lies a detached bungalow and bungalows are also located to the south on Smedley Court. Across Church Road are large, relatively modern two storey properties set back from the road and a small part of, and access to Peartree Farm, which is also the route of Egginton Footpath 13. Egginton Primary School is also located further south-east across Church Road. The site backs on to the playing fields which are located to the west.

The site has a relatively tall, red brick wall located at the back edge of the footway running around the perimeter of the site except for the existing access which forms part of an historic wall that can be found in this part of the village. The site contains a number of trees of varying maturity.



## **Proposal**

Outline planning permission is being sought for the erection of two dwellings to the rear of The Orangery, 10 Church Road with approval of access being sought at this stage and all other matters, appearance, landscaping, layout and scale reserved for future approval. The application has been amended during the course of the application with the proposed access to serve both the existing and proposed dwellings being from a new access located further around Church Road and provided with visibility splays resulting from realigning the wall to the south on exit back behind a visibility splay and the existing access would be closed. Whilst layout is reserved for future approval an indicative layout plan has been submitted showing a shared access, two additional modest dwellings located on the western part of the site backing on to the playing fields and a garage.

## **Applicant's supporting information**

The application is accompanied a Flood Risk Assessment (FRA) and a Transport Statement. The FRA examines the risk associated with the dwelling but concludes this risk to be acceptable but recommends the finished floor level of the dwellings to be between 200-400mm above existing ground levels. The Transport Statement supports the safety of the intensification of the use of the existing access but in order to address a highway objection they have redesigned the access by relocated it to the south and realigning the wall along the requisite splay.

## **Planning History**

None particularly relevant.

## **Responses to Consultations**

The County Highway Authority has no objection subject to conditions relating to the provision of visibility splays, parking spaces and a restriction on the provision of gates within 5m of the highway boundary.

The County Flood Risk Team has no objection to the proposal.

The Environment Agency has no objection to the proposal subject to a condition requiring the finished floor level to be set at least to 47.30m Above Ordnance Datum (AOD) and the use of flood resilient construction methods.

The County Archaeologist has no objection to the proposal.

## **Responses to Publicity**

Egginton Parish Council objects with concern that:

- a) The traffic survey is not impartial, being carried out outside rush hour and avoiding school times.
- b) No mention is made of problems when traffic diverts off the A38 when incidents occur.
- c) Being on a sharp, double bend close to a primary school negate the findings of the report.

- d) A surveyor testing speeds would slow traffic down resulting in slow speed recordings when normally many exceed the limit.
- e) There would be an increase in accident risk.
- f) There will be issues due to the farm and houses opposite who have their accesses in regular use.
- g) There is severely restricted visibility for road users and the proposed traffic.
- h) There is insufficient off-street parking proposed and on-street parking would be dangerous.
- i) If approved the provision of double yellow lines should be insisted upon.

Eight letters of objection were received on the original submission and a further 11 letters on the amended plans, with concern that:

- a) It will destroy the old, historic wall and aesthetics of the village.
- b) The traffic report is only a snap shot at a quiet time and not representative as cars go much faster – they should be at peak times, when the school is open.
- c) I have witnessed many near misses at the access and more houses will make it worse.
- d) Visibility at the access is inadequate and it is a blind bend.
- e) It will lead to more dangerous on-street parking.
- f) There are many rat-running through the village.
- g) There will be dangers for other road users especially due to construction traffic.
- h) There will be conflict with farm traffic opposite.
- i) Where will residents of the development park?
- j) What if one new resident's vehicle is leaving whilst another arrives?
- k) There is no site with a more unsafe access in the village.
- l) It will impact on our privacy, overlooking our bedroom, lounge and conservatory, especially if they are more than one storey in height.
- m) They should be limited to single storey only.
- n) The existing property might have a loft conversion, impacting on our privacy.
- o) It will lead to an unacceptable level of noise, overlooking, loss of privacy and loss of view.
- p) It will lead to the loss of trees.
- q) It is an overdevelopment of the site.
- r) It would be detrimental to highway safety.
- s) It should be looked at by the County Surveyor.
- t) Traffic in the UK is only increasing adding to the problems with this unsafe access.
- u) There is no street lighting on the corner.
- v) One house would be more in keeping.
- w) The garage would be almost the entire width of my garden and directly behind it.
- x) Alternations to the wall where it joins ours could affect its stability – who will reimburse us for any associated costs?
- y) We are concerned about traffic noise.
- z) Whilst the amended plans offer betterment they are still unsafe.
- aa) Manual for Streets is only guidance.
- bb) The County Highway Authority should not relax their standards.
- cc) The entrance is now nearer the school – how will this be viewed when there is an accident?
- dd) Contrary to the traffic report all existing drives have space to turn within their properties.
- ee) The amendments have done nothing to address concerns.

- ff) I do not understand the need for the development as Egginton has many unsold houses.
- gg) It will destroy wildlife habitat.
- hh) Profit should not come before the health, safety and well-being of residents of the community.
- ii) There is a complete lack of detail regarding the properties and driveways opposite no.10.
- jj) The original village wall will now be demolished.
- kk) Moving the access to the apex of the bend is not safer than the original proposals.
- ll) In times where health and safety are more passionately pursued there is no justification for the development.

## **Development Plan Policies**

The relevant policies are:

- 1998 Local Plan: Saved Policy H5
- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence) and INF2 (Sustainable Transport).

## **Emerging Development Plan Policies**

- Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE7 (Trees, Woodland and Hedgerows)

## **National Guidance**

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

## **Local Guidance**

- Housing Design & Layout SPG (2004)
- Better Design for South Derbyshire (2010)

## **Planning Considerations**

The main issues central to the determination of this application are:

- The principle of development
- Highway safety
- Amenity
- Other Matters

## **Planning Assessment**

### The principle of development

Egginton is defined in Policy H1 of the Adopted Local Plan 2016 as a rural village which allows development within the settlement boundary. Whilst Egginton sits lower down the settlement hierarchy under policy H1 of the Local Plan Part 1 the principle of the development is considered appropriate and reflects the presumption in favour of sustainable development within Policy S2. The site lies within the settlement boundary as set out in Policy H5 (and Proposals Map) in the 1998 Plan and is not proposed to change in the emerging Part 2 Plan. As such the principle of developing the site for residential purposes is considered to be acceptable subject to consideration of the detailed matters below.

### Highway Safety

The proposed location of vehicular and pedestrian access to the site has been amended following negotiations during the course of the application with the existing access proposed to be closed off and a new access with 2m x 2m x 45° pedestrian intervisibility splays, as well as 2.4m x 25m visibility splays to the north and 2.4m x 30m to the south, both achieved by realigning the tall, brick boundary wall. The new access would be 4.25m in width plus 0.5m wide verges on both sides to provide sufficient width for vehicles. The application demonstrates that 2.4m x 65m visibility splays can be achieved from the access on Burton Road in both directions, meeting the requirements of 2.4m x 43m as defined by the Highway Authority. In terms of parking provision, each of the dwellings would have 2 parking bays at the front of each dwelling, providing parking for up to 2 cars per dwelling. Church Road is the main road through the village and the location of the new access is on a bend with the primary school close by. However, notwithstanding the objections received the Highway Authority does not consider the revised proposals would cause unacceptable impacts in terms of either traffic generation and that adequate provision for access would be achieved. As such the proposals are therefore considered to comply with Policy INF2 and the requirements of the NPPF.

### Amenity

The indicative site layout shows 2 bungalows and a double garage in the rear garden set back from the existing dwelling and orientated east-west, backing onto the playing field and looking onto the access and turning space to the front. The existing property would be retained but the single storey outbuildings in the rear garden removed to facilitate the development the garden size reduced to accommodate the proposed development. It should be noted, however, that the layout is indicative as matters of layout, scale and appearance are reserved for future approval but it demonstrates that two dwellings could be accommodated on the site in a way which would provide adequate amenity for future occupiers whilst retaining adequate amenity for exiting residents in respect of the existing property, as well as the neighbours on Church Road and Smedley Court. As such the proposal complies with Policy SD1, the Council's Housing Design & Layout SPG and paragraph 17 of the NPPF. It should, however, be noted that in order to accommodate two dwellings and comply with the Council's SPG taking into account the need to raise the finished floor levels by 400mm above existing ground levels, the properties would need to be single storey and a suitably worded planning condition would need to be imposed to ensure that aim is achieved.

In terms of design, whilst appearance is a reserved matter the dwellings would be recessive in nature and seen in the context of bungalows and it is clear that a suitably designed scheme could be achieved at reserved matters stage that would comply with Policy BNE1 of the Adopted Local Plan 2016 which sets out how development proposals will be considered in design terms. The comments in regards to the impact on the wall are noted but the wall whilst old and making a contribution to the character and appearance of the area is in poor condition and would need significant remedial works to it irrespective of this proposal. The wall is not listed and not located in a conservation area and could be removed by the applicant at any time with referral to the Local Planning Authority. However, noting the contribution the wall makes to the visual amenity of the area the proposals would see the wall rebuilt albeit set back from its current location in order to provide the requisite highway visibility splays. In light of the above and notwithstanding the comments received this element of the proposal is considered to be acceptable.

The revised access and indicative layout would result in the loss of a number of trees from the garden but none are considered to make such a significant contribution to the visual amenity area so as to justify their retention. It is considered that an appropriate landscaping scheme can be achieved at reserved matters stage to assist with mitigation.

### Other Matters

As demonstrated by the submitted FRA the site is in Flood Zone 2 and due to the site levels is only at risk where a flood event would be in excess of the 1 in 1000 year level. The FRA recommends a floor level set above the 1 in 1000 as well as flood proof construction techniques and occupiers signing up to the Environment Agency's flood warning system. The Environment Agency raises no objection subject to a condition to the implementation of the recommendations contained in the FRA and as such in flood risk terms the development is acceptable in accordance with Policy SD3. As detailed in the application foul water drainage would be connected to the mains sewer and surface water managed using a soakaway, a sustainable drainage system and is thus considered to represent sustainable development in accordance with Policy SD3.

### Conclusion

The proposal is acceptable in principle taking into account the provisions of the development plan, given the site is located within the settlement boundary for Egginton. The addition of 2 dwellings is not considered to bring about any undue harm which is not outweighed by the benefits of extra dwellings.

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.

### **Recommendation**

**GRANT** permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(b) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. Approval of the details of the appearance, landscaping, layout and scale (the Reserved Matters) shall be obtained from the Local Planning Authority in writing upon an application made in that regard before any development is commenced.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. This permission relates to the revised drawings received by the Local Planning Authority on 14th June 2017 and any variation to the approved drawings may need the approval of the Local Planning Authority.

Reason: For the avoidance of doubt as to what is approved.

4. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA), dated February 2017 submitted under planning reference 9/2017/0193, and the following mitigation measures detailed within the FRA:

- Finished floor levels should be set to 47.30m Above Ordnance Datum (AOD) providing a minimum of 600mm freeboard against a 1:100 year plus climate change flood level event, as detailed in Section 4.1.
- The use of flood resilient construction methods, as detailed in Section 4.4.

Reason: To reduce the risk of flooding to the proposed development and future occupants.

5. The development shall not commence until full details of the rebuilding of the boundary wall to the Church Road frontage including the existing access to be closed off as well as the treatment of the space between the rebuilt wall and the highway boundary have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out strictly in accordance with the approved details and retained as approved throughout the lifetime of the development.

Reason: In the interests of visual amenity.

6. No other development shall take place until a new vehicular and pedestrian access to Church Road has been constructed in accordance with the revised "Alternative Site Access Plan" Drawing Number F16293/02 Rev. B and provided with visibility sightlines of 2.4 m by 25m to the north and 2.4m x 30m to the south. The area within the sightlines shall be kept clear of any object greater than 1m in height (0.6 m in the case of vegetation) above the nearside carriageway channel level.

Reason: In the interests of highway safety.

7. No development other than the creation of the new access the subject of condition 6 above shall take place until the existing vehicular access to Church road has been closed off and the existing vehicular crossing reinstated as footway in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The measures to close off the access and reinstate the footway shall be retained as approved throughout the lifetime of the development.

Reason: In the interests of highway safety.

8. The access shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on both sides of the access at the back of the footway, the splay kept clear of any object greater than 0.6m in height above the adjacent footway level.

Reason: In the interests of highway safety.

9. Before any of the two new dwellings hereby approved are first occupied off-street parking turning space for the two dwellings as well as the existing property shall be provided in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Once provided the parking and turning facilities the two dwellings as well as the existing property shall be maintained thereafter free from any impediment to their designated use.

Reason: To ensure that adequate off-street parking is provided and retained for use to reduce the incidence of on-street parking and its attendant dangers in the interest of highway safety.

10. There shall be no gates of other barriers within 5m of the nearside highway boundary and any gates provided shall open inwards only.

Reason: In the interests of highway safety.

11. No external wall of any part of the development shall be built until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the buildings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the existing building and the locality generally.

12. Before any works involving the construction of a building commences a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015) has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to any of the two new dwellings hereby approved being first occupied.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided.

13. Construction work shall not take place on the site outside the following hours: 0800 to 1800 Monday to Friday; 0800 to 1300 on Saturdays; and at no time on Sundays or Bank Holidays with the exception of work needed during an emergency. No deliveries shall be taken at or despatched from the site except between the hours of 8am and 6pm Monday to Friday, 8am and 1.00pm Saturdays and no deliveries Sundays or Bank Holidays. No generators or pumps to be used on site without prior written permission from the Local Planning Authority.

Reason: To protect the amenities of the existing residential properties.

14. The dwellings hereby permitted shall be single storey with habitable room space on the ground floor only.

Reason: In the interests of the amenity of the adjoining occupiers.

### Informatives

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

2. The applicant is advised that following consultation with the County Flood Risk Management Team they advise the following:

#### SURFACE WATER FLOOD RISK:

Any alteration to the existing impermeable surface area of the development site may exacerbate surface water flood risk, so the introduction of new impermeable surface should be limited where possible.

Where an increase in impermeable area is unavoidable, Derbyshire County Council (DCC) strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train with an appropriate number of treatment stages. Applicants and planners should consult Table 3.3 of the CIRIA SuDS Manual (C697) to confirm the appropriate number of treatment stages, or contact the EA or the DCC Flood Risk Management Team directly.

Surface water drainage should be designed in line with the non-statutory technical standards for SuDS (March 2015) where reasonably practicable. Specifically, this includes restricting the peak runoff of surface water from the development to greenfield rate for the 1 in 1 and 1 in 100 year rainfall events. For previously developed sites, DCC surface water discharge from the developed site to the receiving waterbody should be as close to the greenfield runoff rate for these events as is reasonably practicable.

Prior to designing the site surface water drainage, a full ground investigation should be implemented to fully explore the option of ground infiltration to manage the surface water in preference to discharging to a surface water body or public sewer system, as stipulated by Approved Document H of the Building Regulations 2000. Priority should also be given to providing storage at or near to the ground surface rather than deep below the surface (e.g. in tanks or oversized sewers).

The non-statutory technical standards for SuDS state that the surface water drainage system should be designed to contain all surface water during the 1 in 30 year rainfall event and that flooding is managed safely on site within the development during events up to, including and in excess of the 1 in 100 year rainfall event. DCC do not generally undertake or hold any data relating to modelling on specific ordinary watercourses. The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses which may help to further understand local fluvial flood risk. Due to the historic mining and mineral extraction operations in Derbyshire, networks of old stone soughs (drainage channels, sometimes known as adits) may exist beneath the grounds surface in parts of the County (particularly North East Derbyshire District, High Peak Borough, Derbyshire Dales District and the Peak District National Park area). The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.

#### PROXIMITY TO LOCAL ORDINARY WATERCOURSES:

DCC do not generally undertake or hold any data relating to modelling on specific ordinary watercourses. The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses which may help to further understand local fluvial flood risk.

Due to the historic mining and mineral extraction operations in Derbyshire, networks of old stone soughs (drainage channels, sometimes known as adits) may exist beneath the grounds surface in parts of the County (particularly North East Derbyshire District, High Peak Borough, Derbyshire Dales District and the Peak District National Park area). The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.

#### GROUNDWATER FLOOD RISK:

Development located in areas where the water table is at a shallow depth below the ground surface may be susceptible to groundwater flooding. In such areas, development may lead to groundwater flooding at the development site and in the close vicinity as well as potential land instability, geohazards and groundwater contamination.

Development site drainage should be considered carefully to avoid any increased risks associated with groundwater. DCC would not recommend infiltration as a means of development site surface water disposal in areas where geohazards or ground instability is deemed likely without appropriate analysis of the risks involved. Infiltration of surface water to the ground is also not advised in sensitive groundwater areas without an appropriate SuDS management train.

It is recommended that a site specific ground investigation is undertaken for the site to ascertain the water conditions on the proposed development site.

#### SUDS MAINTENANCE:

As of 6th April 2015 LPAs have, under the Planning Practice Guidance (PPG), been responsible for ensuring through the use of planning conditions and planning obligations that there are clear arrangements in place for ongoing maintenance of drainage systems over the lifetime of the development. The sustainable drainage system should be designed to ensure that the maintenance and operation requirements are economically proportionate and that a maintenance plan is available to the persons/organisations that will be responsible for ongoing maintenance.

DCC do not adopt any private SuDS schemes. As such, it should be confirmed prior to the granting of planning approval which organisation will be responsible for the long term maintenance of drainage systems once the development is completed.

3. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Communities at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website at:

[http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp)

email: [ETENetmanadmin@derbyshire.gov.uk](mailto:ETENetmanadmin@derbyshire.gov.uk)

or telephone Call Derbyshire on 01629 533190.

4. The Highway Authority recommends that the first 5m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.

5. Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/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 applicant'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. PLANNING AND OTHER APPEALS**

(References beginning with a 9 are planning appeals and references beginning with an E are enforcement appeals)

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>	<b>Page</b>
9/2015/1215	Hartshorne	Woodville	Allowed	Committee	37
9/2016/0001	Foston	Hilton	Dismissed	Committee	47
9/2016/0645	Weston	Aston	Dismissed	Delegated	50
9/2016/1141	Barrow	Aston	Dismissed	Delegated	53



## Appeal Decision

Hearing held on 23 May 2017

Site visit made on 23 May 2017

**by David Murray BA (Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 4 July 2017**

---

**Appeal Ref: APP/F1040/W/17/3167838**

**Land rear of numbers 53 and 67 Woodville Road, Hartshorne, Swadlincote, Derbyshire, DE11 7ET.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
  - The appeal is made by Mr and Mrs Cartwright and Mr and Mrs Craner against the decision of South Derbyshire District Council.
  - The application Ref. 9/2015/1215, dated 13 December 2015, was refused by notice dated 30 November 2016.
  - The development proposed is residential development (approximately 14 dwellings) .
- 

### Decision

1. The appeal is allowed and planning permission is granted for residential development (approximately 14 dwellings) at land rear of numbers 53 and 67 Woodville Road, Hartshorne, Swadlincote, Derbyshire, DE11 7ET, in accordance with application Ref. 9/2015/1215, dated 13 December 2015, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

### Preliminary matters

2. The application is in outline format with all matters reserved for subsequent approval other than the access to the site which is to be considered now.
3. The description of the development in the application forms is stated as 'residential development (approximately 14 dwellings)'. The Council described this as residential development of 'up to 14 dwellings'. This is more restrictive in nature and I have used the original description.
4. A draft formal legal Obligation, made under section 106 of the Act was discussed at the Hearing. Subsequently a formal Obligation dated 8 June 2017 and signed by the Council, the appellants and landowners has been submitted. In general terms this covers the provision of affordable housing and open space on site and financial contributions towards the development of sports, health and cultural facilities off-site. I have had regard to the legal Obligation as a material consideration subject to my comments in paragraphs 26 and 27 below.

### Main Issues

5. The main issues are:
-

- Whether the proposal accords with the strategy in the development plan;
- The effect on the character and appearance of the area;
- As raised by local residents, the effects on living conditions and the effect of the risk from flooding.

## **Reasons**

### *Background*

6. The appeal site comprises an area of open field which partly lies between two frontages of existing houses situated along Woodville Road, and the site also extends to the rear to the east and south east beyond the rear gardens of these houses. The land falls away from the level of the road and then rises again to the east. The appeal site, which does not have any special landscape or environmental designation, adjoins the built-up part of Hartshorne, a modest village with a limited range of services and facilities.
7. The application proposes residential development on the site with an access from Woodville Road. Approximately 14 dwellings are suggested and it is the appellant's intention that 50% of the new properties will be 'affordable housing'. The illustrative plan of the layout shows a single cul-de-sac with detached and linked houses on both sides with two bungalows at the eastern edge of the site and then an open area.

### *Policy context*

8. The development plan for the area includes saved policies in the Local Plan adopted in 1998 (now referred to as the 1998 Plan); the South Derbyshire Local Plan Part 1 adopted in 2016 (the Part 1 Plan) which deals with overall strategy. The Part 2 Local Plan is also in preparation and has been submitted to the Secretary of State for examination. The policies in this latter plan can be given some weight because of its advanced stage. Similarly saved policies in the 1998 Plan have weight depending on their degree of consistency with the National Planning Policy Framework (the Framework).
9. In the lead up to the submission of the application it is apparent that the Council could not demonstrate a five year supply of deliverable housing sites in accordance with paragraph 47 of the Framework. However, as a result of the subsequent grant of permissions by the Council and appeal decisions the parties now agree that at least a 5.27 year supply can be demonstrated. Therefore, I find that the provisions of paragraph 49 and the final bullet point of paragraph 14 of the Framework do not apply in this case.

### *Accord with the development plan*

10. Hartshorne is a local service village as set out in Policy H1 of the Part 1 Plan and this advises that the development of sites within the settlement boundary is appropriate together with sites adjacent to the settlement boundary 'as an exceptions or cross subsidy site' as long as not greater than 15 dwellings. The Council agrees that although the appeal site lies outside of the settlement boundary it lies partly adjoining the boundary in the context of the principle of

an exception site. The ribbon of housing development along Woodville Road is not regarded as being part of the village boundary.

11. Policy H21 of the Part 1 Plan concerns 'Affordable Housing' and part C relates to 'Rural exception sites' which are acceptable subject to meeting four specific criteria. Taking these in turn:-

*Meet a clearly identified local need*

12. The Council accepts that there is a clear local need for affordable housing across the strategic housing market area (SHMA) and with a particular need for accommodation for the over 65s.

*The development provides for a majority of affordable homes*

13. The appellant's agent says that the proposal for at least a 50/50 split between open market houses and affordable house would meet the test in the policy but to my mind this does not equate to the simple meaning of 'majority'. The Council argues that the degree of open market homes should only be a small part of the overall development and in support of this refer to paragraph 5.85 of the explanatory text of Policy LP1 but this explicitly refers to a 'cross-subsidy scheme' which is not the same context as the 'rural exception site' in part C of Policy H21. The Council also refers to guidance in the Affordable Housing Supplementary Planning Document (SPD) but as this was only approved for consultation in April 2017 and is at the very early stage in the SPD process, I am unable to give these provisions more than limited weight. Therefore, while the Council says that the amount of open market housing should be the minimum necessary to make the scheme viable, there is not a 'viability' test set out in either Policy H1 or H21 and the appellants do not put forward such evidence.

14. In examining this issue I have also had regard to the definition of 'Rural exception sites' set out in the Glossary of the Framework. This includes the guidance that 'small numbers of market homes may be allowed at the local authority's discretion ...'

15. Overall on this criterion, it appears to me that as the scale of development is relatively small and using the ordinary meaning to the wording of Policies H1 and H21, I find that provided that the extent of affordable housing in the scheme of up to 14 units is in the majority (i.e more than half) the development proposed meets the terms of the policies for an exception site. This breakdown in the number and type of housing units could be specified in a condition.

*Need cannot be met in the settlement*

16. The Council accepts that the identified local housing need for affordable homes cannot be met within the development limits of the village or in the sub market area of the SHMA.

*Relative scale to the village and environmental impact*

17. I will consider the environmental effect of the development in the next main issue but in terms of the scale of the proposal the Council agrees that the number of homes proposed would not be out of scale with the size of the village or the facilities available including public transport facilities. Some local

residents refer to other housing development that has taken place locally, but from my observations at my site visit it did not appear to me that in physical terms the cumulative scale of the new development that I saw meant that the development proposed on this site would be out of scale with the village.

18. Overall on Policy H21, subject to the environmental impact of the development I conclude that the proposal meets the terms of Part C so long as a condition is imposed to ensure that the number of affordable units that are developed are in the majority.

#### Effect on the character and appearance of the area

19. Policy BNE1 of the Part 1 plan says that new development must have regard to valued landscape, townscape and heritage characteristics, while Policy BNE4 also sets out components of landscape character and local distinctiveness that should be respected. In order to assess these and the effect on the character and appearance of the area I considered the proposal from the site itself, from Woodville Road and from the public footpath (Hartshorne FP3) which crosses fields to the east of the site .
20. The Council says that while planning policy does not now recognise the appeal site as a gap between existing built up areas, the open nature of the site as part of the countryside contributes to the entrance/edge of the village and helps to prevent coalescence of the main part of the village with the further ribbon of houses to the west.
21. However, it appeared to me at the visit that because of the presence of the site on the inside of the bend in Woodville Road, the open and hedged frontage of the site plays only a limited part in forming the visual break between the two adjacent built-up frontages. The shrubs and hedge that bound the application site are not prominent in the streetscape. This contrasts with the character of the frontage on the northern side of the road at this point where there is a substantial length of greenery on the outside of the bend which is visually prominent and where there are occasional glimpses though the hedge of longer distance views over open countryside. Further, when viewed from either direction along Woodville Road, I do not consider that the houses indicated on the illustrative layout would be very apparent in the street scene as most would be to the rear of the existing properties and the visibility splays for the proposed access would still leave much of the present planting retained. Accordingly I do not consider that the principle of the proposed housing development would be harmful to the character or appearances of the street-scene.
22. In terms of the wider rural landscape, particularly when viewed from the public realm of the public footpath to the east, the rear of the existing houses and their gardens are seen in the middle distance. These views also include some areas with development in depth as grouped around the properties 'Sycamore' and 'Maple' and other development to the north served off a short cul-de-sac. The illustrative proposal seeks to limit the easterly spread of development with the eastern part of the site retained as open space and 'finish' the proposed development with single storey units. In my judgement, the form of development proposed would fit in with the landscape setting of the existing housing and would not appear visually prominent or look out of place from the countryside.

23. Overall, I do not share the Council's concerns about the development proposed being harmful to the present limit of the village or materially adding to coalescence and I consider that in principle the proposed houses can assimilate into the countryside edge of the built-up area and respect the present urban grain. I find that the form of development proposed does not conflict with the general provisions of Policies BNE1 and BNE4 and meets criterion iv) of H21 as it would not have a materially adverse impact on the local natural and built environment.

*Effect on the living conditions of neighbours*

24. The Council did not put forward an objection about the scale and form of the development proposed but the occupiers of neighbouring properties raise concerns about being overlooked from the new houses. Although an outline application where the detailed of the layout and the form of the houses are reserved for subsequent approval, I need to be satisfied that the general scale of development proposed is capable of being accommodated on the site. The illustrative plan shows a line of two storey houses along each side of the cul-de-sac and I have significant concerns about the relationship of these properties to the adjoining properties and their private rear gardens. The potential rear garden depth of the new houses is limited and this may result in overlooking from first floor windows and a reduction in privacy. However, the description of development is approximately 14 dwellings and therefore a specific scale of development is not committed and will be dependent on the subsequent detailed plans. The Council says that such plans would be considered in respect of the normal standards for new development and so I do not need to consider this aspect further at this outline stage.

*The effect of flood risk*

25. The proposal is accompanied by a flood risk assessment (FRA) prepared by the appellants' consultants. The FRA concludes that the site lies in flood zone 1 with a low risk of flooding from rivers. Nevertheless, there is evidence of flooding on the low lying element of the site near Woodville Road as shown in the photographic evidence submitted by neighbours at No.53 Woodville Road. I looked at the nature of the land at the site visit and it appears to me that the pooled ground water on the low lying part of the site is likely to have stemmed from the natural flow of a watercourse being blocked by debris and the resolution of this would be through normal land management. There is no clear evidence before me to establish that the proposed development would increase the local risk of flooding and the introduction of a surface water drainage system is more likely to improve matters.

*Other matters*

26. The provisions of the Obligation are set out in paragraph 4 above. In addition to the implementation of the affordable housing scheme and open space other financial contributions are put forward. In respect of these contributions, the Council has prepared a schedule to show where the policy requirement for the contribution comes from; how the contribution will be spent; and whether there are any other 'pooled contributions' under the terms of the Community Infrastructure Levy Regulations (CIL).

27. On the information put forward I am satisfied that the contributions are necessary to make the development acceptable in planning terms; and are directly, fairly and reasonably related to the development in scale and kind and do not exceed the defined level of 'pooling'. The Obligation therefore meets the test set out in paragraph 204 of the Framework and the appropriate CIL Regulations.

*Planning balance*

Bringing together my conclusions on the main issues I have found that while the site lies outside of the defined settlement of Hartshorne and in the countryside, where there is a general presumption against open market housing development, the development of the appeal site is acceptable as a 'rural exception site' in the context of policies H1 and H21. By ensuring that the majority of the homes delivered are affordable houses it is established that the proposal meets the relevant tests set out in Policy H21. There is no clear requirement in these policies that the scale of open-market housing must be the minimum necessary to ensure the delivery of a viable scheme.

28. I have also found that the appeal site does not play an important role visually in forming the edge of the village and contributing to the gap in the frontage to help prevent coalescence. Visually the development proposed would not be harmful to the street-scene or be out of place in the landscape when judged against the appearance of neighbouring development when viewed from the public footpath to the south-east.
29. I do have concerns about the relationship of the development shown on the illustrative plan with neighbouring houses but this concern is capable of being resolved at the reserved matters stage and is not a fundamental barrier to the principle of new residential development.
30. Overall in the planning balance I conclude that the principle of development accords with the development plan and the adverse effects do not outweigh this. I will therefore allow the appeal.
31. In terms of conditions, the Council recommends 19 which I will consider under the same numbering. Conditions No.s 1 and 2 are necessary as it is an outline proposal and further details of the development proposed are necessary. The reserved matters need to be submitted and the development should also be implemented in the periods specified in the Act. Condition 3 is reasonable and necessary to ensure that the development is acceptable to maintain the appearance of the area, however, I will not impose Condition No.4 as I have concerns over the form of development shown on the illustrative layout. Conditions 5, 6 and 19 are necessary to ensure that the hedgerows on the site are retained for their contribution to the appearance of the area and their ecological value and as a wildlife habitat, other than for the formation of the access, and I will impose these conditions.
32. Conditions 7 and 8 deal with the construction phase and these are necessary to ensure that there is safe access to the site during this period. Conditions 9, 14, 15, 16, 17 and 18 deal with highway aspects of the development to ensure that there is safe access to the site and within the layout together with reasonable parking provision and I will impose these conditions. Conditions 10, 11 and 12 deal with the disposal of surface water and foul sewerage from the site. In

principle these are reasonable and necessary but I will combine them and delete the duplication with other legislation.

33. Proposed condition No.13 deals with affordable housing however much of this duplicates some of the terms of the section 106 Obligation and is unnecessary. Further, the scheme requested restricts the tenure of properties and the national Planning Practice Guidance indicates that such a restriction goes beyond the scope of a planning condition. I will therefore not impose the condition in these terms. However, I will modify the condition to state that the number of affordable units that are built on the site shall exceed the number of open market houses and that no more than 80% of the market house are occupied before the completion and transfer of the affordable housing units.

**Conclusions**

34. For the reasons given above I will allow the appeal.

*David Murray*

INSPECTOR

### **Schedule of conditions**

- 1) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 2) This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015, and the further approval of the Local Planning Authority is required (before any development is commenced) with respect to the following reserved matters: Appearance; Landscaping; Layout; and Scale of the development.
- 3) Details submitted under condition 2 shall include the proposed finished floor levels to the dwellings, including existing and proposed surrounding land levels relative to the dwellings, as well as proposed boundary treatments and surfacing materials, and the retention of the landscaping buffer to Woodville Road.
- 4) No development shall commence until all retained hedgerows have been fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the Local Planning Authority.
- 5) No development shall commence until a Landscape and Ecological Management Plan has been submitted to and approved by the Local Planning Authority. Temporary mitigation provisions shall be implemented prior to any works commencing on site and thereafter retained throughout the course of construction. Permanent mitigation and enhancement measures shall be implemented prior to first occupation of the dwellings hereby approved and thereafter maintained as such.
- 6) No development shall take place until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic restrictions.
- 7) No development shall be commenced on site until a temporary access into the site to Woodville Road for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall have a minimum width of 5.5m, 10m radii, constructed to base level and be provided with visibility sightlines of 2.4m x 65m in each direction. The area forward of the sightlines shall be cleared and maintained throughout

the period of construction clear of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

- 8) No development shall commence until a detailed lighting strategy has been submitted to and approved in writing by the LPA. Such approved measures will be implemented in full.
- 9) The number of affordable housing units built on the application site shall exceed the total number of open market housing and no more than 80% of the open market units shall be occupied before the completion and transfer of the affordable housing units.
- 10) No work shall take place on the site until details of schemes for the disposal of foul water and surface water drainage from the site have been submitted to and agreed in writing by the Local Planning Authority. The agreed schemes shall be carried out in conformity with the details which have been agreed before the development is first brought into use and the schemes shall be retained thereafter.
- 11) Prior to the first occupation of any dwelling on the site, the new access shall be laid out in accordance with application drawing, constructed to base level, drained and lit in accordance with Derbyshire County Council's specification for adoptable roads. The access shall have a minimum width of 5.5m, be provided with 2 x 2m footways, 6m radii and visibility splays of 2.4m x 65m in each direction. The area forward of the sightlines shall be level, form part of the public highway, be constructed as footway and not part of any plot or other sub-division of the site.
- 12) Prior to the first occupation of any dwelling, space shall be provided within each plot curtilage for the parking of two vehicles and maintained throughout the life of the development free of any impediment to its designated use. For the avoidance of doubt, where a garage is counted as a parking space, the internal dimensions should not be less than 3m x 6m.
- 13) The new dwellings shall not be occupied until the proposed new estate street, between each respective plot and the existing public highway, has been laid out in accordance with the approved application drawings, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.
- 14) Notwithstanding the submitted information, a subsequent reserved matters or full application shall include design of the internal layout of the site in accordance with the guidance contained in the 6Cs Design Guide and the "Manual for Streets" document issued by the then Departments for Transport and Communities and Local Government.
- 15) The gradient of the new estate street accesses shall not exceed 1:30 for the first 10m into the site from the highway boundary and 1:20 thereafter.
- 16) No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has

undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.



---

## Appeal Decision

Site visit made on 23 May 2017

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26<sup>th</sup> June 2017

---

Appeal Ref: APP/F1040/W/17/3169511

Poplars Farm, Derby Road, Foston, Derbyshire, DE65 5PT

- 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 Mr Daniel Hill against the decision of South Derbyshire District Council.
  - The application Ref 9/2016/0001, dated 23 December 2015, was refused by notice dated 18 January 2017.
  - The development proposed is change of use from agricultural (storage barn) to breeding kennels.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the development on the living conditions of neighbouring residents with regard to noise and disturbance.

### Reasons

3. The appeal site comprises an agricultural building and adjoining land that are located to the rear of Poplars Farm. It is in relatively close proximity to the rear of neighbouring residential properties fronting onto Derby Road.
4. The proposed change of use to breeding kennels would involve significant alterations to the building, including the installation of noise mitigation measures. There would also be an internal exercise yard, although this would be relatively small in size. There would be no windows to the building, and the Council accept that the mitigation measures would ensure that there would be no unacceptable noise disturbance from the dogs located inside the building.
5. The proposal would also include an outdoor exercise area. The appeal proposal would accommodate up to 15 mature dogs and up to 35 puppies at any one time, which would be a significant number. If left uncontrolled, the use of the outdoor exercise area by a large number of dogs and puppies has the potential to generate a significant amount of noise throughout the day.
6. In order to control noise from the exercise area, the Council originally proposed a condition requiring that the dogs be exercised one at a time on a lead in the outdoor areas. However, I have significant concerns about the enforceability of such a condition. In this regard, the proposed exercise area is not visible from

---

<https://www.gov.uk/planning-inspectorate>

the rear of neighbouring properties fronting Derby Road. The erection of 2 metre high fencing around the exercise area (as recommended in the noise report) would also heavily restrict its visibility from public vantage points on Derby Road and Sutton Lane. Moreover, even if it could be demonstrated that more than 1 dog was being exercised in breach of this condition, it would be unclear whether these dogs were connected to the breeding business or were the appellant's own domestic pets. It would therefore be very difficult, if not impossible, to observe whether this condition was being complied with. Furthermore, a condition of this nature would also place unreasonable restrictions on the operation of the business in my view.

7. In the absence of such a condition, the exercise area could be used at any time by a significant number of mature dogs and puppies. Moreover, the small size of the internal exercise area is likely to encourage the use of the outdoor areas. In this regard, I am not persuaded that additional fencing along the boundary would significantly mitigate the impact of the development. The submitted noise report provides no detail of the acoustic properties of this fencing, or how much it would reduce noise levels by.
8. In addition, I note that the submitted noise report appears to relate to a previous scheme that was refused by the Council (ref 9/2015/0748), the full details of which are not before me. In this regard, the noise report is unclear on the development it relates to, including the number of dogs it assumes would be accommodated. In addition, it is not possible to interpret the noise measurements that are presented as the graphs are not provided in colour.
9. Whilst the noise report states that the average levels may be "*just about compliant*" (section 4.5) that does not take into account the character of the noise generated by barking dogs. This would be erratic in nature, which would be irritating to nearby occupiers using their rear garden areas. The noise report also states that the dogs would be "*exercised outside for around 2 to 3 hours in the morning, starting around 08:00 hours, and for several hours in the afternoon, typically starting around 13:00 hours*" (section 4.2). This is a considerable amount of time, and enough to have a significant effect on neighbouring occupiers even if the dogs are only barking for 5% of the time (as is asserted in the report).
10. Separately, I attach only limited weight to the acoustic benefit provided by the hay bales stored along the western boundary, as these are not a permanent noise control measure and could be removed at any time.
11. For the above reasons, I conclude that the development would unacceptably harm the living conditions of neighbouring residents with regard to noise and disturbance. It would therefore be contrary to Policy SD1 of the South Derbyshire Local Plan Part 1 (2016). This policy seeks to ensure, amongst other things, that new development does not adversely affect the amenity of existing and future occupiers.

#### **Other Matters**

12. An interested party has highlighted the fact that the proposal is not accompanied by a business case, as is required by Policy E7 of the South Derbyshire Local Plan Part 1 (2016). However, the appeal building is already used by a rural business operated by the appellant. The change of use would therefore not result in any harm to the countryside in this location.

13. There is no evidence before me that the development would unacceptably exacerbate any existing odour issues. In this regard, I note that the Council's Environmental Health Officer has not objected to the development on these grounds.

**Conclusion**

14. For the reasons given above I conclude that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR



---

## Appeal Decision

Site visit made on 23 May 2017

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26<sup>th</sup> June 2017

---

Appeal Ref: APP/F1040/W/17/3169972

Westonhill Chalet Park, Bridge Lane, Weston-on-Trent, DE72 2BH

- 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 Mr M White against the decision of South Derbyshire District Council.
  - The application Ref 9/2016/0645, dated 24 June 2016, was refused by notice dated 30 September 2016.
  - The development proposed is the erection of 6 holiday letting units.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are, firstly, whether there is an identified need for the development to be in a countryside location and, secondly, the effect of the development on the on the character and appearance of the surrounding area.

### Reasons

*Need for the development*

3. The appeal site is located in the countryside away from the urban area and designated Key Service Villages. Policy INF10 of the South Derbyshire Local Plan Part 1 (2016) states that new tourism development may be permitted in such locations where identified needs are not met by existing facilities. In this regard, Policy INF10 seeks to direct new tourism development to accessible locations within, or on the edge of, existing settlements.
4. The appellant has submitted a letter from Hoseasons that is supportive of the appeal development. However, whilst this makes general observations about demand in Derbyshire, it does not provide any evidence that specifically relates to this location. In addition, the appellant states that they are in a strong position to evaluate the type of demand that they are currently turning away. However, there is no documented evidence before me to corroborate this, which limits the weight I can attach to this assertion. Separately, whilst the site may be close to the edge of the National Forest, that itself is not evidence of need.
5. My attention has been drawn to an extant permission relating to the appeal site (ref 9/2013/0496) that is also for 6 holiday lets. The appellant states that a

---

<https://www.gov.uk/planning-inspectorate>

material start to that scheme has been made. However, it would involve the restoration of 3 derelict buildings on the site that once formed part of a historic prisoner of war camp, which the Council considers to be a significant heritage benefit. That consideration does not apply to the current proposal which involves the demolition of these buildings. The previous approval was also granted before the Council adopted the Local Plan Part 1 in June 2016. Furthermore, the appellant states that this scheme has proved to be impracticable to achieve. I cannot therefore be sure that this represents a realistic alternative in this case.

6. Whilst the appellant refers to recent consents for a nearby gym / leisure building, and at the adjacent Ukrainian Youth Association of Great Britain Residential Centre, the details of those approvals are not before me. I am therefore unable to assess their comparability to the current appeal proposal.
7. I conclude that an identified need for the development to be in a countryside location has not been demonstrated. It would therefore be contrary to Policy INF10 of the South Derbyshire Local Plan Part 1 (2016), and saved Environmental Policy 1 of the South Derbyshire Local Plan (1998). As it is contrary to the development plan, the proposal does not benefit from the 'tilted balance' set out in policy S2 of the Local Plan Part 1 and paragraph 14 of the National Planning Policy Framework ('the Framework').

*Character and appearance*

8. The appeal site comprises an area of overgrown land that contains 3 derelict single storey buildings. It is bordered to the south and east by land containing a number of permanent and temporary structures. In contrast, the land to the north and west has a more open, rural character.
9. When approached from the north along Bridge Lane, the site is viewed in the context of the flat, open land to both the north and west. Whilst, the eastern part of the site is partially screened by boundary vegetation, the proposed buildings would be significantly taller and wider than the existing structures and would be clearly visible in the surrounding area. This would be particularly apparent in the winter months when the trees have shed their leaves. Moreover, the 2 westernmost properties would encroach beyond the existing structures onto open land and would be prominent in the surrounding area. In this regard, the development would have the appearance of a uniform row of houses that would intrude into an otherwise flat landscape. The fact that the site is adjacent to land that contains permanent and temporary structures, to the south and east, does not alter my view in this regard. In addition, the proposed conversion of the agricultural building to the north into a dwelling would have a negligible effect on the open character of the area in my view.
10. For the reasons set out above, I attach only limited weight to the previous approval on the site (ref 9/2013/0496). In any case, that development would secure the beneficial restoration of the existing historic structures.
11. Paragraph 28 of the Framework states that local plans should support sustainable rural tourism that benefits businesses in rural areas, communities and visitors, and which respects the character of the countryside. In this regard I consider that the proposed units do not respect the character of the countryside and are thus contrary to the Framework.

12. I conclude that the development would significantly harm the character and appearance of the area. It would therefore be contrary to Policies BNE1 and BNE4 of the South Derbyshire Local Plan Part 1 (2016), and saved Environmental Policy 1 of the South Derbyshire Local Plan (1998). These policies seek to ensure, amongst other things, that new development respects its context and the character of the countryside.
13. The Council has also drawn my attention to Policy BNE5 of the South Derbyshire Local Plan Part 2, which was submitted to the Secretary of State for examination in January 2017. In this regard, paragraph 216 of the Framework states that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections, and the degree of consistency with the Framework. In this case, however, I have no information before me regarding the extent of any unresolved objections to this emerging policy. Accordingly, I attach only limited weight to it.

**Other Matters**

14. An interested party has stated that a restrictive covenant applies that would prevent the development from taking place. A copy of that document is not before me. In any event, this matter falls outside of the planning regime.
15. It is clear that foul sewage is a matter of some local concern. However, from the evidence before me, I am satisfied that this matter would be capable of being addressed by a planning condition.

**Conclusion**

16. For the reasons given above I conclude that the appeal should be dismissed.

*Thomas Hatfield*

INSPECTOR



---

## Appeal Decision

Site visit made on 20 June 2017

by **Siobhan Watson BA(Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 June 2017

---

**Appeal Ref: APP/F1040/W/17/3171178**

**"The Hill", Sinfin Lane, Barrow-on-Trent, Derbyshire, DE73 7HH**

- 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 Mr Atwal against the decision of South Derbyshire District Council.
  - The application Ref 9/2016/1141, dated 26 October 2016, was refused by notice dated 21 December 2016.
  - The development proposed is an extension to barn to form gymnasium with ancillary accommodation.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed extension upon the character and appearance of the countryside.

### Reasons

3. The site is outside of any defined settlement. The barn to be extended is on agricultural land but close to a group of dwellings, which I understand to include the appellant's home and 2 large holiday lets. The proposed extension to the barn would house a gym for both the personal use of the appellant and the guests in the holiday homes.
  4. The extension would be single storey and would be subservient in size to the barn. That said, with a footprint of some 11.6m x 5.8m it would be a sizeable structure which would be seen from both the residential complex and from across the surrounding fields.
  5. I appreciate that the external materials would match the existing building and that the extension would be seen against the backdrop of the dwellings. However, the extension would extend the residential complex further into the countryside thereby increasing the overall footprint and massing of the developed area. This would have a suburbanising effect upon the landscape and would intrude upon the open nature of the countryside.
  6. I therefore conclude that the proposed extension would harm the character and appearance of the countryside. Consequently, I find conflict with Policy EV1 of the South Derbyshire Local Plan, 1998 and Policy BNE4 South Derbyshire Local Plan Part 1, 2016 (LP), which both seek to protect the character of the
-

landscape. It would also conflict with Paragraph 17 of the National Planning Policy Framework (the Framework) which says that planning should recognise the intrinsic character and beauty of the countryside.

7. I also find conflict with Policy BNE5 of the emerging South Derbyshire Local Plan Part 2 which also seeks to protect the character of the landscape.

**Other Matters**

8. The appellant argues that the proposal would conform to LP Policy S1. However, whilst Policy S1 supports and encourages tourism it also seeks to protect the District's landscape and rural character.
9. He also argues it would accord with LP Policy INF10 which permits tourism in or adjoining the urban area, in Key Service Villages and in other appropriate locations where identified needs are not met by existing facilities. However, the site is in the open countryside, which, for the reasons given above, is not an appropriate location for such a building. Furthermore, whilst the appellant has identified a gymnasium as being desirable for his business interests (and has supported this point by a letter from a letting agent) I have no substantive evidence that there is an identified need for holiday home gymnasiums in the wider area. In addition, Policy INF10 says that new tourism development that is likely to give rise to undue impacts on the local landscape will be refused. Therefore, the proposal would not satisfy Policy INF10.
10. The appellant has also drawn my attention to Paragraph 28 of the Framework which supports rural tourism development that respects the character of the countryside. As I have found that the development would harm the character of the countryside, it would not accord with the Framework.
11. The barn does not appear to have any physical or functional association with any of these dwellings. Therefore, I disagree with the appellant that an extension to it could be considered as a house extension.

**Conclusion**

12. For the above reasons, I dismiss the appeal.

*Siobhan Watson*

INSPECTOR