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Our Ref: DS
Your Ref:

Date: 13 January 2017

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 17 January 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 Atkin, Mrs Coe, Ford, Mrs Hall, Harrison, 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 note any declarations of interest arising from any items on the Agenda
- 3** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 4** REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES **3 - 136**
- 5** PROPOSED TREE PRESERVATION ORDER 438 LAND AT THE DALES, ASKEW GROVE, REPTON **137 - 139**
- 6** PROPOSED TREE PRESERVATION ORDER 437 LAND AT BROOMHILLS LANE, REPTON **140 - 142**

Exclusion of the Public and Press:

- 7** 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.
- 8** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.

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.

Reference	Item	Place	Ward	Page
9/2015/1108	1.1	Hatton	Hatton	5
9/2016/0001	1.2	Foston	Hilton	40
9/2016/0870	1.3	Aston	Aston	51
9/2016/0507	1.4	Swadlincote	Swadlincote	78
9/2016/0545	1.5	Ch. Broughton	Hilton	86
9/2016/1073	1.6	Sutton	Hilton	96
9/2016/1000	1.7	Swadlincote	Swadlincote	109
9/2016/1018	1.8	Swadlincote	Swadlincote	114
9/2016/1121	1.9	Rosliston	Linton	115
9/2016/1274	1.10	Swadlincote	Swadlincote	121

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. **9/2015/1108/MRF**

Applicant:
Bellway Homes Ltd; R G Brooks; J M
Brooks; R L & Ma Wain
C/O Bellway Homes Ltd
3 Romulus Court
Meridian East
Meridian Business Park
Leicester
LE19 1YG

Agent:
Mr Michael Davies
Savills Uk Ltd
Innovation Court
121 Edmund Street
Birmingham
B3 2HJ

Proposal: **DEMOLITION OF EXISTING RESIDENTIAL PROPERTY (CHERRY COTTAGE) AND AGRICULTURAL BARN AND PROPOSED DEVELOPMENT FOR 385 RESIDENTIAL DWELLINGS (USE CLASS C3), FORMAL AND INFORMAL PUBLIC OPEN SPACES, STRUCTURAL LANDSCAPING, NEW ROADS, FOOTPATHS AND CYCLEWAYS, (2NO.) SITE ACCESSES AND ANCILLARY WORKS ON LAND AT SK2130 8875 SOUTH OF DERBY ROAD HATTON DERBY**

Ward: **HATTON**

Valid Date **04/12/2015**

Reason for committee determination

The item is presented to Committee as it is a major application where more than two objections have been received.

Site Description

This c.17 Ha site is located on land to the east of Hatton settlement on fields to the south of Derby Road, east of Station Road and adjacent to, but excluding, the Salt Box Café. The application includes Cherry Cottage and outbuildings as well as an agricultural building within the site. The site does not include The Orchard and The Fields cottages which are situated on Rye Flatts Lane and Rye Flatts Lane will remain open, though not connected to, to maintain access to these two cottages. To the east of the site are open fields which are well maintained and used by grazing animals. The land is crossed by farm tracks, a watercourse and well established hedgerows containing some mature trees. To the north the sites boundary is formed by the A511 Derby Road. To the south the site abuts an area of open space known locally as the Jubilee Field. The Salt Brook crosses the site running from Station Road to the west, adjacent to the Railway Tavern public house, across the site into the fields to the east before flowing south adjacent to the eastern boundary of the site. The site is located within Flood Zone 3.

Proposal

Full permission is sought for the demolition of the existing residential property (Cherry Cottage) and agricultural barns on the site and a proposed development of 385 dwellings in a variety of house styles and designs consisting of 2, 3, 4 and 5 bedroom properties. The development includes areas of public open space across the site, some of which would also perform the dual function of forming surface water attenuation features when needed at times of heavy rainfall before discharging to the Salt Brook. In order to take account of the threat of flooding both in terms of water flows and the relatively high water table experienced at the site, and to ensure a suitably drained development can be achieved the whole site would be raised and the scheme is provided with a series of surface water attenuation ponds. As the Salt Brook is a main river which already has numerous interventions to its flows nearby at Station Road and with the farm crossing within the site, it is proposed to provide a road bridge to cross the Salt Brook so as to avoid any further impedance of flow.

New roads, footpaths and cycleways are provided with cycle links from the south, along the eastern part of the site which would then link to Derby Road as well as Station Road. Access links are provided to and from areas of public open space on Eaton Close to the west as well as to Jubilee Fields to the south. Vehicular access would be from both Station Road and Derby Road with Derby Road provided with a new roundabout. The roundabout on Derby Road would affect the existing properties on Derby Road with no. 11 Derby Road being provided with a new turning facility before they access the realigned road and the access for their associated farm provided with direct access to the proposed roundabout. From the proposed roundabout a road would also be provided through the site running south, in most part down the eastern side of the development designed to accommodate HGV vehicles so that the road could eventually be extended to link up with the Nestle coffee factory which lies further to the south.

Applicant's supporting information

The Design and Access Statement describes the site and sets the policy context. The topography, drainage, access, public transport and walking and cycling routes are described. The local context is analysed with photos of existing dwellings and their features. A constraints plan is provided which informed the layout. An overview of key proposals includes re-direction of HGV's from Station Road, provision of open space, footpath / cycle connections, enhancement of watercourses and provision of affordable housing. The masterplan is then introduced with the amount and type of properties included. Discussion on the legibility, scale, massing, movement and accessibility, parking, street hierarchy, open space and architectural appearance is included. Then areas are identified and streetscenes provided with external materials detailed. Conclusions drawn were community benefits, delivery of housing, affordable housing, alleviation of HGV movements through Hatton, community open space and footpath links, flooding enhancements, heathcare and biodiversity enhancements.

The Planning Statement introduces the background to the application and includes a summary of pre-application discussions and consultations. The application site, surroundings and landscape is described and the proposal described in relation to the masterplan, access and highways, landscaping and open space, scale, type and

amount of dwellings, affordable housing and phasing. The planning policy is analysed and justification outlined in terms of principle, sustainability and housing supply. The details such as access, landscaping, layout, design are described and environmental and technical considerations such as noise, flooding and drainage, ecology and landscape, highways including the proposed highway and transport infrastructure and archaeology and heritage. Statements on affordable housing, the key benefits of the proposal and potential S106 obligations are included. Conclusions are that the site is an allocation in the Local Plan Part 1, it is a sustainable location, there are no adverse impacts identified, an acceptable layout can be achieved, it includes provision of a secondary access for Nestle and on balance is consistent with recent appeal decisions in Mickleover.

The Arboricultural Survey states that the large majority of the individual tree cover and tree groups assessed should be retained and incorporated into the final scheme due to them primarily being situated along the outer boundaries of the site or confined to the bisecting hedgerows which provided the physical division of the field parcels. The greatest loss of tree cover shall be in the form of the removal of either entire hedgerows to facilitate the roundabout (H19) or through the loss of several sections of growth across the site to accommodate the positioning of the internal primary and secondary road layouts.

The Archaeology Survey states that the desk based assessment demonstrated that there are no known designated heritage assets within the proposed development area itself. The Derbyshire Historic Environment Record (DHER) lists one non-designated heritage asset within the boundary of the development site in the form of medieval ridge and furrow (DHER ref: 20309). Aerial photographs reveal a range of possible cropmarks both within the proposed development site and in the immediate vicinity, including medieval cultivation remains, former field boundaries, circular and semi-circular cropmarks, linear, curvilinear and rectangular cropmarks, parched cropmarks, and perpendicular linears. The date, nature and extent of these features is unknown. However, in light of the evidence for prehistoric and Roman activity within a 1km radius of the proposed development site there is potential for prehistoric and Roman sub-surface and surface remains to be present within the site. Areas of ridge and furrow evident from aerial photographs and a previous ground survey suggest there is potential for there to be sub-surface remains relating to later Medieval cultivation, providing they have not been ploughed out by modern farming. Photos also indicate that sub-surface remains relating to post-medieval field boundaries may be encountered within the proposed development site.

The Ecological Assessment describes the site as pastoral farmland and habitats comprise improved grassland, hedgerows with trees, Salt Brook and two buildings. Detailed fauna surveys conducted in 2013/2014 indicate the presence of: low levels of foraging activity by common and soprano pipistrelle bats, a common assemblage of birds and foraging activity of negligible importance by a protected species. A construction method statement (CMS) will ensure that retained habitats are protected and impacts to nesting birds would be minimised. Opportunities for biodiversity enhancement have been identified. An ecological management plan (EcMP) would ensure that: retained and created habitats are managed for biodiversity benefit; lighting is designed to minimise the risk of impacts to bats; and habitat creation including new features for roosting bats/nesting birds and log piles for invertebrates and fungi are installed appropriately.

The Flood Risk Assessment states that the ground levels in this area are at a level of between 52.70mOD at the south east corner of the site, up to 54mOD at the north west corner of the site. There is existing residential development located to the west of the site and commercial development to the south. The site is currently considered to be 100% permeable and presently drains into the ditch watercourses and the Salt Brook. It is estimated that the impermeable area following completion of the development will be increased to approximately 8.385Ha which is 54% of the total site. There is a line of flood defences which runs parallel with the railway embankment 600m to the south of the site which is considered to provide the 1 in 100 year defence. During a 1 in 100 year (plus climate change) overtopping event it is assumed that the defences will be overtopped by 300mm. Due to the distance from the defences to the site, the southern part of the site is located within an area which is at risk to some degree. During a 1 in 100 year breach of the defences it is considered that the site will not be affected by the flood water. The Salt Brook flows through the site eventually discharging into the River Dove some 800m to the south east. The extreme 1 in 1,000 year flood is generally maintained within the channel with only minor flooding to the opposite bank in line with the site. The 1 in 100 year plus climate change flood is maintained within the channel throughout the site. The 1 in 100 year flood level varies between 52.290mOD and 52.644mOD within the site. The local watercourses and ditch watercourses represent a low risk due to their small catchment areas. In order to comply with the Environment Agency's requirements, it is recommended that the internal finished floor level of the proposed buildings which are residential in nature, are set at a minimum of 600mm above the 1 in 100 year plus climate change flood level for the Salt Brook. Therefore, the internal ground floor levels should vary between 52.890mOD and 53.244mOD within the site. It is also recommended that the ground floor level of all the dwellings within the site are elevated at least 150mm above the finished external ground level to ensure that any overland flow from the north does not enter the new buildings. It is concluded that the proposed development lies within an area which could be flooded during extreme flood events from the River Dove and the current drainage feasibility study utilises sustainable drainage techniques where practically possible.

The Water Framework Directive Assessment, compiled due to the proposed bridge over the watercourse, ensures that any proposed scheme causes no deterioration to the current ecological status of a water body or prevents that waterbody from achieving its expected status by set target dates. A stretch of Salt Brook has been surveyed to establish the baseline conditions for the assessment. The Brook has been subjected to engineering works in the past. This is indicated by the uniformity of the channel profile and riparian zone and the construction of a new channel to the south of the site. Despite the presence of this uniform channel profile with its almost complete absence of natural stream features like meanders, riffles, berms, earth cliffs etc. the brook supported a moderately diverse aquatic plant assemblage. No evidence of fish was noted during the survey. Mitigation measures recommended are that; the proposed drainage scheme for the development includes a series of attenuation measures to ensure discharge rates fall within parameters agreed with the EA and proposed planting of the northern and southern sections of brook edge, with an additional 10m planted to mitigate for loss at headwalls.

Geophysics Report states that the site is situated on deposits of Mercia Mudstone, with superficial Clay, Silt, Sand, and Gravel Alluvium. The land had partially been in

use as pasture prior to the survey, some fields were planted with uncut crop at the commencement of survey necessitating some delay in proceeding with data-capture while the crop was cut / bailed and removed. The survey demonstrated the presence of potential buried archaeological features, these comprised: probable archaeological features relating to ridge/furrow agricultural practices, probable remains of discrete cut features such as pits or small-scale episodes of quarrying, probable evidence for the remains of structures, possible evidence of pits or small-scale quarrying, possible evidence for cut-features of indeterminate nature and possible remains of buildings or structures. It concludes that the distribution of geophysical anomalies across the areas surveyed should probably be seen as representative of the presence of archaeological features within the survey area.

The Noise Report describes the noise criteria and relevant planning policy. It outlines the British Standard guidance on sound insulation and noise reduction for buildings and the recommended indoor ambient noise levels for dwellings and the World Health Organisation standards. The noise levels affecting the site were not particularly high, with a day and night-time LAeq at Position 1 of 64 dB and 54 dB respectively. In conclusion, the noise assessment demonstrates that acceptable external and internal noise levels will be achieved for residents subject to appropriate noise mitigation such as double glazing with passive acoustic ventilators installed within habitable rooms that have windows having an unscreened view towards Derby Road.

An additional noise report was submitted to assess the potential noise impacts from vehicles on the Salt Box lorry park. For dwellings adjacent to the Salt Box Cafe's lorry park, a 2.5m high close boarded timber fence is recommended along the site boundary or along the boundaries of gardens backing on to the parking area in order to protect garden areas. During the daytime, normal thermal double glazing providing would be more than adequate to satisfy the internal noise standards within living rooms. The main noise events having the potential to disturb local residents, most particularly at night, will be the movement of lorries, cab doors being closed, and the possible operation of refrigeration motors on some lorries. Therefore, the overall package of mitigation against night-time use of the lorry park would include a 2.5m high noise fence along the boundary of the lorry park area and its access road, and the provision of secondary glazing with sound-absorbent reveals plus passive acoustic ventilators for bedrooms of plots 115-167 that have a view to the lorry park. Noise levels will decrease at dwellings set back from the site boundary and the changing sound reduction requirements for bedrooms having an unscreened through to the Salt Box Cafe lorry park have been defined. Higher specification bedroom windows would only be required out to a distance of 40m from the boundary. Beyond this zone normal thermal double glazing would continue to enable internal noise standards to be met.

The Statement of Community Consultation is based on the consultation event held on 11 May 2015 from 2pm to 8pm at Jubilee Hall, Station Road Hatton where 195 people attended, 94% of which were residents. The strongest level of agreement within the responses received related to the availability of new homes and contributions towards other infrastructure as part of the proposals. The strongest level of disagreement within the responses received related to traffic and transport, community infrastructure, devaluing existing properties, construction impacts, flood risk, loss of countryside and loss of community feel.

Transport Assessment states that the site would be accessed via a new roundabout junction with Derby Road to the north of the site, and a new priority junction with Station Road to the west of the site. It has been demonstrated that the northern site access roundabout could provide an additional route for HGV traffic associated with the existing and consented Nestlé operation. The site has been shown to be well located in terms of access by sustainable modes, with a range of local facilities within walking and cycling distance and two regular bus routes servicing the site. The collision record on the local highway network for the most recent five year period has been interrogated and it has been shown that there are no inherent safety issues that could be exacerbated by the proposed development. The number of vehicular trips generated by the site has been forecast using the TRICS database. The distribution of development traffic from the site has been determined using Journey to Work data from the 2011 Census. The capacity of the proposed access junctions and that of others on the existing highway network has been assessed based on a scope of assessment which was agreed with the Local Highway Authority. Additional traffic associated with the recent Nestlé expansion has been fully accounted for in a robust manner utilising surveys undertaken at the site access in 2015 and 2012. The assessments demonstrate that all of the junctions considered would continue to operate within capacity in the Future Year 2020 scenario in the AM and PM peak hours, following the completion of the proposed development. The proposal is therefore compliant in respect of NPPF paragraph 32.

The Travel Plan outlines the relevant policies, reviews access by sustainable transport modes such as walking, cycling and public transport. It identifies objectives and targets to reduce car use and the management and monitoring required.

Planning History

9/2012/0132 – The Construction of New Flood Embankments and Wall and Improvement Works to Existing Flood Defences – GRANTED Subject to Conditions – 26/06/2012

9/988/0582 - The Erection of a Detached Bungalow on approximately 930 square metres of land to the west of Cherry Cottage – REFUSED – 14/10/1988

9/1195/0580 – The Erection of a Detached House in substitution for that permitted under planning application 9/0495/0001 on plot 19 – GRANTED – 22/12/1995

Responses to Consultations

Highways England has no objection.

Natural England has no objection as they are satisfied that the Old River Dove SSSI does not represent a constraint. They would expect consideration be given to local sites, local landscape character, priority habitats and species, protected species, green infrastructure and biodiversity enhancements.

The Police Crime Prevention Design Advisor recommends that shared accesses are communally secured and gates are in open view. Garden accesses should be included on some plots with gates visible and lockable.

Derbyshire County Council Flood Team as Local Lead Flood Authority has no objection in relation to the surface water management proposed and recommends a condition.

The County Archaeologist states that the site has a high potential for archaeological remains of prehistoric/Romano-British date. The archaeological fieldwork on site has been completed and post-excavation work, reporting and an archive can be secured by condition.

East Staffordshire Borough Council has no objection provided the criteria of Policy H11 being met.

The Council's Contaminated Land Officer recommends a phased contamination condition due to the site being within influencing distance from the former Hoon Hay Landfill site.

Severn Trent Water has no objection subject to a drainage condition.

Derbyshire Wildlife Trust states that no roosting bats, GCN and notable bird species were recorded during the survey efforts, but common and soprano pipistrelle bats were foraging and commuting across the site utilising the hedgerows. The proposed layout plan has the potential to result in a direct loss of biodiversity through loss of hedgerow habitats potentially causing a net loss to biodiversity without appropriate assessment, mitigation and enhancements and have maintained an objection in regard to this. It is recommended a 6m buffer along the entire Saltbox Brook ditch length is included. Further details and clarification on removal of trees will be required prior to determination of the application. Conditions are recommended in relation to the further survey work in relation to the outlier badger sett, Badger protection during construction, protection of nesting birds, submission of a Construction Environmental Management Plan (CEMP) and Landscape and Ecological Mitigation and Management Plan (LEMP).

The County Highways Authority commenting on the original plans originally stated that the Transportation Assessment suggests that the residential element of the proposals will generate around 225 - 250 vehicles during the weekday peak hours and has taken account of the committed development, notably proposals for expansion to the Nestle factory currently accessed from Marston Lane. The main access into the site would be from a newly constructed 3 arm junction onto Derby Road, further detailed design on the continued satisfactory use, of private accesses in the north western quadrant of the proposed roundabout is required. The roundabout design is required to be future proofed to take into account the Council's aspirations for further development of the Nestle site and a potential Hatton bypass. Capacity assessment of the Derby Road/Station Road (Saltbox) traffic signal controlled junction indicate that the junction would work with some spare capacity once the background traffic, committed development and growth and proposed development traffic is taken into account. Accident data has been analysed and has not revealed any trends or features of the highway that are contributing to accidents or that road safety will be compromised by the proposed development. The visibility sightlines at junctions onto the "major industrial access road" should be 47m,

visibility from specific plots should be improved and clarification as to whether ramps as a transition to block paved areas are proposed.

In terms of the Travel Plan, no objection is raised but a Travel Plan Monitoring Fee is requested of £1,000 pa x 5 years as well as ensuring direct access to the NCN 549 to the south from the access road. At the time of writing final comments and suggested conditions and informatives have yet to be received and will be reported at the meeting.

The Council's Environmental Health Officer has no objection as it is considered that noise impacts in relation to HGVs using the Salt Box Café has been satisfactorily addressed through the submission of a Noise Report and addendum and the recommended implementation can be controlled by condition which specifies the plots where additional noise mitigation and screening is required.

The County Council's Economy, Transport and Environment Department has requested the following S106 contributions:-

- £136,788.00 for 12 primary places at Heath Fields Primary
- £1,030,570.20 for 60 Secondary places at John Port Secondary (Academy)
- £447,069.60 for 24 post 16 places at John Port Secondary (Academy)

The County Council has completed a costed feasibility study for 3 additional classrooms at Heath Fields Primary and the above funding would either contribute to this or fund an additional classroom. Funding for John Port would be used towards the creation of additional teaching accommodation for protects Year 7 to Year 11 project A and Post-16 project F.

The Southern Derbyshire CCG states that as the GP practice at Hilton does not have any spare capacity to manage increased patient demand a S106 contribution of £152,160 should be secured for the practice to expand and /or provide additional services in the area.

The Environment Agency has no objection subject to conditions relating to the new Salt Brook crossing, mitigation measures within the FRA, easement of the watercourse, ground levels, maintenance access for Salt Brook, construction method statement for the Brook crossing, Water Framework Directive Assessment. The site lies in a high risk area of flooding from the River Dove during a 1 in 100 year plus climate change flood event. The probability of flooding to the proposed development is kept within acceptable limits due to the presence of flood defences than run parallel with the railway embankment some 600m to the south of the site. Without a commitment to the long term maintenance of the flood defences the standard of protection afforded to the application site will reduce and the risk of flooding become greater. Based on the total annual investment over the 50 year design life of the flood defences it is considered that a S106 contribution of £393,038.88 towards their maintenance would be reasonable.

Responses to Publicity

Hatton Parish Council has raised concerns regarding flooding of the site in spite of flood alleviation works being undertaken; there is a shortage of school places at Heath Field School; there is no capacity at local doctors and dentists; and when work commences, material deliveries should access the site via the northern access and not Station Road.

53 objections and have been received, raising the following concerns/points:

- a) The proposed traffic island should be moved opposite Sutton Lane for safer access for HGVs.
- b) The movement of HGVs should have time delivery restrictions and 20mph speed restrictions applied.
- c) The Nestle relief road is not shown on the plans.
- d) The proposal would result in extra pressure on the existing busy road through the village.
- e) The site is susceptible to flooding and is within flood zone 3 and would put existing homeowners at risk if it is developed.
- f) Hatton will no longer be a village due to the expansion together with developments at Nestle.
- g) It will cause environmental damage and wildlife habitat would be destroyed.
- h) The proposal will destroy the village community and would join Hatton with Hilton.
- i) There is no capacity at the local doctors or dentists for future residents.
- j) Station Road is already very busy with traffic from Burton and the A50.
- k) There is no parking capacity at the shops on Station Road already.
- l) Noise and dust during construction will impact on their property.
- m) The proposal would result in overlooking and overshadowing of their property.
- n) What are the provisions for the extra demand placed on doctors, dentists and services.
- o) In relation to flood risk, does raising the levels of the new properties put existing properties at more risk.
- p) The flood defences were not designed for the 400 houses and the Nestle factory.
- q) Brownfield land with a low risk of flooding should be considered first.
- r) The increase in HGVs would increase noise levels at their property.
- s) At least 9 houses would overlook their property - The Fields on Rye Flatts Lane.
- t) There would be increased noise levels at their property and as such additional fencing required on their boundary.
- u) Would the Japanese Knotweed be eradicated from the field prior to development.
- v) Loss of privacy to rear of house and garden.
- w) The hedgerows on the site were planted as part of the flood alleviation scheme and should be protected.
- x) The site is used for recreation and dog walking by villagers.
- y) No.50 Eaton Close would be affected by noise, dust and would lose its privacy and security.
- z) Bats use this area to feed and possibly roost and one was found on their property.
- aa) The proposal would bring with it at least 800 vehicles.

- bb) Station Road is very busy and often queued when the train barriers are down.
- cc) Salt Brook runs through the site and frequently floods.
- dd) At the consultation event held by the developers the pictures and plans were not accurate as they showed fewer dwellings than planned.
- ee) There would be an increase in anti-social behaviour and crime with its resultant pressure on the police force.
- ff) There is no capacity at the Infant school or John Port for this development.
- gg) If approved the junction onto Station Road should be pedestrian only and estate traffic restricted to the Derby Road access.
- hh) New houses fronting Station Road may increase on street parking which is already a problem.
- ii) HGV traffic from Burton would increase.
- jj) They do not want a public pathway to the rear of their dwelling as it would reduce their security.
- kk) There would be a loss of landscape for the village.
- ll) The development would increase the impermeable area by 54% significantly increasing the run-off from the site and the balancing ponds inadequate.
- mm) The new Derby Road access location would cause problems for traffic using Sutton Lane.
- nn) 14 Birch Grove considers a narrow screen with trees and bushes should be considered adjacent to their boundary as mitigation for the loss of view.
- oo) The proposed bungalows to the rear of 4 Lime Grove would overlook and overshadow their bungalow and reduce their enjoyment of their garden.
- pp) The sewerage system has no capacity for the increase in properties.
- qq) Existing properties insurance premiums would increase due to the increased risk of flooding.
- rr) It would cause light pollution for existing properties.
- ss) A sizeable green belt area would be lost.
- tt) There would be an increased risk of children being injured due to congestion around the Heath Fields Primary.
- uu) The land was common land but re-registered in 2003 and could have been used for a new school.
- vv) More congestion would make it difficult and dangerous for crossing roads with their horses.
- ww) The loss of the local pub as it would be built on.
- xx) The footpath / cycleway route would be via Church Avenue and there has been no consultation and the increased use may mean more 'dog mess' on the street.
- yy) Is the environmental report undertaken for the site available?
- zz) Future residents of the development would use Rye Flatts Lane as a cut through to Station Road if there adequate boundary treatment is not proposed
- aaa) 14 Birch Grove would like a 2m high fence erected along the side and rear of their property
- bbb) If this site is developed Hilton Brook would flood and damage adjacent properties.

3 letters of support which make the following points:-

- a) Nestle support the application as it would provide a second access connection to the factory for HGV traffic through a new roundabout off Derby Road.
- b) First time buyers in the area would welcome new homes in Hatton.

16 letters in response to re-consultation on amended plans / information have been received and comments not included above are summarised below:-

- a) The timing of re-consultation over the Christmas period did not allow for proper scrutiny and should have been sent in January.
- b) The village infrastructure cannot support such a large development.
- c) A dangerous junction is proposed near the Salt Box and may result in extra parking on Station Road.
- d) Construction working hours need to be controlled if the plans go through.
- e) John Port would need capital development in order to meet the demand from this development.
- f) If the amendments result in making Church Avenue a through-fare for foot traffic this is inconsiderate as the diversion of the Bridal path has increased its use already and it reduces their quality of life.
- g) The fence blocking off Hoon Road should be opened up and the pedestrian traffic shared.
- h) The proposal would change Hatton to a small town and would add a third to the existing population.
- i) It would increase strains on NHS practices, services, schools, traffic noise and pollution.
- j) It would increase the risk of flooding for existing residents.
- k) The revised plans show a sewerage relief system adjacent to the boundary with 50 Eaton Close which is unacceptable due to smells and germs being released affecting their quality of life.
- l) The land level of No.3 Lime Grove's garden (shown on the submitted sections) is 1-1.5m lower and as such there is an increased risk of flooding.
- m) What is proposed as screening on the boundary for 3 Lime Grove?

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1:

S1 (Sustainable Growth Strategy)

S2 (Presumption in Favour of Sustainable Development)

S3 (Environmental Performance)

S4 (Housing Strategy)

S6 (Sustainable Access)

H11 (Land north east of Hatton)

H20 (Housing Balance)

H21 (Affordable Housing)

SD1 (Amenity and Environmental Quality)

SD2 (Flood Risk)

SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure)
SD4 (Contaminated Land and Mining Legacy Issues)

BNE1 (Design Excellence)
BNE2 (Heritage Assets)
BNE3 (Biodiversity)

INF1 (Infrastructure and Developer Contributions)
INF2 (Sustainable Transport)
INF6 (Community Facilities)
INF7 (Green Infrastructure)
INF9 (Open Space, Sport and Recreation)

- 1998 Local Plan (saved policies):

EV1 (Development in the Countryside)
EV8 (Open Spaces in Villages and Settlements)
EV9 (Protection of Trees and Woodland)
EV14 (Archaeological and Heritage Features)

Emerging Development Plan Policies

The relevant policies are:

- Pre-submission Local Plan Part 2:

SDT1 (Settlement Boundaries and Development)

BNE5 (Development in the Countryside)
BNE7 (Trees, Woodland and Hedgerows)
BNE10 (Heritage)

National Guidance

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

Local Guidance

- SPGs - Housing Design and Layout, Developer Contributions, Better Design for South Derbyshire.

Planning Considerations

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

- The planning policy context,
- Flood risk,
- Archaeological impacts;
- Connectivity and highway safety impacts;
- Biodiversity, trees and hedgerows;

- Design and amenity;
- Affordable housing, infrastructure and mitigation (S106)
- Other material considerations.

Planning Assessment

The planning policy context

The site has been allocated for around 400 dwellings in the Local Plan Part 1 which was adopted in June 2016 therefore the principle of developing the site for housing has been established through the Local Plan process. Policy H11 sets out the specific requirements for the site with the following criteria specified: i) the retention of trees on the eastern boundary and landscaping to soften the impact; ii) high quality pedestrian and cycle links within the site and connecting to the south; iii) consideration of retail provision; iv) contributions to maintain flood alleviation works at the Lower Dove Catchment area; v) consideration of a doctors surgery in Hatton; vi) ensure combined access to the sewage treatment works and manufacturing plant; vii) contributions to Heath Fields Primary School; viii) watercourse easements; ix) consideration of heritage assets; and x) contributions to household waste recycling in Swadlincote.

Whilst some of these issues are discussed in more detail below, compliance with the policy is as follows: i) the development does not affect the eastern boundary and whilst no off-set is provided on that edge it is noted that the road towards the Nestle coffee factory is located on that edge which, whilst elevated due to the raising of the land levels, means that the built form for the most part is set off the boundary satisfactorily; ii) high quality pedestrian and cycle links are provided; iii) it should be noted that the allocated site also includes the Salt Box Café to the north-west of the application site which is where the provision of retail would be considered more appropriate; iv) contributions towards maintenance of the flood alleviation works is secured through the S106; v) consideration to a health centre in Hatton was given but NHS England have instead requested a contribution towards the health centre in Hilton; vi) combined access would be secured on both the plans and in the S106 agreement; vii) contributions to Heathfields Primary School would be secured through the S106 agreement; viii) easements are accommodated in the layout; ix) the only heritage asset is archaeological and this has been addressed; and x) a Household Waste Recycling contribution is not CIL compliant at this stage (see below).

The Sustainability Appraisal that accompanies the LP1 cites several benefits that flow from the development of the site which outweigh the negative aspect of its flood zone location: the site would contribute to the cost of maintaining the lower Dove management Scheme protecting 1600 homes and businesses from up to 1:100 year events (cost £5m); the creation of homes near to a manufacturing company recently significantly extended creating a more balanced community; and improved access to the factory with potential to reduce HGV movements along Station Road. The site is therefore established in principle for development and in general terms the proposal complies with the relevant adopted policy.

Flood risk

The site lies wholly within zone 3 of the Environment Agency Flood Map, being the zone with a risk of 1 in 100 year or greater for river flooding. The NPPF advocates that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere – ‘necessary’ being the operative word. Policy SD2 of the 2016 Local Plan Part 1 states “the development of sites with a higher risk of flooding will only be considered where essential for regeneration or where development provides wider sustainability benefits to the community that outweigh flood risk”.

Residential development is classified as a ‘more vulnerable’ development type and is generally inappropriate in Flood Zone 3 unless the Sequential and Exception Tests can be passed. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding – ensuring that development is not permitted where there are reasonably available alternative sites appropriate for the proposed development in areas with a lower probability of flooding. In the case of this site the Sequential Test was applied at the Local Plan level during Part 1 and as part of the allocation of sites through that process the merits of this site were considered against other sites in the Sustainability Appraisal. The site was ultimately accepted as appropriate in flood risk terms for residential development and as such in strategic terms the development of the site for residential purposes is considered to be acceptable in flood risk terms.

In terms of the detailed design of the development in flood risk terms the application is accompanied by a Flood Risk Assessment (FRA) which based its study on the basis of a 100% permeable site which presently drains into the ditch watercourses and the Salt Brook, which in turn flows through the site eventually discharging into the River Dove to the south east.

The FRA states that the main channel of the River Dove is located approximately 800m to the south of and whilst there are no flood defences, such as embankments or flood walls directly adjacent to the river south of the site there are recognised flood defences which run parallel with the railway embankment which is approximately 600m to the south of the site which provide the 1 in 100 year standard of defence. However, consideration has also been given to these defences on the River Dove being over-topped as well as to breach scenarios. During a 1 in 100 year flood event within the River Dove flood water will be maintained to the south of the railway embankment and the site will not be flooded although when a further allowance is made for climate change there is a residual risk of flooding of the southern part of the site. In order to protect against that residual risk the site would need to be raised to an appropriate level.

The FRA states that in terms of the Salt Brook and the ditch watercourses these represent a low risk due to their small catchment areas and states that flood water should remain in channel for the full length of the site even during an extreme 1 in 1,000 year flood event. Furthermore, the FRA considered a scenario whereby there was a blockage of the four culverts under Station Road directly upstream of the site but concluded that whilst the area directly upstream of that culvert would become inundated, it would not overtop Station Road and flood the site. As such, the development site would remain dry during a blockage of that culvert.

The County Flood Risk Team initially raised an objection to the proposal as infiltration is an unlikely option for the disposal of surface water and data from the British Geological Survey indicates that groundwater is likely to be less than 3 m below the ground surface for at least part of the year, and bedrock deposits are likely to be poorly draining. The raising of the site not only lifts the development to a safe level but would also allow appropriate falls to be created to dispose of surface water around the site being designed in such a way so that the resulting surface water drains in seven mini catchments, each at the greenfield rate for the corresponding return period. This is proposed to be achieved through the use of attenuation in balancing ponds ultimately discharging to the watercourse flowing through and adjacent to the site. This approach has been accepted by the County Flood Risk Team.

It is considered that whilst part of the proposed development lies within an area which could be flooded during extreme flood events from the River Dove, the overall design of the scheme in flood risk terms is such that the development is acceptable. Both the Environment Agency and the County Flood Risk Team raise no objection to the proposals and it should be noted that the development would deliver a financial contribution of £393,038 through the S106 Agreement for the future maintenance of the local flood defences which would clearly secure the defence benefit to many other homes and businesses outside the site.

Archaeological impacts

The County Archaeologist advises that the site is within the historic alluvial floodplain of the River Dove, which has been subject to periodic inundation during the Holocene period and has formed a very mobile fluvial environment. There is plentiful evidence for prehistoric and Romano-British activity within the floodplain, often with archaeological levels sealed by alluvium to a greater or lesser depth. He advised that the site therefore has a high potential for archaeological remains of prehistoric/Romano-British date.

The site itself contains ridge and furrow earthworks of medieval date as noted on the Derbyshire Historic Environment Record (HER 20309), although these appear to be of modest scale and preservation and are perhaps only of local significance.

Because of this archaeological potential noted above the applicant submitted the results of an archaeological desk-based assessment and a geophysical survey to the County Archaeologist and because the geophysics showed features likely to represent prehistoric archaeology, he advised the applicant to undertake a programme of field evaluation to establish the significance of archaeological assets on the site in line NPPF para 128.

On the site archaeological fieldwork has been completed in accordance with an approved Written Scheme of Investigation (WSI). However, the post-excavation work, reporting and archiving are not yet complete and those elements need to be secured by an appropriately worded planning condition. This is considered to be appropriate and with that mechanism in place the development is compliant with Saved Environment Policy 14 of the 1998 Local Plan as well as NPPF Chapter 12.

Connectivity and highway safety impacts

As this application is in full the means of access from both Derby Road, including the acceptability of the roundabout, the access from Station Road as well as the detailed internal road network, parking provision and pedestrian/cycleway connectivity must all be considered at this stage. As part of the evolution of the scheme the roundabout design was amended and a new footway between the new roundabout on Derby Road and the existing footway on Derby Road close to the traffic lights adjacent to the Salt Box and Station Road junction has been included. The site has a good level of connectivity between the Jubilee Field to the south, Station Road to the west including shops, school etc., Derby Road to the north as well as within the site which would also link areas of public open spaces with paths/cycleways to create a well-connected development. The layout will also promote access to bus stops on Derby Road and Station Road. Adequate and appropriate off-street parking is provided, generally on plot. The safety of the roundabout, accesses and appropriateness of the internal road layout for the development is considered to be acceptable to the County Highway Authority who have verbally indicated this, although at the time of writing their final comments and suggested conditions and informatives have yet to be received and will be reported at the meeting.

The number of dwellings proposed is also considered unlikely to cause capacity issues on the wider network. The frequency of bus services nearby is also relatively good for a rural village, whilst other sustainable modes of transport are feasible.

It is acknowledged that at certain times the local roads are busy. However, there is no evidence to show that the proposed development would have any undue impact on the highway network and thus the potential to adversely affect the wider transport infrastructure. The NPPF 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. In this case there is no evidence that the cumulative impact would be severe and as such, notwithstanding the comments received, in highway safety terms the proposal is considered to be acceptable.

As such the proposals are considered to be acceptable and permission should not be withheld on highway safety or capacity grounds.

Biodiversity, trees and hedgerows

The NPPF advocates that impacts on biodiversity should be minimised and net gains provided where possible. It makes clear that if significant harm cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused and that permission should also be refused for development resulting in the loss or deterioration of irreplaceable habitats unless the need for, and benefits of, the development in that location clearly outweigh the loss. Policy BNE3 and saved policy EV11 reflect these principles.

The application was accompanied by an Ecological Assessment which was also later supplemented by a Water Framework Directive (WFD) Assessment in order to address concerns in respect of the impact on the ecology relative to the Salt Brook watercourse as well as further information relating to badgers. At the same time the applicant included the provision of a clear span bridge within the designs in order to ensure that any adverse impacts on the watercourse were avoided. These have

been examined by the Environment Agency which is now content in regards to the impact of the development on the Salt Brook watercourse. However, the Derbyshire Wildlife Trust maintain their objection in regards to the net loss of hedgerow as a result of the development as a whole, stating that there has been a drastic loss of hedgerows throughout the UK and that hedgerows are considered the most significant wildlife habitat over large stretches of lowland Derbyshire and are essential refuge for a great many woodland and farmland plants and animals. The inclusion within the UK BAP recognises that hedgerows are important not just for biodiversity, but also for farming, landscape, cultural and archaeological reasons. They also state that linear landscape features such as hedgerows are also important for bats. They have advised that a revised layout is preferred which reduces the impacts of the proposals to the local biodiversity and that the mitigation should state that all newly planted hedgerows are created using native species and include trees and managed to maximise biodiversity within the scheme rather than ornamental planting which will not achieve the same biodiversity level.

Policy BNE3 of the 2016 Local Plan Part 1 states that the Local Planning Authority will support development which contributes to the protection, enhancement, management and restoration of biodiversity or geodiversity and delivers net gain gains in biodiversity wherever possible by: i) protecting sites of International, European, National and County importance, together with local nature reserves, from inappropriate development within and adjacent to sites; ii) delivering long term plans to restore the River Mease SSSI/SAC to a more natural condition and improve water quality within the Mease and other catchments to meet the Water Framework Directive (WFD) objectives; iii) developing and maintain a district wide ecological network of SSSI's and local wildlife sites; iv) supporting and contributing to the targets set out in the Lowland Derbyshire and/or National Forest Biodiversity Action Plan for priority habitats and species; v) Protecting ancient woodland and veteran trees from loss unless the need for, and benefits of, the development in that location clearly outweigh that loss. The policy also states that proposals that could have direct or indirect effect on sites with potential or actual ecology or geological importance including: internationally recognised sites; nationally important sites (SSSI's); sites of county importance (Local nature Reserves, Local Wildlife Sites and Local Geological Sites); ancient woodlands, veteran trees and hedgerows; priority habitats, will be supported by appropriate surveys to fully understand the likely impacts and mitigation proposed and where, exceptionally, compensation cannot sufficiently off-set the significant harm and/or where the development can potentially be located elsewhere causing less harm, permission will be refused.

Clearly, Policy BNE3 seeks to ensure that new development does not give rise to undue adverse ecological effects. The Council has worked with the developer to ensure that all reasonable mitigation to protect existing and deliver new hedgerows on site are incorporated into the scheme. Notwithstanding that the scheme will lead to the loss of some existing hedgerow on site mainly due to the raising of levels and necessary access arrangements. DWT have objected to loss of hedgerow and consider that its loss will not be fully offset; however this is not the test that is required by this policy. Mitigation is proposed to reduce the likely effects of hedgerow loss on the site and in view of the site constraints identified elsewhere in this report, and the measures taken by the developer, the proposal as a whole is considered to conform with Policy BNE3. It is considered that the impact of the development biodiversity is acceptable in the context of delivering this large, allocated housing

development and a condition to secure an appropriate landscaping scheme can be secured through a suitably worded condition and is appropriate to ensure the LPA has discharged its statutory duty in relation the ecology and nature conservation.

The site contains numerous trees on current field boundaries or the boundaries with neighbours and whilst some of these will be removed to facilitate the development this would not have any undue impact on the visual amenity of the area. It is noted that some engineering works, paths roads etc., would need to occur within the Root Protection Areas (RPA) of some of the trees, as such a condition is considered to be necessary to control the method of constructing those so as not to affect the health of the trees. Subject to the inclusion of a suitably worded condition the impact of the development on trees is considered to be acceptable.

Design and amenity

Significant negotiations have taken place to ensure an appropriate design and layout is achieved. These included alterations to the road layout and hierarchy, addressing levels, feature properties set on prominent corners in the site to provide a double frontage, improving the natural surveillance of the street and appropriately addressing public open space as well as ensuring connectivity within the site. The scale of the dwellings reflects the characteristics of the wider settlement generally and the layout and floor levels respect the contours of the site although the engineering constraints that result from the levels associated with the roundabouts with the development itself are fixed. The appearance and layout of the proposed development is, on balance, acceptable and appropriate for the site. The house types create a strong character for the overall development and include the selective use of strong gable features and symmetry across the fenestration details.

The mix of house styles and scales creates an evolving built environment that sensitively reflects the better parts of the local vernacular whilst providing its own identity in the evolution of the village's built environment. It is considered that the layout and house types would generally result in a built form that would create a good sense of place for future occupiers and which would sit harmoniously with the existing settlement.

The application site runs adjacent to existing housing across Derby Road, the living accommodation at the Salt Box café, off Birch Grove and Lime Grove, Rye Flatts Lane and Eaton Close. The proposed layout is considered to be a reasonable balance between protecting the amenity of neighbours and delivering the development, even taking into account the significant but necessary raising of the ground levels. Backing and siding onto existing properties is also achieved without compromising separation distances set out in the SPG. Whilst some existing residents presently benefit from an open and unimpeded view out onto the open countryside, the principle of developing the site has already been ruled acceptable when the site was allocated in the Local Plan and there is no concern as to separation to existing residences.

In terms of designing out crime, the main concern is about the lack of side or gable treatment for the smaller house types which reduces supervision of private curtilage, where the majority of private parking is sited, and in some cases lessens the outlook onto public spaces. This is noted and some have been provided. However, their

occasional absence is not sufficient to justify refusal of the development. The concern about secure rear access routes for terraces is also noted and these are not clear on the submitted plans and so is a matter that needs to be appropriately addressed. As such the plans submitted showing the specific boundary treatments for plots are not recommended for approval and the imposition of a suitably worded planning condition would achieve the submission of further boundary details for consideration.

In terms of noise, the main source is traffic using Derby Road although the lorry park and car washing facility at the Salt Box Café as well as the proposed industrial access road to serve the factory to the south are also relevant. However, the noise levels are not so great so as to render the proposed dwellings particularly vulnerable to unacceptable disturbance and indeed normal mitigation measures would be able to achieve suitable protection for future residents to eliminate any undue effects. In line with the submitted Noise Assessments recommendations and the advice of the Council's Environmental Health Officer, a condition is suggested to secure a package of measures for the plots adjacent to those noise sources.

In terms of open space within the development for the enjoyment of future residents, there are a number of spaces within the site some of which also contain surface water storage which gives them a dual function of open space and surface water attenuation although most would be dry except during severe rainfall events, whilst some are wet for biodiversity and amenity reasons. The site lies immediately adjacent to the Jubilee Fields which abuts part of the southern boundary and contributions by way of a S106 agreement would be made to improve that space which would enhance it for both existing residents as well as future occupiers of the new development. The creation of a sizeable population on this development would lead to people using the existing public open spaces on Eaton Close and Jubilee Fields and, ultimately, Church Avenue. The new and existing residents would be able to use newly created routes to access this development or the wider areas and allow connection to Station Road and services in the village. Whilst this will lead to additional comings and goings along those roads, they are already public areas.

Affordable housing, infrastructure and mitigation

From a planning point of view legislation states that there are legal tests for when a S106 agreement can be utilised and these are set out in regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 as amended (and as set out in para. 204 of the NPPF). S106 agreements, in terms of developer contributions, need to address the specific mitigation required by the new development. The tests are that they must be:

1. necessary to make the development acceptable in planning terms
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

The Education Authority require contributions of £136,788 for 12 primary places at Heath Fields Primary, £1,030,570 for 60 Secondary places at John Port Secondary (Academy) as well as ££447,069 for 24 post 16 places at John Port Secondary (Academy). In total contributions to mitigate the impact of the development on education facilities totals £1,614,427. This request is deemed appropriate for

inclusion in the S106 agreement to mitigate the impact of the development in that regard.

NHS England has requested £152,160 towards additional healthcare services at Hilton which cannot currently accommodate the new residents. This request is deemed appropriate for inclusion in the agreement to mitigate the impact of the development in that regard.

The Environment Agency has requested a contribution of £393,038 towards the maintenance of flood defences. This request is deemed appropriate for inclusion in the agreement to mitigate the impact of the development in that regard as no guarantees regarding the defence of the site can otherwise be offered by the EA.

In respect of off-site open space provision the sum of £121,025 is to be secured in the agreement to be used towards the provision of enhanced facilities at Jubilee Fields to the south as well as for off-site recreation built facilities the sum of £160,868 is to be secured towards a pavilion extension at Scropton Road recreational ground. In respect of off-site outdoor sports facilities the sum of £288,200 is also to be secured for enhancement to the Scropton Road Recreation Ground.

At this stage it has yet to be decided whether the on-site POS and SuDS would be adopted by the Council, however, the provision of those elements and an appropriate financial contribution for their future maintenance if the Council is to adopt (currently set at £200,317 for the POS and £349,700 for the SuDS), or the setting up of a Maintenance Management Company if not, would need to be secured in the S106 agreement.

The S106 agreement also needs to ensure the delivery of that part of the access road within the site to serve the Nestle coffee factory and sewerage treatment works in order to deliver the provisions of the new LP policy. Again for this reason this element of the package is justified.

It is noted that Derbyshire County Council also requested a contribution of £1,000 per annum for 5 years as a Travel Plan Monitoring Fee be secured through the S106. However, case law has ruled that that this request would not pass the legal tests.

The Scheme Viability Submission has been independently assessed by the District Valuer and discussions with the applicants and the Council have taken place to reach agreement. The District Valuer has produced a valuation based on the applicant's report. The full requested S106 contributions, including 30% affordable housing produces a negative Residual Land Value (RLV) which cannot be sustained particularly in the light of high abnormal costs relating to the raising of site levels, the provision of the link road and the construction of the bridge over the Salt Brook.

As such further appraisals have been undertaken following scrutiny of all development costs (including the significant abnormal costs) but it is clear that the contributions for educational improvements for primary, secondary and post-16 education, public open space/SUDs, and policy compliant affordable housing cannot all be achieved. However, when the scheme is appraised without the affordable

housing obligation but with all of the other requested S106 contributions, a positive RLV is produced. On this basis the scheme is viable and the surplus demonstrates that about 4% affordable housing can be sustained by the scheme. If the S106 package set out above is maintained, the affordable housing that can be provided based on an appropriate tenure split of 75% social rent and 25% shared ownership.

Other material considerations

The application includes the delivery of a roundabout junction and internal road which is suitable for HGV access from Derby Road to the southern boundary of the site which is proposed in order to provide the first part of a potential access road to and the Nestle coffee factory and the sewerage treatment works which lie to the south. This accords with the requirements of Policy H11 of Adopted Local Plan Part 1. The roundabout and internal road is suitable in terms of its size and geometry to perform that function and it also includes a 3m wide footway/cycleway to allow sustainable connections around the site.

Conclusion

Considerable efforts have been made by both the applicant and officers to achieve a scheme which satisfactorily harmonises with its environs. The proposal represents an appropriate form of development that appropriately balances the competing and conflicting issues such as flood risk and drainage, layout constraints, design cues, impact on trees and hedgerows, connectivity and effect on neighbours; and would provide a sound basis on which this development should proceed. The development of the site would secure several benefits which outweigh the negative aspect of its flood zone location: the site would contribute to the cost of maintaining the lower Dove management Scheme protecting 1600 homes and businesses from up to 1:100 year events (cost £5m); the creation of homes near to a manufacturing company recently significantly extended creating a more balanced community; and improved access to the factory with potential to reduce HGV movements along Station Road. The site is therefore established in principle for development and in general terms the proposal complies with the relevant adopted policy.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

- A.** That delegated authority be granted to the Planning Services Manager to secure the appropriate contributions for mitigation of the impact of the development under Section 106 of the Town and Country Planning Act 1990 (subject to compliance with the CIL Regulations 2010);
- B.** Subject to A, **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 revised Drawing Schedule received by the Local Planning Authority on 7th November 2016 with the exception of drawing number 20: Boundary Treatment Layout Sheet 1 Rev. E and drawing number 21: Boundary Treatment Layout Sheet 2 Rev. D; 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. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision D, dated 22 June 2016, Ref: 2014/1867 and the following mitigation measures detailed within the FRA:

1. Proposed Access bridge Within Site - It is proposed that a clear span bank to bank access bridge is provided. The minimum soffit level of the bridge should be 53.26m to Ordnance Datum (AOD) and the pad stones should be located at least 0.5m back from the bank top level. This will provide a freeboard of 720mm during a 1 in 100 year plus climate change flood event. There should be no encroachment into the channel (Section 3, Page 22).

2. Raising Floor Levels - Finished floor levels are set no lower than 600mm above the modelled flood level to Ordnance Datum (AOD) applicable to the plot location, see 1:100CC flood levels and node locations shown on pages 30 and 31 (Section 3 page 21, fourth paragraph).

The mitigation measures shall be fully implemented prior to the commencement of phases 3 and 4 (see drawing No. 20A) for point 1 above and prior to occupation of any phase for point 2 above and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason : To ensure the structural integrity of existing watercourse and it's banks thereby reducing the risk of flooding, to ensure safe access and egress from and to the site, to reduce the risk of flooding from blockages of the new access crossing and to reduce the risk of flooding to the proposed development and future occupants.

4. The development permitted by this planning permission shall only be carried out in accordance with the approved Water Framework Directive Assessment, dated September 2016 and the mitigation measures detailed within the Water Framework Directive Assessment (Table 7: Page 19). The mitigation measures shall be fully implemented in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To protect the water environment from pollution during the construction of the access road crossing works.

5. Prior to the construction of any of the floorslabs of any of the houses hereby permitted in a phase, details of the finished floor levels of each building in that phase shall have first been submitted to and approved in writing by the Local Planning Authority. The buildings shall be constructed in accordance with the approved details.

Reason: In the interests of visual amenity and to protect the amenity of neighbours.

6. There shall be no alterations to ground levels and/or development (including fencing, footpaths or roads) or erection of any building, structure (including surface water drainage headwall outfalls) or any other such obstruction to flood flows within the watercourse channel and/or within 8m from the top of the bank (on both sides of the watercourse) of the Salt Brook, unless otherwise agreed in writing by the Local Planning Authority in consultation with the Environment Agency.

Any scheme for surface water drainage outfalls shall demonstrate through the submission of plans, cross-sectional drawings and calculations that the design of the outfalls will not result in an increase in flood risk upon completion of these works.

Reason: To safeguard the efficient workings of the watercourse and 8m easement from inappropriate development and thereby prevent and increase in flood risk.

7. No part of the construction of a dwelling hereby approved shall take place 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 that particular dwelling 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 character and appearance of the area.

8. Notwithstanding the approved drawings/plans and submitted details, no development involving the construction of a dwelling shall commence until revised or additional details, including samples and/or drawings where necessary, of the following materials/features for the respective dwelling have been submitted to and approved in writing by the Local Planning Authority:

- a. colour of fascia boards and mortar for verges;
- b. eaves/verges/string/dentil course/window reveal details;
- c. porch canopies;
- d. utility cupboard colours (both wall and ground mounted); and
- e. highway kerb styles to all road typographies.

For the avoidance of doubt, no fascia boards shall be placed over corbelling and there shall be no use of cloaking tiles/dry verges. The dwellings shall be constructed and thereafter maintained in accordance with the approved details.

Reason: To ensure a good standard of design in the interest of the appearance and character of the area.

9. Notwithstanding the submitted details prior to the construction of any external wall of any of the dwellings hereby approved a scheme of landscaping, which shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area, recognising that initial clearance and groundworks could compromise the long term health of the trees/hedgerows affected.

10. Further to condition 9 above, soft landscape details shall include planting plans; written specifications including cultivation and other operations associated with plant and grass establishment; schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate) and the implementation programme.

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

11. 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; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

12. Prior to the commencement of any phase of the development which includes the new crossing of the Salt Brook, the detailed design of the new crossing (outlined in drawing No. 7414/100/01 revision C), including a scheme to ensure the design does not result in an increase in flood risk up to a 1 in 100 year (plus an allowance for climate change) critical flood event (as defined by the Salt Brook hydraulic model), shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency. The scheme shall demonstrate through the submission of plans, cross-sectional drawings and calculations that the design of the Salt Brook crossing will not result in an increase in flood risk upon completion of these works.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Environment Agency.

Reason: To ensure that the design of the Salt Brook crossing will not result in an increase in flood risk upon completion of the link road.

13. Prior to commencement of any phase of development a scheme to provide access to the watercourse for maintenance and inspection shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency.

The scheme shall demonstrate through the submission of plans, cross-sectional drawings that the design of the scheme, including any alternative maintenance access arrangement will not result in an increase in flood risk.

The scheme shall be fully implemented prior to commencement of the development and subsequently in accordance with the timing /phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: To safeguard the efficient workings of the watercourse and thereby prevent and increase in flood risk.

14. Prior to the commencement of any works affecting the watercourse, including surface water drainage headwall outfalls and the Salt Brook crossing works, a detailed Construction Method Statement for the works shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency. The approved statements shall be adhered to throughout the construction period. The Statement shall provide for:
- methods used for all flood plain and outfall bank-side/water margin works including temporary and permanent works;
 - machinery to be used;
 - location and storage of plant, materials and fuel;
 - access routes to the works, access to the banks of the outfall;
 - method of protection of the site and any areas of ecological sensitivity and importance;
 - site supervision;
 - location of site office, compounds and welfare facilities.

Reason: To protect the water environment from pollution during the construction of the access road crossing works.

15. Prior to the construction of any dwelling an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the Local Planning Authority. Where this assessment identifies the ability to dispose of the surface water by means of a sustainable drainage system a detailed design and associated management and maintenance plan of surface water drainage for the site shall be submitted to and approved in writing by the Local Planning Authority, such scheme shall be in accordance with Defra Non-statutory technical standards for sustainability drainage systems and:
- 1) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - 2) include a timetable for its implementation; and
 - 3) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme through its lifetime.

The approved drainage system shall be implemented in accordance with the approved detailed design and timetable for implementation.

Reason: In the interests of flood protection.

16. No part of the development in a phase shall take place until details of the proposed means of disposal of foul sewage for the phase have been submitted to and approved in writing by the Local Planning Authority. All foul water shall be directed into the main foul sewerage system. The development shall be carried out in accordance with the approved details.

Reason: To ensure that adequate drainage facilities are provided.

17. A) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the local planning authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

B) Prior to occupation of the development (or parts thereof) an independent verification report shall be submitted, which meets the requirements given in Box 2 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

C) In the event that it is proposed to import soil onto site in connection with the development, this shall be done to comply with the specifications given in Box 3 of section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

D) No development shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

18. Prior to the first occupation of any of the dwellings hereby permitted, measures to minimise the risk of crime to meet the specific security needs of the application site and the development shall be implemented in accordance with a scheme previously submitted to and approved in writing by the Local Planning Authority.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area pursuant to the Council's powers under Section 2 of the Local Government Act 2000 and to reflect government guidance set out in PPS1.

19. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), prior to the erection of boundary treatments in a phase, plans indicating the positions, design, materials and type of boundary treatment to be erected in the relevant phase shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the any part of the relevant phase is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

Reason: In the interests of visual amenity.

20. No part of the construction of any road, footpath, car parking area or courtyard in a phase shall take place until details of the materials proposed to be used within the phase on the surfaces of the roads, footpaths, car parking areas and courtyards in that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenity of the area.

21. No site clearance works or development shall take place in a phase until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2012.

The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
- (ii) No material or plant shall be stored;
- (iii) No buildings or temporary buildings shall be erected or stationed;
- (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- (v) No drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

Reason: To ensure adequate protection measures are in place in the interests of the character of the area.

22. Notwithstanding the submitted details, prior to the commencement of the construction of any of the external walls of the dwellings hereby approved, details of noise mitigation measures for the dwellings on the approved layout plans which have been identified as being affected by noise sources contained within the submitted Acoustic Air Noise Assessment dated March 2016 and the addendum received on the 29th June 2016, and which accord with the noise mitigation measures proposed within those documents, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: To protect the amenity of residents.

23. No development of any phase shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority for that phase. The CEMP: Biodiversity shall include the following:
- a) Risk assessment of potentially damaging construction activities.
 - b) Identification of "biodiversity protection zones" to include ponds, hedgerows, woodland, trees other habitat as required.
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
 - d) The location and timing of sensitive works to avoid harm to biodiversity features.
 - e) The times during construction when specialist ecologists need to be present on site to oversee works.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
 - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period of the relevant phase strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework; in order to control impacts from the outset as an early incursion could otherwise not be rectified.

24. Before development of any phase begins a Landscape and Ecological Management Plan (LEMP) for all retained and created habitats shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include the following.
- a) Description and evaluation of features to be managed / created.
 - This should include:-
 - i. Skylark mitigation - skylark plots in adjacent arable field
 - ii. Management of field edges/buffer to hedges including wildflower strips
 - iii. Hedgerow management and enhancement
 - iv. Reptile hibernacula x 2
 - v. Bird boxes
 - vi. Bat boxes
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.

- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details for each relevant phase.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework. This needs to be made clear before commencing to ensure that all stages of development are considered.

25. Prior to commencement of any groundwork of any phase a survey for any recently excavated badger setts on the site or within 30 metres of the site boundary shall be undertaken and results submitted and approved in writing by the Local Planning Authority.

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework; in order to control impacts from the outset as an early incursion could otherwise not be rectified.

26. No works which include the creation of trenches or culverts or the presence of pipes shall commence until measures to protect badgers from being trapped in open excavations and/or pipe and culverts are submitted to and approved in writing by the local planning authority. The measures may include:

a) creation of sloping escape ramps (mammal ladders) for badgers (and other mammals potentially using the site), which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day; and

b) open pipework greater than 150 mm outside diameter being blanked (capped) off at the end of each working day.

Reason: To ensure that ecological interests are protected in accordance with paragraph 118 of the National Planning Policy Framework; in order to control impacts from the outset as an early incursion could otherwise not be rectified.

27. Notwithstanding the submitted details prior to the any dwelling being occupied, a revised Travel Plan which shall include reference to phases of development shall be submitted to and approved in writing by the Local Planning Authority. The revised Travel Plan details approved for a phase shall be implemented in accordance with the timescales specified therein, to

include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. Reports demonstrating progress in promoting sustainable transport measures in accordance with the objectives of the Travel Plan shall be submitted annually to the Local Planning Authority for approval for a period of five years from the date of first occupation of the relevant phase of the development. In the event of an annual report concluding that the objectives of the Travel Plan are not being met, the annual report shall also include for the approval of the Local Planning Authority a scheme detailing remedial measures to be undertaken in order to achieve the objectives of the Travel Plan, as well as a timetable for the implementation of the remedial measures. The scheme detailing the remedial measures shall be implemented as approved and in accordance with the approved timetable.

Reason: In the interests of highway safety.

28. Prior to the occupation of any dwelling an archaeological site investigation and post investigation assessment shall be completed in accordance with the programme set out in the approved archaeological Written Scheme of Investigation (Trent & Peak Archaeology: Land at Derby Road, Hatton, Derbyshire. Project Design and Written Scheme of Investigation for Archaeological Investigation Project Code: HDR3; 2016; Report Number 046.2/2016) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure that archaeological interests at the site are suitably addressed.

29. During the period of construction no construction work shall take place outside the following times: 0800 - 1900 hours Monday to Friday and 0800 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residents.

30. No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction. The approved measures shall be implemented throughout the construction period.

Reason: To protect the amenity of residents.

31. No development shall take place until a Construction Management Plan or Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved plan/statement shall be adhered to throughout the constructions period. The plan/statement shall provide for the storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking of vehicles for site operatives and visitors, routes for construction traffic, method of prevention of debris being carried onto the highway, pedestrian and cyclist protection, proposed temporary traffic restrictions and arrangements for turning vehicles. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: In the interests of highway safety.

32. No development of a phase shall commence until the Local Planning Authority has approved in writing the details of and arrangements for the setting out of the public open space within the relevant phase. Such arrangements shall address and contain the following matters:

(i) The delineation and siting of the proposed public open space within the phase

(ii) The type and nature of the facilities to be provided within the public open space, including where appropriate the provision of play equipment within a play area, which shall be supplied and installed to a specification as agreed by the Local Planning Authority.

(iii) The arrangements to ensure that the public open space is laid out and completed during the course of the development.

(iv) The arrangements for the future management and maintenance of the public open space.

The public open space within the development shall be completed in accordance with the approved details.

Reason: To ensure adequate and appropriate open space and associated facilities are provided.

33. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), there shall be no alteration to any wall which forms the principal elevation or side elevation of any dwellinghouse and fronts a highway or public open space; there shall be no alteration to any gate, wall, fence or other means of enclosure adjacent to any highway or public open space; and there shall be no alterations to any roof of any dwellinghouse which forms the principal elevation of the dwellinghouse and fronts a highway or public open space.

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

34. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall erected forward of any walls, fences or other means of enclosure fences which are approved by way of condition 14 above unless planning permission has first been obtained from the Local Planning Authority.

Reason: In the interests of overall design, recognising that the details submitted to date are not acceptable and in order to maintain the character of green and public spaces as secured under the plans hereby approved.

35. Notwithstanding the approved drawings/plans and submitted details, no development involving the construction of any of the driveways or hard surfaced areas within the root protection areas of retained trees as detailed in the Arboricultural Assessment produced by FPCR dated November 2015 which accompanied the application, or in any areas of open space shall commence until a method statement relating to the construction of those driveways or hard surfaced areas and to include their final finish have been submitted to and approved in writing by the Local Planning Authority and the

development shall be implemented in accordance with the details approved by this condition.

Reason: To protect the health of trees and in the interests of the visual amenity of the area.

36. Within 12 months of the commencement of the operation of the approved surface water drainage scheme, it shall be certified as completed in accordance with the approved drawings/documents by a Chartered Engineer.

Reason: To ensure that the development is provided with appropriate drainage measures to prevent additional flood risk.

Informatives:

1. This development will require an Environmental Permit from the Environment Agency under the terms of the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2016 for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of designated 'main rivers'. This was formerly called a Flood Defence Consent. Some activities are also now excluded or exempt. An environmental permit is in addition to and a separate process from obtaining planning permission. Further details and guidance are available on the GOV.UK website: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> and to discuss detailed permit requirements and submission for the above site please contact Sarah.Mallett@environment-agency.gov.uk

2. The applicant / developer should refer to our 'Groundwater Protection: Principles and Practice' (GP3) document, available from gov.uk. This sets out our position on a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heat pumps
- Drainage
- Storage of pollutants and hazardous substances
- Management of groundwater resources

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to guidance available on our website (www.gov.uk/environment-agency).

3. To discharge the appropriate condition the applicant should ensure all of the below parameters have been satisfied:

The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:

- Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.

- Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.
- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
- Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.
- Where reasonably practicable demonstrate that the runoff volume of the site reflects the requirements of S4.

4. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

5. The phased risk assessment should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance referenced in footnotes 1-4, to the relevant conditions attached to this permission.

For further assistance in complying with planning conditions and other legal requirements applicants should consult ""Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated"". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/business/pollution/contaminated_land/default.asp Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the pollution control officer (contaminated land) in the environmental health department: pollution.control@south-derbys.gov.uk.

6. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and suggesting amendments to improve the quality of the proposal through meetings and negotiations. 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.

7. The applicant is advised that following consultation with Derbyshire

County Council, they request access to high speed broadband services for future residents (in conjunction with service providers) should be provided and new homes should be designed to Lifetime Homes standards.

Item **1.2**

Ref. No. **9/2016/0001/U**

Applicant:
Mr Daniel Hill
Poplars Farm
11 Derby Road
Foston
Derby
DE65 5PT

Agent:
Mr Daniel Hill
Poplars Farm
11 Derby Road
Foston
Derby
DE65 5PT

Proposal: **CHANGE OF USE OF PART OF AGRICULTURAL BUILDING FOR USE AS DOG BREEDING KENNELS AND INDOOR EXERCISE AREA AT POPLARS FARM 11 DERBY ROAD FOSTON DERBY**

Ward: **HILTON**

Valid Date **09/03/2016**

Members will recall deferring this case at the meeting of 20 December 2016 to allow a site visit to take place. Members also requested the presence at the committee of the Council's Environmental Health Manager. The report below has not changed other than as shown in *italics*.

Reason for committee determination

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

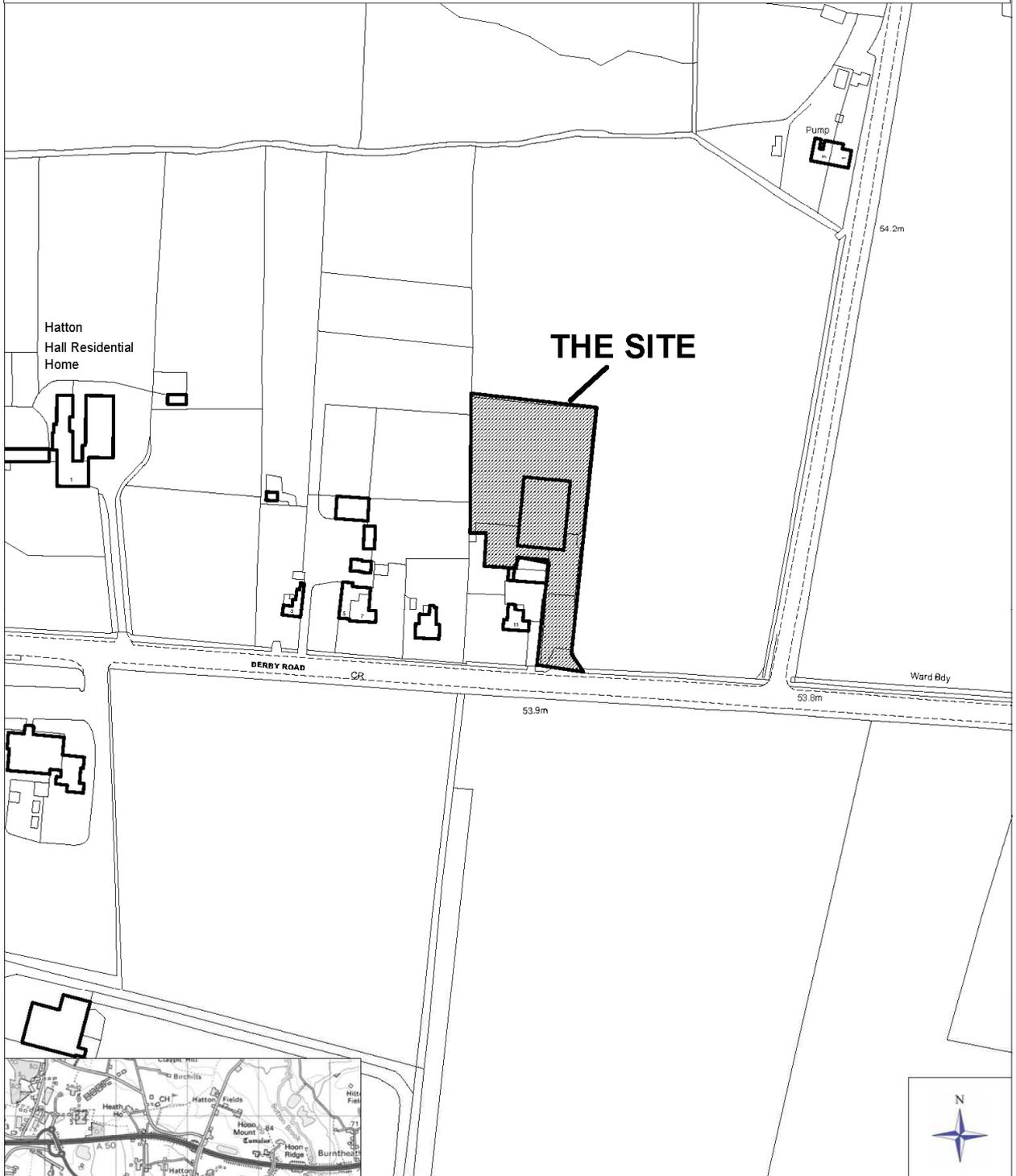
Site Description

The application site is located on the northern side of Derby Road in the countryside and is the first of a small cluster of properties in the locality when approaching from the east. The site is a modest farm containing functional farm buildings of steel framed construction and more traditional, single storey red brick construction. The farm buildings are located to the north of the main dwelling with a substantial farm building on the western side of the site. There are other separate residential properties immediately to the west and also further away to the north on Sutton Lane. The site is located within Flood Zone 3 as defined by the Environment Agency flood maps but does benefit from protection from flood defences.

Proposal

The application follows refusal of applications 9/2014/1159 & 9/2015/0748 identified

9/2016/0001 - 11 Poplars Farm, Derby Road, Foston, DE65 5PT



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in the planning history below. This application differs insofar as the proposal to retain dog boarding has been omitted the proposal seeks to use the rear part of a steel framed building behind the farmhouse for dog breeding. The plans show the provision of 16 blockwork pens inside the building with a food preparation area and indoor exercise area. A new acoustic suspended ceiling is shown along with cooling and ventilation plant. External cladding to the building is also proposed. *The applicant has indicated that the outdoor yard area may be utilised for exercising dogs on a lead one at a time.*

Although there has been preceding unauthorised use for dog related uses at the site no breeding is currently taking place in the application building. Therefore this application is not retrospective insofar as this specific proposal to use the rear building for the breeding of dogs is concerned.

Applicant's supporting information

The application is accompanied by a noise assessment, which applies the following strategy:

- Environmental noise survey to determine the prevailing noise levels around the site.
- Predict noise levels from the development at the nearest residential properties.
- Assess the impact of noise with reference to BS 8233:2014.

The noise report recommends various noise control measures, including internal insulation and sealing of gaps, extensions of existing 2m high close boarded fences and control over outside exercising hours.

The report concludes that, with the recommended noise control measures, noise emissions from the development can be readily controlled to the levels suggested in BS 8233:29014 at the nearest noise sensitive properties.

Planning History

9/2011/0727 – the erection of an agricultural feed silo – approved

9/2011/0938 - the erection of an extension to an existing cattle barn to provide a covered feed and bedding storage area – approved

9/2012/0957 - the erection of a feed and bedding storage barn – approved

9/2014/1159 - Retrospective application for the change of use of farm buildings from agriculture to dog boarding and breeding kennels and associated external alterations to buildings.

9/2015/0748 - Retrospective application for the change of use of farm buildings from agriculture to dog boarding and breeding kennels and associated external alterations to buildings

Responses to Consultations

The County Highway Authority has no objection to the proposals subject to conditions requiring the provision of the appropriate visibility splays at the access and the provision and maintenance of parking and turning space.

The Environment Agency has no objection to the proposals but includes advisory notes.

Severn Trent Water Ltd has no objection in principle but seeks a condition to secure details of surface and foul water drainage.

The Environmental Health Manager has no objection in principle provided that the specification of the air conditioning and acoustic door can be agreed by condition. The County Flood Risk Management Team comments that the proposal falls outside its scope.

Responses to Publicity

Hatton Parish Council objects as follows:

- a) Because of the large number of dogs involved there would be noise pollution to neighbours.
- b) There could be pollution of the nearby watercourse from dog waste.
- c) It is understood that dogs would be bred for testing purposes. Even if this is not the case the establishment is likely to attract animal welfare activists, causing further amenity problems. If permission is granted stringent conditions should be applied to reduce the number of dogs and to avoid breeding for testing purposes.

11 objections from residents have been received raising the following concerns:

- ccc) Dog breeding is not in the public interest given the number of unwanted and abandoned dogs.
- ddd) There is a possibility that breeding dogs could be from inappropriate sources, or could be affected by transmittable health problems.
- eee) The application would be detrimental in animal welfare terms and the premises are not adequate to provide proper conditions in this regard.
- fff) There could be adverse public health implications as a result of pollution from dog waste, including to nearby schools.
- ggg) The facilities to dispose of dog waste may not be adequate.
- hhh) Existing surface water flooding could become contaminated as could local watercourses.
- iii) There would be noise pollution and disturbance to residents.
- jjj) Noise could also affect the well-being of nearby dogs.
- kkk) The proposed noise mitigation measures would not be adequate.
- lll) A separate licence must be lawfully granted.
- mmm) The use has been ongoing despite previous refusals.
- nnn) There is already noise and disturbance from dogs kept at the site and it is unlikely that the mitigation measures would be implemented and monitored.
- ooo) Unauthorised use for dogs has been undertaken since 2014.
- ppp) There could be a need for external lighting which could cause pollution.
- qqq) It may not be possible to provide adequate ventilation to the premises.
- rrr) The ventilation system may cause pollution and noise.
- sss) The plans show windows.
- ttt) There are no measures proposed to prevent rodent/pest infestation.

uuu)The visibility splay to the access would require the use of third party land.
vvv) Escaping dogs could be a nuisance to neighbours.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2, S6, E7, SD1, SD2, INF2
- 1998 Local Plan (saved policies): EV1

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: BNE5

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)

Paras 11-14 (The presumption in favour of sustainable development)

Para 17 (Core principles)

Section 1 (Economy)

Chapter 3 (Supporting a prosperous rural economy)

Section 4 (Promoting sustainable transport)

Section 10 (Meeting the challenge of climate change, flooding etc.)

Section 11 (Conserving and enhancing the natural environment)

Paras 186 &187 (Decision-taking)

Para 193(Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.)

Para 196 & 197 (Determining applications)

Paras 203-206 (Planning conditions and obligations)

Annex1 (Implementation)

National Planning Practice Guidance

ID7 (Flood risk) ID30 (Noise) ID21a (Conditions) ID31 (Light) ID34 (Water & quality)

Planning Considerations

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

- The principle of development
- Impact on amenity
- Highway safety
- Flood risk and water quality

Planning Assessment

The principle of development

By making use of an existing building in a rural area the proposal meets one of the core principles in the National Planning Policy Framework to reuse existing buildings, underpinned by Section 3 of the Framework which similarly encourages such development in rural areas. Local Plan Policy E7 and Part 2 Local Plan BNE5 are consistent with the NPPF in this regard. As such the proposal is acceptable as a matter of principle.

Impact on amenity

The nature of the development is such that there is the potential for adverse impacts to affect the living conditions of neighbours. Paragraph 17 of the Framework seeks a good standard of amenity for all existing occupants of land and buildings and Para 123 seeks mitigation and reduction of adverse effects on health and quality of life arising from noise from new development. This is also the objective of Local Plan Policy SD1. The development could affect neighbours by noise, odour, water pollution and light and there have been previous refusals which included dog boarding, with the breeding enterprise situated in another building on the site. This application therefore needs to be considered wholly on its own merits.

In terms of noise, the Environmental Health Manager has considered the site circumstances, the noise report and proposed mitigation and has concluded that the use can be accommodated without causing undue harm to neighbours by noise. However he considers that further details of the air conditioning equipment and acoustic door are required to ensure that the impacts are acceptable in this regard. The recommended condition would secure the submission of these details and the implementation of mitigation measures prior to commencement. *In an effort to further control potential noisy elements of the use, a further condition can also be attached restricting the exercising of dogs outside to one at a time on a lead.*

The potential for light pollution, identified by objectors, could be controlled by condition.

It is recognised that a planning application has now been received for the erection of 400 dwellings on a strategic site allocated for residential development in the approved Local Plan Part 1 across the road from the application site. However, future occupiers of those dwellings would occupy properties which have been designed to take account of the existing noise situation including the current kennel activity, albeit at less than capacity activity, as well as the road noise including Derby Road which lies in between. The new properties would be further away than other, closer neighbours although directly opposite the exercise yard. As such occupiers of those properties would be unlikely to be any worse off than existing neighbours.

Highway safety

The site is accessed from Derby Road (A516) which at the point of the access has a 40mph speed limit. The proposals would utilise the existing access that serves the farm rather than the narrower drive which serves the house, the two being side by side but independent of each other. On the advice of the County Highway Authority adequate visibility could be achieved over controlled land and adequate parking and turning space would be available.

Para. 32 of the National Planning Policy Framework states, amongst other things, that when making planning decisions account must be taken of whether safe and suitable access to the site can be achieved for all people and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Local Plan Policy INF2 seeks safe and convenient access and appropriate parking. In the light of the Highway Authority's opinion these policy tests are met by the application proposal.

Flood risk and water quality

The application site lies within Flood Zone 3. Because the application relates to a use in the same vulnerability category as agriculture, and does not involve new building, the Environment Agency defers to its published Standing Advice for such development.

Para 109 of the Framework and Local Plan Policy SD1 seek to protect the water environment and to prevent unacceptable risk. Concerns raised about pollution of the water environment could be addressed by the imposition of the conditions recommended by Severn Trent Water Ltd, to secure details of the means of disposal of foul and surface water. This is underpinned by the Environment Agency having separate permitting control over the discharge of wash waters from the site (trade effluent) if these cannot be accommodated by the public sewers or sealed tank. The Agency's permitting regulations also control the disposal of solid waste from the establishment.

Conclusion

The NPPF has a presumption in favour of sustainable development but there are three strands of sustainability - economic, social and environmental. There would be some economic benefit for the applicant by virtue of farm diversification and modest social benefits. The application has the potential to cause harm to amenity and the water environment. However the Framework is clear in Paragraph 203 that such impacts should be made acceptable by planning condition where possible. The recommended conditions would provide the necessary environmental safeguards such that the development is acceptable on balance, such that the proposal satisfies the relevant policy tests.

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. 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 amended floor plan and elevation drawings received on 10 August 2016, and the location plan and Site Entrance Visibility Splay plan submitted with the application, 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 and in the interests of sustainable development.

3. The use shall not commence until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the use commences.

Reason: In the interests of flood protecting and pollution control.

4. The acoustic doors and ventilation system shall be installed before the use commences, in accordance with full details and specifications which shall have previously been submitted to and approved in writing by the local planning authority. The acoustic doors and ventilation system shall then remain in place for the lifetime of the use.

Reason: To ensure that adequate measures are in place to mitigate the impact of noise before the use begins in the interest of the amenity of the occupiers of nearby dwellings.

5. Notwithstanding Paragraph 4.2 of the submitted Environmental Noise Report, before the use commences a schedule of Noise Control Measures for the application site shall be submitted to and approved in writing by the local planning authority. All approved measures shall be put in place before the use commences and shall be retained and adhered to for the lifetime of the use.

Reason: To ensure that adequate measures are in place to mitigate the impact of noise before the use begins in the interest of the amenity of the occupiers of nearby dwellings.

6. Prior to the commencement of the development hereby permitted the applicant shall confirm in writing to the Local Planning Authority, as a minimum, that:
 - (1) Floor levels of the proposed development will be set no lower than existing levels; and
 - (2) Flood proofing of the proposed development has been considered by the applicant and incorporated where feasible and appropriate.

Any flood proofing incorporated shall thereafter be retained in situ and/or maintained as such.

Reason: To ensure that it is possible to incorporate important flood avoidance features including internal floor levels before the development begins in the interests of flood protection.

7. Prior to commencement of the use hereby permitted, the land in advance of the sight lines measuring 2.4m x 120 m, as shown on the submitted Site Entrance Visibility Splay plan, shall be cleared and thereafter retained free of all obstruction to visibility over a height of 1 metre (600mm in the case of vegetation) above the adjoining carriageway level.

Reason: In the interests of highway safety.

8. Prior to commencement of the use hereby permitted space shall be provided within the site curtilage for the parking and manoeuvring of vehicles, as shown on the submitted Site Entrance Visibility Splay plan and shall thereafter be retained free of any impediment to its use for these purposes.

Reason: In the interests of highway safety.

9. Prior to installation a scheme for the provision of any external lighting shall be submitted to and approved in writing by the local planning authority and shall be implemented strictly in accordance with the approved scheme.

Reason: To preserve amenity.

10. *Notwithstanding the submitted details, not more than one dog shall be exercised in any external area at any one time and shall always be controlled by means of a lead.*

Reason: In order for the local planning authority to control the potential source of noise from the site in the interests of the amenity of the neighbouring occupiers.

Informatives:

1. For the avoidance of doubt this permission relates to the use of the rear part of the barn shown within the application site delineated by a red line on the submitted location plan.

2. 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.

3. Severn Trent Water Ltd advises that although statutory sewer records do not show any public sewers within the area, there may be sewers that have recently been adopted under The Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your drainage proposals. Severn Trent will seek to assist you in obtaining a solution which protects both the public sewer and the building.

4. The Environment Agency advises:

The wash waters from the kennels are classified as commercial/trade effluent and may need to be Permitted as such before being discharged.

If the wash waters are directed to the foul sewer, permission should be sought from the sewage undertaker.

Environmental Permitting Regulations (2010) England and Wales

If the wash waters are directed to a private sewage treatment plant, a Permit issued from the Environment Agency will be required. This should only be considered as a last option and only if appropriate treatment and flow balancing are provided. The plant will require routine maintenance to be carried out under a contract with the supplier (specialist knowledge is required to ensure correct operation to meet permit conditions). Because the high strength of the effluent may affect the adequacy of the treatment, advice should be sought on the design, installation and operation of this type of plant.

If it is directed to a sealed cesspool, it will not require a Permit. The contents of the cesspool can either be removed by a licensed contractor for off-site disposal or be disposed of by irrigation to agricultural land (subject to specific criteria).

Use of a septic tank is not appropriate for such wash water.

Solid waste (e.g. faeces, animal bedding) should be collected, bagged or otherwise suitably contained and disposed of to a suitably permitted facility by a registered waste carrier.

In addition, the producer of the waste has a Duty of Care to ensure that it is stored and disposed of in accordance with all appropriate legislation. In practical terms, the producer should ensure that:

- the waste is disposed of at a suitably permitted or exempt facility;
- the waste does not escape from control (including liquor runoff) by ensuring that it is adequately contained or packaged for transit;
- a detailed description of each waste type (including the quantity) within each load is given on the waste transfer note (copies of these notes should be kept for 2 years);
- anybody collecting the waste is registered as a waste carrier.

The application site does lie within Flood Zone 3, according to Agency maps. However, the proposal is for a change of use, with no increase in built development proposed. According to Table 2: Flood Risk Vulnerability Classification in the Flood and Coastal Risk section of the Planning Practice Guidance to the National Planning Policy Framework, the proposed use is the same flood risk vulnerability classification as the existing use. From a flooding perspective therefore, the proposal is covered by the Agency's Flood Risk Standing Advice.

5. 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 issues. 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.

Item 1.3

Ref. No. 9/2016/0870/OS

Applicant:
Mr J Harbottle
79 Providence Land Ltd
Great Peter Street
London
SW1P 2EZ

Agent:
Dr R Wickham
Howard Sharp And Partners LLP
79 Great Peter Street
London
SW1P 2EZ

Proposal: **OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 42 DWELLINGS INCLUDING PUBLIC OPEN SPACE, LANDSCAPING AND SUSTAINABLE DRAINAGE ON LAND AT SK4129 8075 MOOR LANE ASTON ON TRENT DERBY**

Ward: **ASTON**

Valid Date 01/09/2016

Reason for committee determination

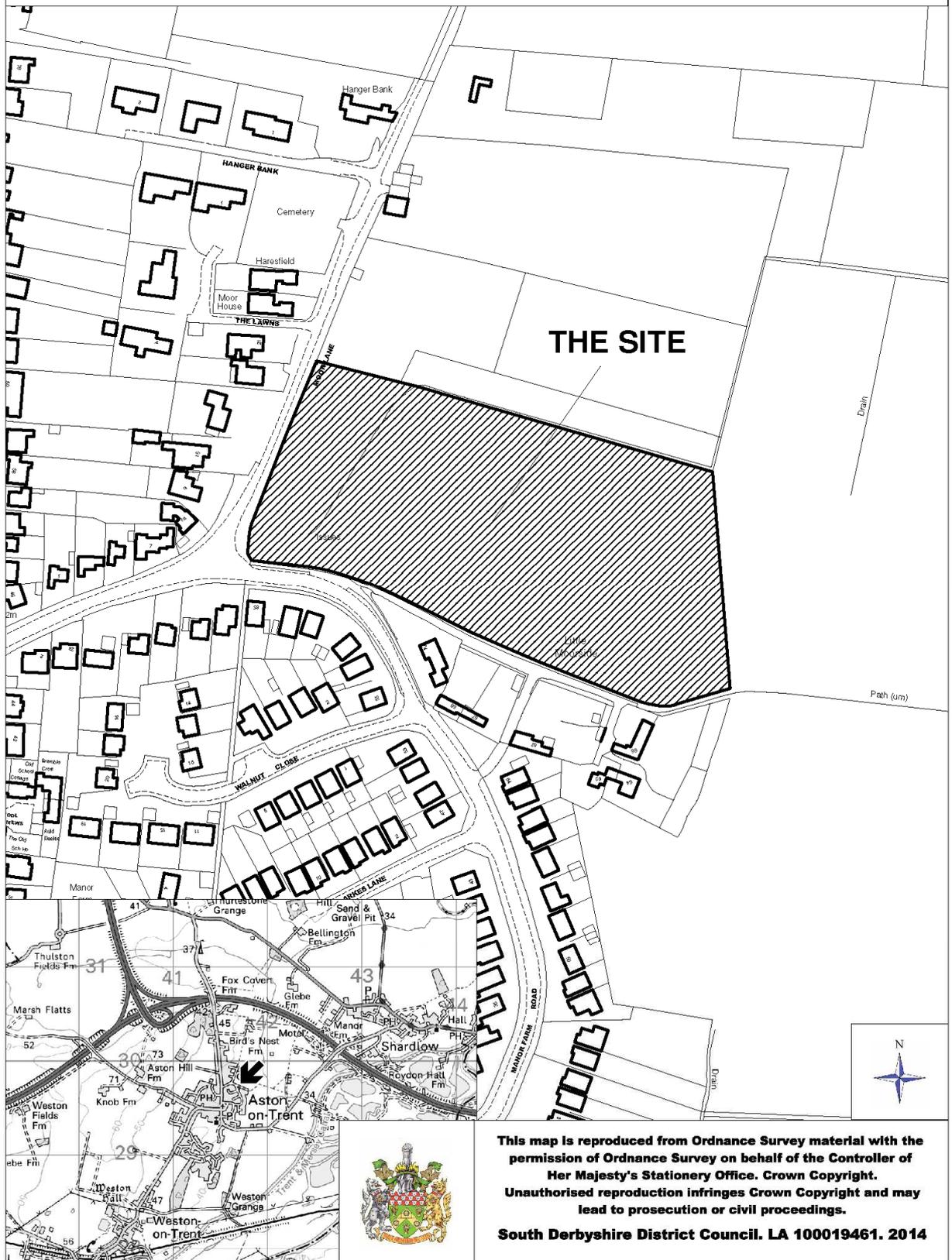
The item is presented to Committee as the proposed development is currently not compliant with the saved 1998 Local Plan Policy H5.

Site Description

The application site extends to 1.84 hectares in area, located at the eastern edge of Aston on Trent. The site is currently in agricultural use, and comprises a small field enclosed by a mature hedgerow to the west and an open field to the east which is bound to the north and south by mature hedgerows; the field then opens up on to a larger agricultural field to the east beyond the application site.

Moor Lane forms the western boundary of the site beyond which lie existing residential dwellings; the southern boundary beyond an existing hedgerow is formed in part by Manor Farm Road and Little Moorside, which is also a public footpath which runs along the southern boundary of the site and leads through the agricultural fields to the east and the countryside beyond. Beyond the southern boundary lie the existing dwellings on Little Moorside and Manor Farm Road. The northern boundary is formed by an area of woodland trees, and the only open boundary of the site is to the east where the site joins a larger agricultural field. Generally the site is open, although it is split by an existing hedgerow to the east along which runs a ditch which flows to the north east of the site along the northern boundary.

9/2016/0870 - Land at SK4129 8075, Moor Lane, Aston on Trent, Derby
(DE72 2AG)



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South Derbyshire District Council. LA 100019461. 2014

Following the submission of the planning application, three Norway Maple trees on the south eastern part of the site where it is bound by Manor Farm Road have been protected through TPO 451.

Proposal

The application has been submitted in outline with all matters reserved for future approval, thus this application is seeking permission for the principle for developing the site for up to 42 dwellings, including 30% affordable housing provision on site.

The application is supported by an indicative layout, which illustrates the provision of the site access off Manor Farm Road to the south west of the site; an area of public open space is shown to the western boundary of the site within the existing small field bound by an existing and retained hedgerow. The site layout is proposed with a central spine road leading to a main square with dwellings proposed in blocks to provide an outward facing development with a mix of dwelling designs and sizes. The layout proposes two pedestrian only access points along the southern boundary to link in to the existing footpath network, and with the exception of the site access and these two pedestrian access points, the existing boundary hedgerows and trees would be retained with a new area of structural landscaping (including an area of SUDS) proposed along the eastern boundary.

Applicant's supporting information

The Planning and Sustainability Statement sets the background to the proposal and summarises the main assessments undertaken. The policy context is then addressed, with the schemes compliance with the NPPF, the 2016 Local Plan Part 1 (LP1), and the pre-submission Local Plan Part 2 (LP2). The assessment highlights the fact that the site is proposed for allocation within LP2 for residential development, and includes an assessment of the guidance associated with determining planning applications based on yet to be adopted policies and the issue of prematurity. The statement highlights the importance of the site in enabling the District to meet its housing land supply needs. The site is not considered to have any physical, environmental, access or ownership constraints and is considered to be suitable for housing; It would make a significant contribution to the Council's housing land supply; It would provide a range and mix of house types and tenures; It is in an accessible location in relation to Aston-on-Trent facilities and also bus services to nearby towns; It would provide housing in ways that would not harm the local landscape, is sensitive to its location and is able to respond positively to the distinctive character of the area; It has a low probability of flooding and can be developed without increasing flood risk elsewhere; It would provide appropriate amounts of Green Infrastructure that would result in public open space, sustainable drainage and improvements in biodiversity; It would result in appropriate financial contributions to support local services and infrastructure; and the development would qualify for a New Homes Bonus over a six year period which can be used to benefit the local community.

The Design and Access Statement sets out the principles and concepts for the site design that would guide the reserved matters submission. This involves an assessment of the site itself, the context and character of the surrounding area. The statement goes on to justify the submitted indicative layout of the site, providing a

sound basis to deliver high quality development at reserved matters stage in which the access, layout, scale, appearance and landscaping of the proposal would meet the national and local policies for securing good design, conserving heritage assets and promoting healthy communities. The indicative layout shows how the site can provide satisfactory access for vehicles, cyclists and pedestrians as part of a high quality layout that improves the connectivity of the site with the land around it.

A Landscape and Visual Impact Appraisal considers the impact of the proposal on the landscape and concludes that the proposed development in its illustrative form would have no material detrimental effect upon the surrounding landscape character. The effects of the proposals on the landscape character and setting have been mitigated by the retention of the existing boundary vegetation on all the boundaries and the provision of additional planting along the western and southern boundaries where gaps occur. In addition a new boundary has been created along the eastern edge providing a defensible boundary. A comprehensive planting strategy has been provided within the Site to integrate the proposed development into the existing landscape setting.

The Transport Assessment has undertaken a review of the local highway network in relation highway safety and traffic and considers that the local highways are fairly lightly trafficked with measured vehicles speeds in line with existing speed restrictions and no existing highway safety patterns or concerns are identified within the vicinity of the site; The site is considered to be sustainably located with access to a range of services and amenities within Aston-on-Trent, supported by suitable pedestrian linkages. Access to further facilities in Derby is also achievable through utilisation of local public transport, with Derby centre located around 20 minutes journey on bus; Vehicular access to the site has been developed in line with appropriate design guidance, with suitable geometry and visibility achievable; Parking provision and internal highway layout would be provided in line with appropriate local authority guidance, with an initial assessment indicating the requirement for around 89 parking spaces onsite; The proposed development is estimated to generate up to 23 additional vehicle movements (arrivals and departures combined) during peak periods, equivalent to an additional vehicle every three minutes which is not expected to have a material impact on the safety or operation of the local highway network; Based upon the low baseline traffic flows and additional development flows the proposed access junction is forecast to operate well within the normal design threshold for capacity with minimal queuing or delays incurred and therefore is not expected to have a material impact on the safety or operation of the local highway network.

The Flood Risk Assessment identifies that the site is located within Flood Zone 1, and at a low risk from other flooding sources. It is proposed to drain the site through a combination of piped drainage systems and SUDS. The site proposes attenuation basins to the eastern boundary which would be drained through infiltration for the 1 in 30 year flood event with more extreme events draining to the existing ditches at greenfield rates.

An Extended Phase 1 Habitat Survey has been prepared in support of the application, this confirms that there are no statutory wildlife sites or internationally designated sites within the appropriate search area (2km and 5km). The site as a whole is not considered to be of sufficient intrinsic ecological value to warrant whole-

scale protection from development; the site's habitats which would be affected by works are common and widespread and are considered to be of low intrinsic biodiversity value. There is some possibility that the field boundaries support a small population of common reptiles and two groups of trees could support roosting bats, however, these features are to be retained as part of the development proposals, overall the development of the site is not considered to impact on any protected or notable species.

The Utilities Statement following investigations in to the existing infrastructure in the area concludes that the site should reasonably be able to connect to existing electricity, gas, telecommunications, water, foul sewerage and surface water drainage infrastructure which are mainly located within the adopted highway at Moor Lane or Manor Farm Road.

The Archaeological Desk Based Assessment establishes that there are no designated archaeological heritage assets present on the study site. It is concluded that of those identified in its wider study area, the proposed development would not impact on their significance or their associated setting. The assessment identified a moderate to high potential for medieval activity, primarily relating to agricultural practice, and as such a geophysical survey of the site was undertaken. The survey did not produce any anomalies that would suggest the presence of any significant remains, and the report concludes that there are no known archaeological constraints on the site.

An Open Space Assessment identifies that the provision of 0.24ha of land to the western edge of the site is sufficient to meet the identified requirements of the Councils SPD. The assessment notes that the open space calculation does not include the areas dedicated for the provision of SUDS within the site.

The Affordable Housing Statement details that a minimum of 30% of the dwellings on the site would be affordable (13 in total) with a policy compliant mix between rented and intermediate dwellings proposed.

The Proposed Heads of Terms for Planning Obligation sets the following elements to be secured through a planning obligation; On-site provision of affordable housing (30%); On-site provision and maintenance of landscaped public open space (minimum 0.24ha) and SuDS; Off-site provision of recreation facilities (outdoor and built); and Off-site education provision.

Planning History

None relevant to the current application.

Responses to Consultations

The County Highway Authority considers that a satisfactory means of access can be achieved from Manor Farm Road into the application site and, as such, there are no objections to the proposal from the highway point of view subject to conditions relating to the following: the provision of a construction management plan (including temporary site access); new white lining to the Moor Lane Manor Farm Road junction; and the site access and internal road provision.

The Development Control Archaeologist notes that the site is located in an area with a high potential for prehistoric archaeology to exist. However, following the undertaking of a geophysical survey of the site no obvious archaeological features were identified. As such it is considered appropriate to condition the undertaking of trial trenching and targeted excavation.

The Contaminated Land Officer has no significant concerns. However, due to the scale and nature of the development a precautionary condition is recommended in order to ensure that any hazard encountered during development is adequately dealt with.

The Pollution Control Officer has no objections to the proposal, but strongly recommends conditions relating to the construction phase of the development to control dust, noise and air quality.

The Lead Local Flood Authority (LLFA) has commented on the proposed drainage details contained within the FRA. These comments note the existing drainage ditches to the north and west of the site and the necessary conditions required to ensure that the surface water proposals for the site are appropriately designed.

The Environment Agency comments that the LLFA should be consulted on the proposed surface water proposals, and subject to the foul drainage being provided to the existing system there are no objections.

Severn Trent Water has no objections to the proposal subject to the inclusion of a drainage related condition on any permission

Derbyshire Wildlife Trust has considered the submitted surveys and judges the reports to provide an accurate and up to date assessment of the habitat types and protected species within and affected by the development. There are not considered to be any significant impacts on protected species in developing the site. A condition is recommended requiring the submission of a landscape and ecological management plan based on the mitigation measures outlined within the submitted ecological report.

Natural England has no comments on the proposal.

The Peak and Northern Footpaths Society has no objection subject to the footpaths surrounding the site remaining open and unobstructed at all times. The footpath links from the development should be dedicated as public footpaths

The County Minerals Authority notes that the application site is located on an area of known mineral deposits. The County recognise that due to the size of the site and its proximity to existing dwellings that it may not be viable or practical to remove sand and gravel as part of the development it is recommended that the developer is made aware of the presence of the mineral.

The Strategic Housing Manager comments that the development should provide 30% affordable housing (13 dwellings), with a minimum of 68% (9 dwellings) being for rent and a maximum of 32% (4 dwellings) for intermediate purposes.

The NHS Southern Derbyshire CCG has requested a contribution of £15,977 towards enhancing the capacity at Alvaston Medical Centre to ensure that additional patient numbers can be accommodated. This enhanced capacity is to be accommodated through an extension to the building and internal remodelling in order to provide two additional clinical/treatment rooms.

The County Planning Policy Officer comments that the proposed development would generate the need to provide an additional 8 primary, 6 secondary and 3 post 16 pupils. As Aston on Trent Primary School is projected to have insufficient capacity to accommodate the additional pupils generated by the development and as such a contribution of £91,192.08 is requested in order to facilitate internal remodelling at the school in order to create additional classroom space. In terms of secondary provision, the development falls within the normal area of Chellaston Academy, within Derby City. A contribution towards the provision of facilities to accommodate an additional 6 secondary school places and 3 post-16 places is requested at a total of £158,940.72 (£103,057.02 for secondary and £57,883.70 for post 16), which would be directed towards a scheme of works to accommodate additional pupils'.

Responses to Publicity

Aston on Trent Parish Council objects to the proposed development for the following reasons:

- a) The proposal is outside the current village settlement boundary;
- b) The proposal is for more houses than the number proposed in the Strategic Housing Availability Assessment – 42 rather than 37;
- c) No consideration for the residents of Little Moorside, there is no buffer zone or provision of public open space along the perimeter shared with Little Moorside
- d) Access to Moor Lane from Derby Road is currently very awkward and currently causes issues. Further development would exacerbate this issue both with residential traffic & construction traffic;
- e) The current bus service is not acceptable for an identified key service village with 1 bus per hour Mon – Sat and no service on Sunday or Bank Holidays;
- f) The proposed plan appears to leave access points for further development on other parcels of land. The parish council strongly opposes these access points which would clearly open up secondary parcels of land beyond the land covered in this application and should be amended to create hard boundaries thereby alleviating grave concerns that both the council & residents hold about future intent;
- g) There is little detail about how this development would be in keeping with surrounding properties;
- h) Affordable housing within the development should be evenly distributed and not grouped together;
- i) A full wildlife survey should be carried out as residents have reported sight of protected species including bats, short-eared owls and hawks;
- j) The footpath to link the development would cause irreparable damage to the hedgerow, it is suggested that a footpath to the south east corner would be more acceptable;

- k) The land currently floods during wet periods, there is also evidence of surface water flooding in surrounding streets which would increase if this land were to be developed;
- l) School provision for both primary & secondary is currently stretched and a development of properties aimed at families would cause further issues;
- m) The doctors surgery within the village is not taking on any more patients which means families moving to the village are required to find GP services elsewhere;
- n) There is not enough evidence as to how this development would prevent existing properties being overlooked;
- o) If this development were to be given planning consent it is the parish council's strongest wish that Section 106 priorities lie with appropriate medical provision, educational provision for both primary and secondary and recreational provision for the parish.

SAVE (Save Aston & Weston Village Environments) have commented in detail on the proposals raising the following concerns;

- a) The proposal should be designed with the sensitivities of Little Moorside in mind, including providing a buffer within the development;
- b) Number of houses; the number is too high and more than identified within the SHLAA;
- c) Planned layout infers possible expansion; The proposed accesses could provide access to adjoining land in the future and this aspect should be removed;
- d) Footpath design; The footpath link is unnecessary and would cause irreparable damage to the existing hedge;
- e) Privacy of existing residents;
- f) Affordable housing; should be spread throughout the site and made available for those with a strong family connection to the village;
- g) Surface water flooding; As the site is prone to surface water flooding this is an important consideration and requires suitable mitigation;
- h) Wildlife considerations; concern at disturbance of wildlife living in and using the hedges and existing habitats;
- i) Road layout; concern that existing visibility is poor from Little Moorside and consideration should be given to mitigate any potential for accidents at existing junctions;
- j) Construction traffic routing; any development should be restricted to ensure all construction traffic should approach from Weston Road or Shardlow Road and avoid Chellaston Lane.

44 letters of objection and comment have been received; the following is a summary of the concerns/points raised:

Principle

- a) To increase the population of Aston would decrease the attractiveness of the village, 42 dwellings is excessive for Aston;
- b) This would extend the village and open it up to further development;
- c) Little consideration of the dwellings on Little Moorside;

- d) The South Derbyshire housing requirement can be adequately catered for on brownfield sites around the county, adding value and amenities to those areas, the amenities in Aston are at full capacity;
- e) The site is outside the village boundary;
- f) The SHLAA identified the site for 37 dwellings the 42 proposed is too much;
- g) The site is outside the village and new development should only be approved once the plan has been ratified;
- h) This development could lead to the merging of Aston and Shardlow;
- i) Houses should be sited to block any future development not allow access to other fields;

Landscape / Character

- j) The views undertaken in the landscape and visual appraisal look totally different in autumn and winter;
- k) The development would affect the visual appearance of the village, and make it look like another new estate;
- l) A buffer zone should be created for Little Moorside, which would view over the site;
- m) The rural aspect would be eroded;
- n) 2+ storey houses would be out of character with the area;
- o) If the development goes ahead then additional planting should be placed along the boundaries to minimise the overlooking, in addition to restricting the height of the dwellings;
- p) No information has been submitted to justify the dwellings would be in keeping;
- q) The development should be developed in a similar style and density to Little Moorside, the current proposal are not to scale, not in relation to and would not sit comfortably with the adjacent properties;
- r) Concern that the viewpoints undertaken are not sufficiently representative of the existing situation and are misleading

Highways

- s) Concern at the proximity of the proposed access to existing accesses, the existing access should be utilised;
- t) The Derby Road / Weston Road junction would not be able to cope with the increase in traffic;
- u) Little Moorside is a highway not just a public right of way;
- v) Danger for pedestrians using the proposed footpath due to vehicles using Little Moorside, and access on to Moor Lane
- w) The traffic is already too busy for our roads;
- x) The existing junctions are dangerous;
- y) Insufficient parking and visitor parking;
- z) Increased maintenance costs for residents of little Moorside, due to increased use;
- aa) Insufficient traffic survey;

Infrastructure

- bb) The schools are already overcrowded, and cannot cope with the additional pupils;
- cc) Impact on the local doctors;
- dd) Concern about the capacity of the local sewers;
- ee) The local bus service is being reviewed for cuts, and it is currently inadequate;

Biodiversity / Wildlife

- ff) The loss of part of a hedge to create a gap for the continuation of a footpath;
- gg) The hedgerows should remain in place;
- hh) There are bats, birds of prey, and owls in the trees which would be disturbed;

Amenity Impacts

- ii) Impact of car lights shining into the windows of existing dwellings;
- jj) Overlooking of existing residents;
- kk) Additional noise and light pollution

Other issues

- ll) Any social housing should be aimed at young people in the village with roots to the village who cannot get on to the property ladder;
- mm) The dwellings should have larger gardens;
- nn) The types of housing are not balanced across the site;
- oo) Increased use of the public footpath could lead to additional crime;

One letter of support has been submitted, which outlines the following points:

- a) There is a shortage of homes nationally and locally;
- b) Aston is a key service village in the local plan, it is fitting that this village receives its fair share;
- c) This is the most suitable site in the village, the number of dwellings is appropriate, proportionate and in keeping with the scale and character of the village;
- d) The proposal would protect and safeguard the character of the countryside;
- e) It is encouraging that the development includes affordable housing;

Development Plan Policies

The relevant policies are:

- 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), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character

and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities) and INF9 (Open Space, Sport and Recreation).

- 1998 Local Plan (saved policies): H5 (Village Development), H8 (Housing Development in the Countryside), EV1 (Development in the Countryside), EV9 (Protection of Trees and Woodland), EV11 (Sites and Features of Natural History Interest) and EV14 (Archaeological and Heritage Features).

Pre-submission Development Plan Policies

The relevant policies are:

- Pre-Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development); H23 (Non-Strategic Housing Allocations); BNE5 (Development in the Countryside); and BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

National Guidance

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

Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)
- Section 106 Agreements – A Guide for Developers

Planning Considerations

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

- The principle of development;
- Landscape and visual impacts;
- Highway safety;
- Biodiversity; and
- Section 106 contributions

Planning Assessment

The principle of the development

As members are aware the starting point in determining the acceptability of development proposals is the Development Plan, and any other material considerations in accordance with planning law (S38 2004 Act) (which includes the guidance contained within the NPPF, the pre-submission Local Plan Part 2 (LP2) and the evidence that supports it).

Following the adoption of the 2016 Local Plan Part 1 (LP1), new residential development should be directed to the most sustainable sites within the District (i.e. those allocated within the Local Plan or sites within the defined settlement

boundaries). The LP1 provides a framework for sustainable development in the District, supported by the pre-submission LP2 and as a pair the overall plan is designed to enable the District to meet its objectively assessed housing need over the plan period (2011 to 2028).

Policy H1 of the LP1 sets the settlement hierarchy for the District and identifies Aston as a Key Service Village (KSV) as an acknowledgement of the range of services and facilities available in the village. The LP1 identifies the strategic housing allocations in policies H2 – H19, with the pre-submission LP2 policies identifying the non-strategic housing allocations within the District in policy H23 A-N.

The LP2 reviews the settlement boundaries identified within the 1998 Local Plan (LP98) as the settlements have changed, and in some places significantly since the boundaries were originally drawn. The changes have occurred through growth that has taken place, or growth that is expected to take place through the plan period (it is noteworthy that the adopted settlement boundary does not include the recent developments on Willowpark Way or the Aston Hall Hospital site). The application site therefore currently sits outside the adopted settlement boundary for Aston and as such is contrary to policy H5 of the LP98. However, the settlement boundaries identified in the LP98 do not cater for the housing growth required in order to meet the needs of the District, land to meet this need is identified through the LP1 and LP2 allocations and the resultant revised settlement boundaries proposed through policy SDT1.

The application site is proposed for allocation within the LP2 in policy H23 A (Moor Lane, Aston (S/0271 – up to 42 dwellings), and as such the site is included within the revised settlement boundary for Aston set out in policy SDT1. Therefore the conflict identified with policy H5 (i.e. the site is outside the settlement boundary), is considered to be outweighed by the site's allocation in LP2 as a result of the need to deliver housing to meet the needs of the District.

Whilst the policy which allocates the site for development is not yet formally adopted, the policy is a material consideration rather than part of the formal development plan. Paragraph 216 of the NPPF provides guidance as to the weight that can be attributed to emerging policies, which is based on three criteria; the stage of preparation of the plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies in the pre-submission plan to the policies in the Framework.

The pre-submission version of the LP2 has been consulted on and was recently approved for submission at the Environmental and Development Services Committee on the 5th January 2017, and is due to be considered at the Full Council Meeting on the 19th January 2017.

During the plan preparation process the statutory consultees have been generally supportive of the allocation, indeed this fact is apparent from the consultation responses received from the statutory and non-statutory consultees on this application insofar as there are no outstanding objections to the proposals from any consultees, other than the public, local residents groups and rival site promoters.

The very existence of the LP2 rests on the soundness and adoption of the LP1. Without the latter, the former cannot exist. For this reason, it is considered that the weight afforded to policies in the LP2 can progress from an elevated position. This is due to many of the policies relying on the existence of 'parent' strategic policies, such as policy H23 relying on policies S4 and H1 and because the same evidence base informs this second part of the Plan, an evidence base which has already largely been subject to testing and considered sound through the adoption of LP1. As such it is considered that the policies within the LP2 can be attributed elevated and substantial weight in the decision making process.

The comments received relating to the stage of the plan process and the prematurity of making a decision on the application in advance of the adoption of the site as a formal allocation, are noted. Guidance on this issue is contained within the Planning Practice Guidance, and the question involves a need to weigh up how the development of the site fits with the adopted LP1 strategy and the pre-submission LP2 policies (being based on the most up to date evidence and with the plan itself at an advanced stage). Consideration must therefore be given as to whether the development would prejudice the pattern / location of development in the District.

The site is included within the LP2 as a housing allocation under Policy H23A, which has been the subject of detailed appraisals and is part of the strategy of the plan for ensuring the sustainable delivery of housing within the District up to 2028. It is considered that the approval of this application would not prejudice or undermine the plan making process but rather the refusal of this application would undermine the plan making process and potentially inhibit the ability of the District to deliver its objectively assessed housing need identified within both plans and its associated evidence.

Having established that policy H23 which allocates the site for up to 42 dwellings is a significant and indeed the most relevant and up to date material consideration in assessing the acceptability of the proposal, it is considered that the principle of the development of the site for up to 42 dwellings is acceptable. The comments relating to the figure of 37 dwellings for site identified in the SHLAA are noted but the capacity of the site has been considered in more detail as part of the local plan allocation process and results in a development of 23 dwellings per hectare which is commensurate with the overall density of this part of Aston and overall is considered to be an appropriate scale of development for the site.

As the principle of development is considered to be acceptable, it turns to consider the detailed requirements of the policy and the site specific requirements of the allocation. The key considerations for each of the 14 sites allocated within the policy are:

- i) Transport impacts – including vehicular access points, visibility, pedestrian and cycle links and impact on the existing road network;
- ii) Impact on the surrounding landscape and/or townscape;
- iii) Management of flood risk and drainage;
- iv) Impact on designated and non-designated heritage assets and settings;
- v) Biodiversity impacts;
- vi) The design and layout to take account of site characteristics;

The site specific requirements are set out under policy H23A (as amended though the Schedule of Proposed Minor and Main Modifications January 2017):

- a) Up to 42 dwellings;
- b) Access to be from Manor Farm Road;
- c) Pedestrian access points to be made to south of site to join existing PROWs;
- d) A Landscape buffer to the east and west to be implemented and enhancement made to the south;
- e) An appropriate easement to be provided that is free of obstruction along the existing watercourse for maintenance;
- f) Public open space to be provided to the western part of the site;
- g) Use of 1.5 storey dwellings in close proximity to the southern boundary.

Whilst the application has been submitted in outline with no detailed matters to be considered at this stage, as the application is accompanied by an indicative layout it is appropriate to consider this layout against the detailed requirements of the policy, which are considered below.

Landscape and visual impacts

The site is located within the national 'Trent Valley Washlands' character area, and the local 'Lowland Village Farmlands' character area. The site is open and flat (with the exception of the westernmost small field), a thick band of tall trees forms the northern boundary with existing quite overgrown unkempt hedgerows to the west and south, with no boundary present to the east as the field opens up to a larger arable field.

In addition to policy H23 outlined above there are a number of policies which are relevant to this assessment. 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, which respect important landscape, townscape and historic views and vistas. Landscape character and local distinctiveness considerations are further set out in policy BNE4. This policy seeks to protect the character, local distinctiveness and quality of the District's landscape through careful design and the sensitive implementation of new development.

The site has been assessed for its landscape character as part of the local plan site assessments which consider the landscape and scenic qualities of the site, its susceptibility to change and the scope for mitigating the impacts of the development.

Whilst the site is generally well contained by existing hedgerows to the west and south there would be clear views of the site from the dwellings on Moor Lane over the hedgerow with some views from the south mostly from the upper floors of the nearby dwellings, although the closest dwellings (on Little Moorside) are around 30m away from the closest site boundary where their principal rear elevations face the site. In acknowledging this, the area of public open space is proposed to the eastern boundary of the site, which separates the built form from the dwellings on Moor Lane

and any landscaping scheme would be required to enhance the boundary of the site to Moor Lane though the addition of tree planting and structural landscaping which will aid in mitigating views over the site. When approaching the site from the Moor Lane junction with Derby Road the area of open space and retention of hedgerows would serve to soften the appearance of the development with the built form partially visible over the retained hedgerows and public open space. The position of the site access has been altered during the application as a result of the desire to retain three existing Norway maple trees along Manor Farm Road which have been protected by a Tree Preservation Order.

To the south of the site the existing hedgerow is to be retained and enhanced (similarly as the hedgerow to the west), which maintains the existing buffer between the site and the existing dwellings. The closest dwellings to the southern boundary are identified within the indicative layout as 1½ storey bungalows in order to reduce any potential impacts on the dwellings on Little Moorside and beyond, in order that existing views would not be punctuated by large blank gables albeit existing vegetation screens views over the site in any event.

The thick vegetation which bounds the site to the north largely prevents any views beyond the site in that direction. However, the site is clearly visible from the existing public footpath on the approach from the east across an open field from the open countryside beyond. The proposal includes the provision of a landscape buffer along this boundary (which includes an area of SUDS), which when considering the existing views of Aston from the east would appear in long distance views as an extension of the existing tree planted hedgerows to the north and south of the site and assimilate the site boundary into the existing character of the landscape and the rural edge of the village.

Overall the susceptibility of the site to change is judged to be moderate-low rather than sensitive, with the mitigation identified to the eastern, western, and southern boundaries considered to suitably mitigate the impact of the proposed development on the landscape.

In terms of the proposed design and layout of the site, whilst the application has been submitted in outline with all matters reserved for future approval, the indicative site layout demonstrates how the site could be developed to the quantum proposed. In general, the principles outlined within the Design & Access Statement and the submitted masterplan appear to be well conceived and would result in the provision of a well-designed and laid out development which complies with the detailed requirements of policy H23.

In considering the location of the proposed open space within the site, due to the existence of the existing small enclosed field on the eastern part of the site and the desire to retain the significant majority of the hedging along this boundary within the site, this is considered to be the most appropriate location for the public open space. This location will also result in this area being accessible to both the proposed residents of the site and with wider community of Aston.

In terms of the potential for the layout to facilitate further development beyond the site due to the internal road layout, whilst not material to the determination of this application, any future development would need to be considered on its merits but it

is considered that the area to the north of the site which is formed by a large woodland is sufficient to provide a defensible boundary as would the required area of landscaping along the eastern boundary of the site.

Overall the proposal is considered to maintain the intrinsic qualities of the surrounding landscape and townscape whilst not unduly adversely affecting public aspects of the site. The proposal is considered to be a sensitively designed new development which has been engineered so as to create as little impact as practicable on the countryside.

Highway Safety

Vehicular access to the site is proposed from Manor Farm Road to the east of its junction with Moor Lane to the east of the existing field access in to the site, where the local speed limit is 30mph. Pedestrian access is proposed at the point of the vehicular access and at two additional points along the public footpath which runs to the south of the existing hedgerow beyond the site (Little Moorside) to link in with the existing footpath access to Manor Farm Road and to the east and open countryside beyond.

The site is located at the junction of Moor Lane and Manor Farm Road, where the priority for vehicles approaching the site from Derby Road is along a section of Moor Lane and onto Manor Farm Road past the site. Vehicles pre-submission from the north/south section of Moor Lane are required to give way. Whilst the visibility sightlines at the Moor Lane junction and the proposed junction do overlap, visibility is not considered to be compromised due to the alignment of the existing road. It is considered that a satisfactory means of access can be achieved from Manor Farm Road into the application site.

The TA takes into account the likely trip generation from the proposed development, and predicts that the 42 dwellings proposed would generate 19 vehicular movements in the am peak and 23 in the pm peak with the overall trips predicted to be 155 movements over a 12 hour period (07:00 – 19:00). The proposed development is considered to result in an increase in traffic that would have a minimal impact on the surrounding highway network, particularly given differing destinations for drivers taking into account the existing capacity of junctions in Aston. The development would certainly not result in a significant adverse impact on the local highway network.

The internal roads within the development have not been assessed at this stage as they are only indicative and would be assessed at reserved matters stage. The Highways Authority only need to consider whether suitable vehicular access can be achieved to the site without detriment to highway safety, within the submitted masterplan this is considered to be achievable.

Generally by virtue of the site location close to the services within Aston, a key service village, the site is considered to be a sustainable and accessible location, with services, public transport and education facilities mostly within walking distance.

Given the above and the advice of the County Highway Authority, the proposal is considered to accord with policy INF2 and provisions of the NPPF.

Biodiversity

The site at present is comprised of an arable field, with trees and hedgerows to the site boundaries. An Extended Phase 1 Habitat Survey has been undertaken for the site and surrounding area, which identified that there are no statutory or local sites of nature conservation value which would be affected by the proposed development.

The habitats of note relate to the margins of the fields, the existing hedgerows and trees, all of which are to be retained within the development proposals (save for the loss of a small area of hedgerow to facilitate the site access, which can be adequately compensated for within the site). The proposed mitigation strategy includes native planting along with the ecological enhancements which are considered to result in a small net gain in biodiversity across the site. As recommended by Derbyshire Wildlife Trust a Landscape and Ecological Management Plan would need to be provided for the site to manage the proposed area of open space and the hedgerows. Overall it is considered, subject to the conditions, that the impact of the development on ecology would be acceptable and comply with Policy BNE3 of the Local Plan 2016 and the relevant protected species and habits legislation.

Section 106 contributions

Paragraphs 203 to 205 of the NPPF relate specifically to planning obligations and advise that these should only be sought where they meet all the following tests:

1. Necessary to make the development acceptable in planning terms;
2. Directly related to the development; and
3. Fairly and reasonably related in scale and kind to the development.

In addition the CIL Regulations 2010 places controls on the use of planning obligations for financial contributions to no more than 5 contributions per infrastructure type or project.

Policies INF1, INF6 and H21 expect new residential development to be adequately supported by infrastructure and, where necessary, the impacts mitigated. Whilst additional strain on existing roads and sewers is inevitable with any new housing development, there is no substantive evidence to withhold permission on these grounds.

As detailed above the application includes the provision of 30% affordable housing on site, which accords with the requirements of policy H21 and can be adequately provided via a condition. Education and healthcare capacity is of concern and for this reason contributions to mitigate the impact are sought by the County, City and the CCG. Furthermore the proposal would have impacts on existing built and outdoor sports facilities off-site.

The provision of 0.24 ha of public open space (POS) within the site is considered to an appropriate level of incidental on-site provision in terms of quantity. Due to the location of the POS close to existing residents the provision of a formal equipped play area is not deemed appropriate so this area is proposed as an informal area of

POS. In the first instance the Council would not wish to adopt the POS or the proposed area of SUDS. However in the event that a management company was not prepared to take on the POS or SUDS then a suitable commuted sum would be required for each element, and an appropriately worded schedule within a Section 106 Agreement. In terms of the formal outdoor sports and built facilities requirements, improvements to the outdoor recreation facilities at the Aston Recreation Ground and the existing pavilion/community building have been requested. The contributions would be as follows:

- £220.00 per person for outdoor sports facilities; and
- £122.80 per person for built facilities.

The County and City Education Authorities require contributions for education provision in order for local schools to be able to accommodate the projected increase in pupil numbers as a result of the development:

- £91,192.08 towards the provision of 8 primary places, which would be achieved through the internal remodelling of the school to create and add additional classroom space at Aston on Trent Primary School; and
- £158,940.72 towards the provision of 6 secondary school places and 3 post-16 places at Chellaston Academy, which would be directed towards a scheme of works to accommodate additional pupils.

The CCG considers that whilst a number of GP practices are likely to be affected by the development, the most likely to be affected is the Alvaston Medical Centre. As such a contribution of £15,977 is considered to be necessary in order to facilitate an extension and improvements to the centre to provide an additional 2 clinical/treatment rooms.

All the above sums have been reviewed against existing committed sums from other developments, and are compliant with the CIL Regulations.

Other Issues

Drainage - the application site is located within Flood Zone 1 and thus at a low risk of flooding. The submitted FRA for this site indicates that infiltration tanks would be a suitable means of disposing of surface water to the proposed SUDS area to the east of the site up to the 1 in 30 year design storm. However, the existing layout appears to have realistic provision for above ground storage it is considered appropriate as part of the site design that the applicant demonstrates why all surface water cannot be stored at the surface. The FRA identifies that for events exceeding the 1 in 30 year design storm, the additional water would be discharged into the existing ditch to the north of the site at greenfield rates, with excess flows would back up into attenuation basins, via swales and gravel trenches. The LLFA has no objections subject to a detailed design being submitted and approved at the detailed reserved matters stage or conditioned.

Residential amenity – as only an indicative layout has been provided and no specific details in terms of the house designs are known at this stage, a further assessment of potential overshadowing, overbearing, overlooking and loss of privacy would need to be undertaken at the reserved matters stage. However the indicative masterplan

indicates sufficient separation and buffers to the nearby dwellings which surround the site including those on Little Moorside to the south. Indeed the masterplan indicates the provision of bungalows (1.5 storey dwellings) for the dwellings closest to the southern boundary of the site.

Archaeology and heritage – in terms of the potential below ground archaeological remains on the site, the evaluation submitted in support of the application and the response received from the Development Control Archaeologist; it appears feasible to address further investigation, recording and (if necessary) preservation on-site by way of condition.

Loss of agricultural land - the site contains soils which classify the site as being 'Best and Most Versatile' (BMV) agricultural land. Policy BNE4 of the LP1 and paragraph 112 of the NPPF seek to protect such quality agricultural land, and wherever possible direct development to areas of lower/poorer quality land. As a Key Service Village identified for growth, there is likely to be some loss of BMV around the village as the agricultural land surrounding the village is all BMV. Although development of the site would result in the loss of BMV agricultural land, it is a relatively small site which is constrained by its parcel shape. As such, its loss is unlikely to harm the rural economy; however, the loss of this land weighs against the environmental sustainability of the proposal but not to a significant degree that would outweigh the general conclusions that the site is sustainable in overall terms.

Conclusion

The application seeks outline consent for the erection of 42 dwellings, which is considered to be acceptable in principle taking into account the provisions of the LP1 and the sites allocation within the pre-submission LP2. The pre-submission LP2 (including the evidence that supports the allocation of the site and the adopted LP1) is considered to be the most up to date policy basis on which to judge the application and under the provisions of the NPPF as advised at paragraphs 215 and 216 it is considered that Policy H23A of the pre-submission Local Plan can be afforded significant weight in the decision making process and in principle the development of the site is considered to be acceptable.

Overall the proposal is considered to maintain the intrinsic qualities of the surrounding landscape and townscape whilst not adversely affecting public aspects of the site, and the proposal is considered to be a sensitively designed new development which has been designed and located so as to create as little impact as practicable on the countryside and as such is considered to be acceptable.

The surrounding highway network is considered to have sufficient capacity to accommodate the proposed development, suitable visibility splays are achievable and subject to suitably designed internal roads and parking provision the proposal is not considered to have any significant detrimental impacts on the safe and efficient operation of the immediate and local highway network.

The site has been the subject of detailed ecological and archaeological surveys, and a Flood Risk Assessment which consider the development of the site to be acceptable (subject to conditions) so as to comply with the relevant guidance,

habitats and protected species legislation, and to ensure that suitable drainage of the site can be provided.

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 the Committee delegates authority to the Planning Services Manager to conclude the Section 106 Agreement/Unilateral Undertaking in pursuit of the provisions and contributions as set out in the planning assessment above;

B. Subject to A, **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 and shall include a phasing plan for approval.

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.

2. Approval of the details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for the development shall be obtained from the Local Planning Authority in writing before any development is commenced. Plans and particulars of the reserved matters shall be submitted in writing to the Local Planning Authority and the development shall be carried out as approved.

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

3. The reserved matters submitted in accordance with condition 2 and details submitted in accordance with any other condition of this planning permission shall accord with the principles outlined in the Design and Access Statement and the amended Indicative Layout Plan drawing number 171/003 Revision C.

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

4. a) No development in a phase shall take place until a Written Scheme of Investigation for archaeological work for that phase has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and

(i) The programme and methodology of site investigation and recording

(ii) The programme for post investigation assessment

- (iii) Provision for analysis of the site investigation and recording
- (iv) Provision for publication and dissemination of the analysis and records of the site investigation
- (v) Provision for archive deposition of the analysis and records of the site investigation
- (vi) Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation.

c) Unless otherwise agreed in writing by the Local Planning Authority, no part of the relevant phase shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure that archaeological interests at the site are suitably addressed.

5. No construction of a dwelling shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- i. no less than 30% of housing (13 dwellings) shall be Affordable of which 68% (9 dwellings) shall be social rented and/or affordable rented and 32% (4 dwellings) shall be intermediate housing; 'pepper-potted' across the whole site in clusters comprising of no more than 10 affordable homes, with a cluster including no more than 6 flats;
 - ii. no more than 80% of Market Housing units shall be occupied before completion and transfer of the Affordable Housing Units;
 - iii. the arrangements for the transfer of the Affordable Housing Units to an Affordable Housing Provider;
 - iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing to those households on the District Housing Waiting List; and
 - v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing by means of the District Choice Based Lettings allocation scheme or in such other form as may be proposed by the Local Authority and agreed with the Affordable Housing Provider.

The affordable housing shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it.

Reason: To ensure the provision of affordable housing within the mix of housing delivered, pursuant to the Development Plan.

6. No site clearance works or development shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme

showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS 5837:2012.

The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
- (ii) No material or plant shall be stored;
- (iii) No buildings or temporary buildings shall be erected or stationed;
- (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- (v) No drain runs or other trenches shall be dug or otherwise created; without the prior written consent of the Local Planning Authority.

Reason: To ensure adequate protection measures are in place in the interests of the character of the area.

7. A landscape and ecological management plan (LEMP), based on Section 4.3 of the July 2016 Prime Environment Ecology Report, shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development. The content of the LEMP shall include the following.
- a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
 - g) Details of the body or organization responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan would be secured by the developer with the management body responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action would be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

Reason: To ensure that ecological interests are protected and enhanced in accordance with paragraph 118 of the National Planning Policy Framework. This needs to be made clear before commencing to ensure that all stages of development are considered.

8. No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority that specifies the provision to be made for dust mitigation measures and the control of noise emanating from the site during the period of construction. The approved measures shall be implemented throughout the construction period.
Reason: To protect the amenity of residents.
10. No generators or pumps to be used on site without prior written permission from the Local Planning Authority, and there shall be no burning on site.
Reason: In the interest of protecting the amenity of nearby residents.
11. During the period of construction, there shall be no deliveries, and no plant or machinery shall be used outside the following times: 0800 - 1800 hours Monday to Friday and 0800 - 1300 hours on Saturdays and at no time on Sundays, Bank and Public Holidays.
Reason: To protect the amenity of residents.
12. 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.
Reason: In the interests of highway safety.
13. No development shall be commenced on site until a temporary access into the site to for construction purposes has been provided, laid out in accordance with a detailed design to be included at Reserved Matters stage. The access shall have a minimum width of 6m, 10m radii, constructed to base level and be provided with visibility sightlines of 2.4m x 43m 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.
Reason: In the interests of highway safety.
14. The internal layout of the site shall accord with the Highway Authority's Policy Document "6C's Design Guide" and national guidance laid out in Manual for Streets.
Reason: In the interests of highway safety.
15. Any reserved matters application shall be accompanied by a swept path analysis to demonstrate that service and emergency vehicles can successfully enter and manoeuvre within the phase to which it relates.
Reason: In the interests of highway safety.
16. Prior to the first occupation of any dwelling on the site, the new access shall be laid out in accordance with a detailed design submitted at Reserved Matters stage, 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, 8m

radii and visibility splays of 2.4m x 43m 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.

Reason: In the interests of highway safety.

17. Prior to the first occupation of any dwelling on the site, the Manor Farm Road footway fronting the site shall be widened to 2m and extended round the radius of the junction into Moor Lane, laid out and constructed, drained and lit to Derbyshire County Council's specifications for adoptable roads.

Reason: In the interests of highway safety.

18. 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 to conform to the County Council's Design Guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

19. No development shall take place until 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, 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 the use of the building commencing.

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 to the LPA in advance of full planning consent being granted.

20. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority to demonstrate that the proposed destination for surface water accords with the hierarchy in Approved Document Part H of the Building Regulations 2000.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.

21. No development shall take place until a reasonable assessment is undertaken of the existing ordinary watercourse within the curtilage of the developable zone, identified to be the point of surface water drainage discharge.

Reason: To ensure the proposed surface water runoff can be appropriately discharged from the site.

22. No part of the development shall take place until details of the proposed means of disposal of foul sewage have been submitted to and approved in writing by the Local Planning Authority. All foul water shall be directed into the main foul sewerage system. The development shall be carried out in accordance with the approved details.

Reason: To ensure that adequate drainage facilities are provided.

23. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, suggesting amendments to improve the quality of the proposal through meetings and negotiations. 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 application site is affected by three Public Rights of Way (Footpaths 4, 5 and 10 as shown on the Derbyshire Definitive Map). The routes of the footpaths must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after works take place. Further advice can be obtained by calling 01629 533190 and asking for the Rights of Way Duty Officer.

Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.

If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a diversion order.

Any development insofar as it would permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.

To avoid delays, where there is reasonable expectation that planning permission would be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission.

3. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water would seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

4. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

5. The applicant is advised to note that the application site is located an area known to have sand and gravel below the surface, and may wish to investigate the quality and quantity of the resource.

6. In order to discharge the drainage conditions the applicant should ensure all of the below parameters have been satisfied:

a. The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:

Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it would not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.

Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.

Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.

Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.

Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9. Where reasonable practicable demonstrate that the runoff volume of the site reflects the requirements of S4.

b. Information to indicate that the surface water can, in principle, be disposed of sustainably in compliance with Approved Document H of the Building Regulations 2000. In particular, the following information should be provided to the Local Planning Authority for review:

Soakaway/ground investigation conducted in compliance BRE Digest 365 methodology or similar submitted to demonstrate the feasibility of infiltration alone to manage surface water on the site.

If infiltration is found not to be feasible, an alternative option for surface water disposal should be proposed. In order of preference this should be to:

i. an adjacent watercourse with detailed evidence of the feasibility of this option

given the existing site constraints,

ii. a surface water public sewer, with appropriate evidence that the relevant Water

and Sewerage Company deems this acceptable, or

iii. a combined public sewer, with appropriate evidence that the relevant Water and

Sewerage Company deems this acceptable.

c. A survey of the watercourse that passes within the applicant's landownership should be undertaken and submitted to the Local Planning Authority. The survey shall be carried out by a suitably qualified Engineer and shall assess the impact of the proposed development on the condition and integrity of the watercourse. The survey shall make recommendations to demonstrate the integrity of the watercourse shall be maintained for the lifetime of the development. All recommendations made by the survey shall be fully implemented.

7. Any works in or nearby to an ordinary watercourse require consent under the Land Drainage Act (1991) from the County Council (e.g. an outfall that encroaches into the profile of the watercourse, etc) to make an application for any works please contact Flood.Team@derbyshire.gov.uk.

8. The applicant should ensure there is a sufficient buffer strip in place arounds the SUDS which would allow for efficient maintenance to take place. An easement of approximately 3m if any linear feature is less than 2m in width and 4.5m for linear features over 2m in width is recommended. Whilst this is not stipulated within any legal byelaw the County Council would recommend these distances in order to safeguard access for essential maintenance and inspection purposes.

Item 1.4

Ref. No. 9/2016/0507/U

Applicant:
The Wethercentre
J D Wetherspoons Plc
Reeds Crescent
Watford
WD24 4QL

Agent:
Keith Paine
K D Paine & Associates Ltd
Adur Business Centre
Little High Street
Shoreham By Sea
BN43 5EG

Proposal: PROPOSED PAVEMENT CAFE TO THE FRONT OF THE BUILDING
CONSISTING OF FOUR TABLES AND EIGHT CHAIRS AT SIR
NIGEL GRESLEY MARKET STREET SWADLINCOTE

Ward: SWADLINCOTE

Valid Date 11/10/2016

Reason for committee determination

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

Site Description

The Sir Nigel Gresley Public House is located on the Delph in Swadlincote town centre and is adjacent to the Town Hall.

Proposal

Consent is sought for the creation of an external seating area on the public footpath comprising screens with four tables and eight chairs outside the existing conservatory area. This would therefore, increase and extend the existing outdoor seating area that is currently used to the front of the premises.

Applicant's supporting information

Design and Access Statement

The Design and Access Statement confirms that the proposal relates to the erection of screens with four tables and eight chairs on the pavement area outside the existing conservatory building. The existing scale and character of the building would

remain unchanged. The proposed screens would have demountable stainless steel supports, detachable fabric screens, of which the colour is yet to be chosen.

Planning History

9/2007/0420 – The formation of a pavement café seating area to the front of the building, to include freestanding demountable screens and removable furniture – temporary permission – 10/07/2007

9/2008/0856 – The change of use to seating area of land to the frontage of the Sir Nigel Gresley – temporary permission – 09/12/2008

9/2010/0111 – The change of use to seating area of the land to the frontage of Sir Nigel Gresley (permanent) – Approved with conditions – 29/07/2010

Responses to Consultations

The Environmental Health Officer has no comments to make.

The Contaminated Land Officer has no comments to make.

The Crime Prevention Officer (Derbyshire Police) notes that whilst he has no objections in principle to street cafes, there has been some concern expressed regarding this site as it is within an area frequented by street drinkers, so there is a potential for misuse of the proposal, also nuisance to users. Being sited so close to the public highway, on a corner plot where sight lines are limited thus limiting the effective management of the area, the adequate separation of licenced and open public areas would be difficult. He considers that the proposed demountable screens offer more demarcation than significant boundary. It is expected that subsequent to any planning approval, applications for a street café licence and also premises licence variation under the Licensing Act would follow. It would therefore, be appropriate and practical to set a general condition requiring the applicants to provide risk commensurate crime deterrent measures in consultation with the statutory bodies who would be involved in subsequent matters.

The County Highways Authority notes that the site has been subject to two previous similar applications (9/2008/0856 & 9/2010/0111), of which the same comments still apply. There are no objections to the application. However, the applicant is reminded that they will need to apply to the County Highways Department for a Pavement Café License.

The Council's Licensing Department has raised concerns over this proposed extension to the outside street pavement café to the front of the Sir Nigel Gresley with regards to public safety, health & safety and crime & disorder:

- The positioning of the stone blocks/bollards on The Delph coupled with the positioning of the four tables and eight chairs including barriers to denote the street pavement café would reduce considerably the thoroughfare at this particular busy and well used pedestrian walkway. Narrowing it any further would lead to a pinch point causing problems for parents with pushchairs, wheel-chair users and pedestrians in general.

- These tables and chairs are to be positioned adjacent to, in very close proximity to and covering the following;
 - There are two outside down-spout drainpipes with drains positioned below them. One comes down from the orangery adjacent to the building line and the other comes down from the main roof adjacent to the building line of the main premises. These are situated directly adjacent to where it is proposed to position three tables and six chairs.
 - The tables will be blocking the two air ventilation blocks for the orangery.
 - The proposed street café is also positioned adjacent to the fire exit doors for the orangery, with the fire doors opening out straight onto and towards the tables and chairs.
 - There is a slight gradient at this point which leads down from the road to the proposed street café.
 - The proposed street café would extend beyond the main building line of the premises if barriers are incorporated.
- Members of the public already utilise the blocks to sit on and converse with one another at this particular point and to add these tables and chairs at these points is going to add to the bottleneck leading to a public safety issue where pedestrians would then either push through or enter the vehicular road way to get past.
- Recently there has been an increase in Anti-Social Behaviour in the area, in particular a group of street drinkers. Therefore if the street drinkers start congregating at this particular point/area in order to converse with patrons from the pub utilising the street café area there may be an increase in the calls for Anti-Social Behaviour intervention coupled with a fear factor amongst members of the public when they see large groups congregating.
- The present street café, adjacent to the front entrance/exit, does not have any other street furniture nearby which therefore enables the staff from the premises to control/police this area. Similar control/police this new area in the same manner would not be possible.
- The impression of Swadlincote that is being set for visitors and residents alike.

The Coal Authority has no objections as the development is exempt from needing a Coal Mining Risk Assessment.

Responses to Publicity

Councillor Sandra Wyatt has raised concerns that the proposal would further encourage people to sit with alcohol from early morning till late at night.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development, S6 (Sustainable Access), S7 (Retail), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy), BNE1 (Design Excellence), BNE2 (Heritage), BNE4 (Landscape Character and

Local Distinctiveness), INF2 (Sustainable Transport) and INF6 (Community Facilities).

- 1998 Local Plan (saved policies): EV12 (Conservation Areas) and S1 (Existing Shopping Centres).

Emerging Development Plan Policies

The relevant policies are:

- Pre-Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE9 (Advertisements and Visual Pollution), BNE10 (Heritage) and RTL1 (Swadlincote Town Centre).

National Guidance

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 32-34, chapter 7 (Requiring good design) and paragraphs 128-137 (Conserving and Enhancing the Historic Environment).
- National Planning Practice Guidance (NPPG) ID26 (Design)

Local Guidance

- Swadlincote Conservation Area Character Statement
- Display of Advertisements SPG
- Swadlincote Townscape Heritage Scheme Conservation Area Management Plan and Article 4 Direction

Planning Considerations

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

- Appearance of the screens and chairs.
- Highways concerns
- Issues of potential anti-social behaviour
- Nature of the proposed use
- Other items

Planning Assessment

Appearance of the screens and chairs

The creation of seating to the front of the building has historically been supported in terms of the proposed appearance of the frontage and the incorporation of seating into the public realm in the town centre. There has been no objections raised by the Conservation Consultant and the additional seating area would not result in unnecessary clutter amongst the street scene (maintaining a 2.3m gap between the seating area and the shared space) or a harmful visual impact within the Conservation Area. The proposed seating area would sit forward of the conservatory building line but it would not fall forward of the main building line. On the basis of

this, the proposal would therefore comply with policies BNE1, BNE2 and BNE4 of the Local Plan and policies BNE9, BNE10 and RTL1 of the Pre-Submission Local Plan.

Highways concerns

Concerns have been raised regarding a “pinch point” due to the positioning of the seating area. Whilst the positioning of the proposed seating area would create a narrowing effect of the available space for pedestrians, this would result in the narrowest area of pavement being 2.3m in width which would still remain wide enough for the safe and suitable access of double pushchairs, wheelchairs and mobility scooters to pass the site and would not result in a disadvantage to pedestrian users. The pavement is also located adjacent to a shared space, with the vehicle movement on the carriageway being subordinate to pedestrian movement. The standard width of a footway is generally 1.8m in width, of which, this could serve as the footway adjacent to a classified road. On the basis that the proposal would result in the narrowest point of the footway being 0.5m wider than a standard footway and would be adjacent to a shared space. As such it would appear that a technical case on highway safety grounds would be difficult to sustain especially given the lack of objection from the County Highways Authority.

Issues of potential anti-social behaviour

Consent was previously granted under planning application 9/2007/0420 for the erection of outdoor seating across the whole frontage of the building on a temporary basis (including the area currently proposed). Whilst this consent was not implemented, approval was further granted in 2008 for outdoor seating across the front of the property under planning permission 9/2008/0856, these works were later given full permission under planning application 9/2010/0111 and are currently used today. On the basis of this, it would seem that the principle of the development has already been established as being suitable and there has been no objection raised by either County Highways or Crime Prevention that have altered the situation since these earlier dates.

Concerns have been raised regarding a likely increase in the level of anti-social behaviour that could be experienced, as the area already experiences instances of outdoor drinkers and there are concerns that this issue would be exacerbated further by the development and that it would be located at a pinch point on the highway. However, there have been no objections raised by the Crime Prevention Officer with regard to the application, subject to a condition to be added where the applicant must provide risk commensurate crime deterrent measures (such as CCTV) in consultation with the statutory bodies who would be involved. On the basis that the Crime Prevention Officer has not objected to the application, it would not appear possible to sustain a refusal against this expert advice on the likelihood of anti-social behaviour.

Nature of the proposed use

If planning permission were to be granted for the erection of the tables and chairs on this site, it would be subject to a Pavement Café License being granted by Derbyshire County Council and subject to a change in the license of the existing premises.

Historically, all of the new areas of proposed seating that have been approved at the Sir Nigel Gresley Public House have always been granted on a temporary basis for up to a year to assess their impact. Both applications 9/2007/0420 and 9/2008/0856 were granted for a period of one year. Planning application 9/2010/0111 was granted permanently for a smaller area of seating after planning application 9/2008/0856 had been implemented and monitored. On the basis of this, historically, all new outdoor seating areas have been approved for an initial temporary period to assess their impact before permanent permission being granted. It would seem reasonable for the same condition to be attached to this application to enable a monitoring period to take place.

Other items

In addition, it has been noted that the proposed seating area would be positioned adjacent to the existing conservatory's air conditioning vents and downpipes. Whilst the applicant may wish to amend this seating area in the future if this inconveniences customers, it would not be possible to withhold permission on these grounds.

Conclusion

On the basis that there have been no objections raised by the County Highways Officer or the Crime Prevention officer, and that this is in combination with the historic approvals of the use of outdoor seating previously being granted at this location in 2007, 2008 and 2010, it would seem that the principle has previously been established would make it very difficult to withhold permission on these grounds.

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. This permission shall be for a limited period only, expiring on 31 January 2018 on or before which date the use shall be discontinued and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period.

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. This permission shall relate solely to the plans and details submitted with the application; Plan/drawings PLO2 and PL03a unless as otherwise required by condition attached to the permission and unless as may otherwise be agreed in writing with the Local Planning Authority.

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

3. Notwithstanding the submitted details, the screening shall not be erected until a detailed specification of the screens has been submitted to and approved in writing by the Local Planning Authority. The screens shall be installed in accordance with the agreed details.

Reason: To ensure the design and materials are appropriate to the Conservation Area.

4. Notwithstanding the submitted plans, prior to the first use of the development, details of a scheme for the installation of CCTV cameras to cover the area hereby permitted and a method statement detailing risk commensurate crime deterrent measures shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented prior to the first use of the area hereby permitted and retained in place.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions.

5. All furniture, screens and any other equipment associated with the permitted outdoor seating area that forms the basis of this application shall be removed from the street and shall be stored within the building between 0700 and 1700 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of the public amenity and to reduce instances of anti-social behaviour. To ensure that the use is consistent in nature with the existing outdoor seating area.

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 issues 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. It is necessary for the applicant to obtain the appropriate Pavement Café Licence from Derbyshire County Council(ETEnetmanadmin@derbyshire.gov.uk), and a change to the premises licence from the District Council.

Item 1.5

Ref. No. 9/2016/0545/FM

Applicant:
Mrs Judy Wooley
The Old Forge
Heath Top
Church Broughton
Derby
DE65 5AY

Agent:
Mr Eric Lee
The Stables
Robinsons Hill
Melbourne
Derby
DE73 8DJ

Proposal: THE ERECTION OF TWO DWELLINGS AT THE FORGE BOGGY LANE HEATHTOP DERBY

Ward: HILTON

Valid Date 24/06/2016

Reason for committee determination

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

Site Description

The site is located to the south of Church Broughton in a small linear group of dwellings known as Heathtop on Boggy Lane. It is within the existing curtilage of the property The Forge which faces onto Woodhouse Lane. The land is to the north east of the existing property and it is gravelled, enclosed by fencing and there are existing stables in the north western corner and garage to the south west.

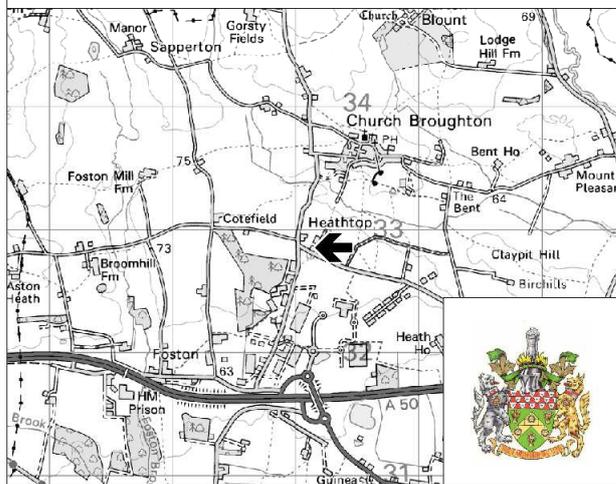
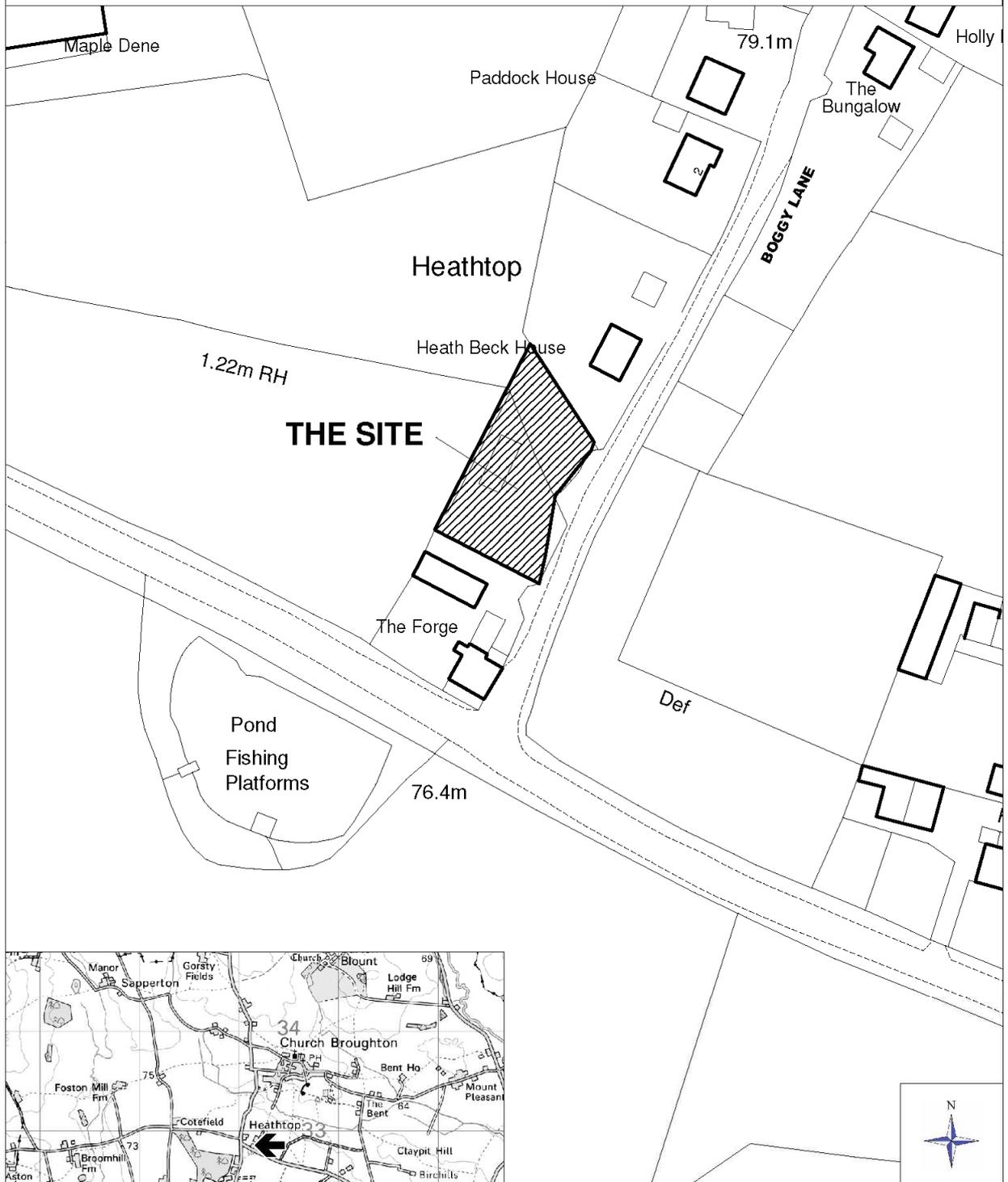
Proposal

Planning permission is sought for two detached dwellings that would face onto Boggy Lane. Two storey 4 bedroomed properties are proposed utilising the roof space and including an integral garage. Each property would have one external parking space. The dwellings would have gabled roofs with a gable feature on the frontage and includes traditional detailing such as stone kneelers, copings and chimneys. Generous garden areas are included in the plots.

Applicants' supporting information

None

9/2016/0545 - The Forge, Bogy Lane, Heathtop, Derby DE65 5AR



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Planning History

9/2008/0828 – Outline application (all matters reserved except for access) for a detached bungalow, Refused 13/10/08

9/2005/1140 - The erection of an extension and a conservatory, Granted 1/12/05

Responses to Consultations

Foston and Scropton Parish Council are concerned that the 3 storey dwellings would not be in keeping with a rural scheme.

Church Broughton Parish Council state that any approval should ensure the height of properties do not exceed existing properties, it should be for residential only and not industrial/ farming uses and no vehicles should park on Boggy Lane as it is narrow.

The Highway Authority has no objection in principle, as given the nature of Boggy Lane and the surrounding roads, all of which are of limited width with no footways it is likely that vehicle speeds are relatively low. The adopted public highway should be taken out of the red line. Conditions are recommended in respect of the access visibility, parking and restrictions on the use of the garages.

The Council's Contaminated Land Officer recommends a ground gas prevention condition.

The Minerals Authority has confirmed that the proposal would not adversely impact the minerals safeguarding interest.

Responses to Publicity

Six letters of objection have been received raising the following concerns/points:

- a. The proposed houses are too tall and out of keeping.
- b. The houses would be overbearing and would affect the privacy of neighbouring properties.
- c. The proposed passing bay is grass verge is owned by the Council and would encourage parking of vehicles.
- d. The 3 storey dwellings are too close to each other.
- e. The windows in the northern side of Plot 2 would overlook into the rear of the adjacent property and garden area.
- f. The heights of neighbouring properties are lower than the proposed dwellings.
- g. Highway land at the site frontage is outside the control of the applicant.
- h. The bus stop is not located where it is shown on google maps and is further away.
- i. The site is not in a sustainable location with future residents reliant on cars.
- j. Stonework is not in keeping with the area as existing properties are red brick or render.
- k. A section is required to justify that a bedroom can be achieved in the attic space.
- l. A restriction on the ridge height should be placed on any permission.
- m. The proposed tarmac passing bay would destroy the 'country lane' appearance and character of the lane.

- n. An additional area of land to the north west is also owned by the applicant but is not within the blue line.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy)
S2 (Presumption in Favour of Sustainable Development)
S4 (Housing Strategy)
H1 (Settlement Hierarchy)
SD1 (Amenity and Environmental Quality)
BNE1 (Design Excellence)
BNE4 (Landscape Character and Local Distinctiveness)
INF2 (Sustainable Transport)
- 1998 Local Plan (saved policies): H8 (Housing Development in the Countryside)
EV1 (Development in the Countryside)
EV9 (Protection of trees and woodland)

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: SDT1 (Settlement Boundaries and Development)
BNE 5 (Development in the Countryside)
BNE7 (Trees, Woodland and Hedgerows)

National Guidance

- National Planning Policy Framework (NPPF) 7, 11, 14, 17, 32, 49, 55, 56, 58, 121
- National Planning Policy Guidance (NPPG) 26, 50

Local Guidance

- SPG Housing design and Layout

Planning Considerations

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

- Principle of Development
- Residential Amenity and Impact on the character of the area
- Highways Issues
- Planning Balance

Planning Assessment

Saved Local Plan Policy H8 states that outside settlements new housing development will be permitted provided that it is necessary to the operation of an established, viable, long term rural based activity; a countryside location is necessary; it is well related to existing farm buildings and the size of the dwellings is commensurate with the functional requirement of the activity.

In the refusal in 2008, the site was assessed in relation to Housing Policy 8 alone as Heathtop was not considered to be a rural settlement as referred to in Housing Policy 6 where infilling was acceptable. It was thus classed as countryside whereby there was no principle for the bungalow proposed. The policy basis has changed since this decision and as such the adopted policy and emerging policy below now apply.

Local Plan Policy H1 defines the settlement hierarchy and the site would be classed as within a rural area where only development of limited infill and conversions of existing buildings would be acceptable.

Emerging Local Plan Policies SDT1 relates to settlement boundaries and states that outside settlement boundaries land will be considered as countryside and BNE5 development in the countryside reiterates this. Section A of this policy states that planning permission will be granted in the countryside where the development is *'considered to be infill that is in keeping with the character of the locality and represents the infilling of a small gap for not normally more than two dwellings, within small groups of housing'*.

The proposal is infilling a gap between existing properties for two dwellings which complies with Local Plan Policy H1 and the Emerging Policy BNE5 and is thus considered acceptable in principle.

Residential Amenity and Impact on the Character of the Area

Local Plan Policy BNE1 relates to design excellence and outlines specific criteria that are required when designing new developments. Criterion e), g) and h) are relevant to this proposal and require developments to: create places with a locally inspired character that respond to their context, be visually attractive and respect important landscape, townscape and historic views and vistas and should not have an undue adverse effect on the privacy and amenity of existing nearby occupiers.

NPPF paragraph 58 requires that developments: function well and add to the overall quality of the area over the lifetime of the development, establish a strong sense of place, optimise the potential incorporating green spaces, respond to local character and reflect the identity of local surroundings, create safe and accessible environments and are visually attractive.

Local Plan Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers. NPPF paragraph 17 requires a good standard of amenity for all existing and future occupants.

The neighbouring property to the north east is a two storey property which has two non-habitable windows on the gable end adjacent to this boundary. An existing 1.5m hedge encloses the property's garden and there are some 8m high trees providing screening. The side gable of plot 2 would be adjacent to this property albeit set back 5.8m further back from the road than the neighbouring property. Bedroom windows were originally proposed on the end gables of the proposed properties serving the master bedroom within the roofspace, with one on the north eastern elevation on the second storey. These represented an overlooking concern and amended plans have been received which have removed these windows. Thus a secondary dining room window on the ground floor and bathroom above are proposed on the north eastern elevation, which are not considered to cause a significant amenity impact in relation to this property.

The Forge to the south west is within the same ownership as the application site. The end gable of Plot 1 would be 6.5m from this property's garage and 19.5m from the conservatory to the rear which is considered an acceptable relationship. The proposal is therefore considered to accord with Local Plan Policies BNE1, SD1, NPPF paragraph 17 and the space standards within the SPG.

In relation to character, the proposed dwellings are considered to be a sufficiently high quality design with traditional features. Their scale and mass is considered to be in keeping with the character of this part of Boggy Lane which is two storey properties in sizeable plots of differing designs set back from the road frontage. The proposal is considered to respond to its context in line with Local Plan Policy BNE1 and NPPF paragraph 58.

There are mature trees to the west of the site which are a sufficient distance away not to be a constraint to development, however, there are some trees within the garden area of the neighbouring property which would require assessment of RPAs prior to any building works to avoid any damage and this can be a condition of any permission.

Highways Issues

Local Plan Policy INF2 states that planning permission will be granted for development where travel generated by development should have no undue detrimental impact upon local amenity, the environment, highway safety and the efficiency of the transport infrastructure and availability of public transport services. It requires that appropriate provision is made for safe and convenient access to and within the development and car travel generated is minimised. NPPF paragraph 32 requires that safe and suitable access to the site can be achieved for all people.

The original red line location plan has been amended to take into account the land on the frontage of Boggy Lane which is adopted public highway. The red line now abuts the public highway and indicates one external parking space per dwelling (in addition to the garage spaces proposed) and as such the Highway Authority has no objection subject to conditions. A local bus route 229 has a stop opposite to the Boggy Lane junction with Woodhouse Lane which links the site to Church Broughton, Scropton, Hatton, Hilton and Etwall and thus the site is accessible by another means of transport.

The Planning Balance

In consideration of the three dimensions of sustainable development outlined in paragraph 7 of the NPPF, in terms of the economic and social role, the proposal would provide two dwellings that would contribute to housing supply and provide construction jobs in the area. The site would also generate Council tax and New Homes Bonus. Heathtop is in a rural area, however, the application site is located close to a bus stop with a bus route into Church Broughton, Scropton, Hatton, Hilton and Etwall and thus some accessibility credentials as residents would not be solely reliant on the private car. The proposal would to some degree maintain the vitality of the rural community through supporting local services. The benefits of the scheme set out above, including the provision of housing to boost the supply in accordance with the Framework, must be afforded some weight in favour of the proposal. The sympathetic traditional design and scale is considered to be in context with the character of the area and there are no significant adverse impacts on neighbouring properties. The proposal is thus considered to constitute sustainable development in terms of the three strands set out in the Framework.

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. 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 amended Location Plan received on the 20th October 2016, revised site plan 3 received on the 4th November 2016, amended drawing 1 floorplans received on the 20th December 2016 and amended drawing 2 received on the 20th December 2016; 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 and in the interests of sustainable development.
3. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
Reason: In the interests of flood protecting and pollution control.

4. Before any works involving the construction of any dwelling commences 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 dwellings 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.

5. No development shall take place until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority (LPA). Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, section 3,1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the LPA prior to the occupation of the development hereby permitted.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it.

6. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), prior to the erection of boundary treatments plans indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

7. Before any works involving the construction of any dwelling, the existing vehicular access to Boggy Lane shall be modified in accordance with the amended site plan received on the 4th November 2016, and provided with visibility sightlines extending from a point 2.4m metres from the carriageway edge, measured along the centreline of the access to the extremities of the site frontage abutting the Boggy Lane highway in each direction. The land in advance of the visibility sightlines shall be retained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

8. Prior to the occupation of any dwelling the space shall be laid out within the site in accordance with the revised site plan received on the 4th November 2016 for one external car parking space per dwelling.

Reason: In the interests of highway safety.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument

amending, revoking and/or replacing that Order; the dwellings hereby permitted shall not be altered, enlarged or extended without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, the site area and effect upon neighbouring properties and/or the street scene.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the garage accommodation/parking space to be provided in connection with the development shall not be used other than for the above stated purpose except with the prior permission of the Local Planning Authority granted on an application made in that regard.

Reason: To ensure that adequate parking/garaging provision is available.

11. Before any works involving the construction of any dwelling commences a scheme of landscaping shall be submitted to and approved by the Local Planning Authority, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area and recognising the Council's opinion that this element of the development could lead to unacceptable impacts even at the initial stages of works on site.

Informatives:

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 12 weeks prior notification should be given to the Environmental Services Department of Derbyshire County Council before any works commence on the vehicular access within highway limits; please contact 01629 538537 for further information.

2. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal. 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.

3. 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.

4. For assistance in complying with planning condition 4 and other legal requirements applicants should consult "Developing Land within Derbyshire - Guidance on submitting applications for land that may be contaminated". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.southderbys.gov.uk/environment/pollution/contaminated_land/defa

ult.asp. The administration of this application may be expedited if completion or verification evidence is also submitted to the Environmental Protection Officer (Contaminated Land) in the Environmental Health Department: thomas.gunton@south-derbys.gov.uk.

Further guidance can be obtained from the following:

- CIRIA C665: Assessing the risks posed by hazardous ground gases into buildings
- CLR 11: Model Procedures for the Management of Contaminated Land.
- CLR guidance notes on Soil Guideline Values, DEFRA and EA.
- Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
- Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
- Guidance for the Safe Development of Housing on Land Affected by Contamination Environment Agency. ISBN 0113101775.
- BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).

Item **1.6**

Ref. No. **9/2016/1073/FM**

Applicant:
Mr A. Hall
Gravelly Bank Farm
Rodsley Lane
Yeaveley
Derby
DE6 2DT

Agent:
Mr Rob Duckworth
JVH Town Planning Consultants Ltd
Houndhill Court
Houndhill
Marchington
ST14 8LN

Proposal: **THE ERECTION OF A DETACHED DWELLING AT LAND TO THE REAR OF FIELDGATE HOUSE MARLPIT LANE SUTTON ON THE HILL DERBY**

Ward: **HILTON**

Valid Date **19/10/2016**

Reason for committee determination

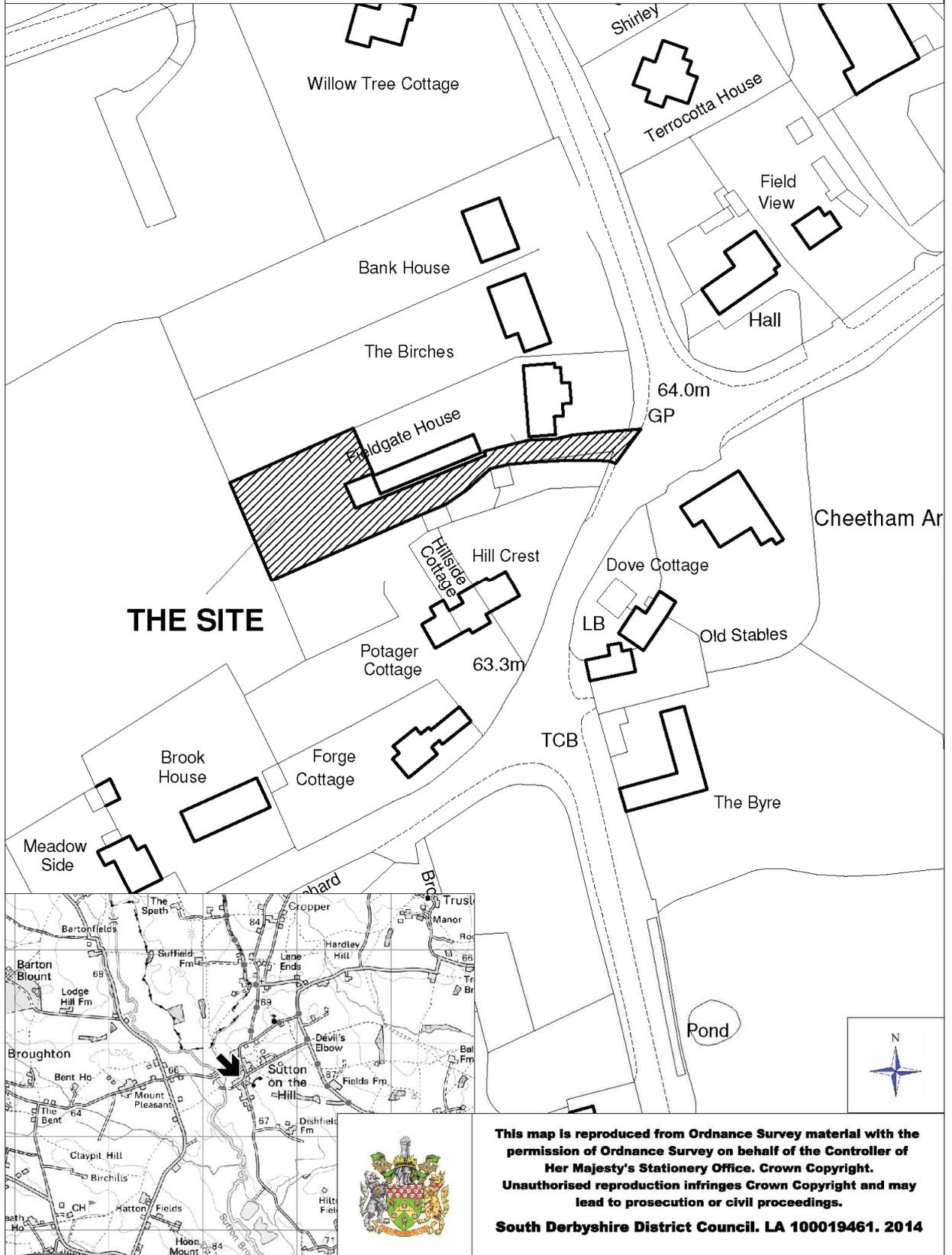
The item is presented to Committee at the request of Councillor Billings as concern has been expressed about a particular issue.

Site Description

The application site is located at the junction of Marlpit Lane and Dish Lane, to the rear of Fieldgate House, which is a detached, two-storey dwelling on the western side of the road. An existing vehicular access to the south of Fieldgate House extends into the site and currently serves three cottages to the south of the application site. An existing brick and tile barn that has recently been converted to residential use is also served by the existing access.

The site has an open aspect to the west over agricultural land and shares common boundaries with the rear gardens of The Birches to the north, Fieldgate House to the east and the curtilages of Potager Cottage, Hillside Cottage and Hill Crest to the south. The barn conversion is located to the east. The three cottages to the south of the site are of a more traditional style, albeit these have been enlarged at the rear by fairly recent, modern, single and two-storey extensions, which are evident from the application site.

9/2016/1073 - Land to rear of Fieldgate House, Marlpit Lane, Sutton on the Hill, Derby DE6 5JB



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Proposal

This is a full application for the erection of a single dwelling on the site, which would incorporate the existing garage granted under 9/2016/0553. The original plans showed a T-shaped, part two-storey and part single storey dwelling comprising 1, 1½ and 2½ storey elements, a design that seeks to address the character and style of the adjacent single storey barn conversion to the east. The height of the middle section of the dwelling, at 2½ stories, reflects a concept of a traditional farmhouse with single storey 'converted barns' projecting from the main element. Following negotiation, the dormer windows have been removed to reflect a more traditional form.

Applicant's supporting information

The agent's Planning Statement sets out the proposal and site description and seeks to address the previous reasons for refusal setting out the policy context and concluding that the revised scheme meets all the national and local policies.

Planning History

9/2013/0323 – Conversion of barn to dwelling – approved 25/06/2013

9/2013/0666 – Change of use of land from agricultural to domestic and erection of detached garage with ancillary accommodation above – approved 24/10/2013

9/2015/0615 - The erection of a detached dwelling – Refused 26/08/2015

9/2016/0251 – Conversion of agricultural building to dwelling (alterations to previously approved scheme 9/2015/0616) - Approved 11th May 2016

9/2016/0553 – Change of use of agricultural land to residential and the erection of a detached garage block – Approved 5/08/2016

Responses to Consultations

The Environmental Protection Officer (contaminated land) has no comments to make.

The County Highway Authority re-states its comments from the similar previous application (9/2015/0615) that the proposed development is not considered ideal, owing to the limited visibility from the site access onto Marlpit Lane. However, considering the rural nature and the low vehicle flows on Marlpit Lane an objection to the creation of one additional dwelling would be difficult to sustain in this instance. On that basis, there are no objections subject to a condition being included on any consent relating to the provision of space within the application site for the parking and manoeuvring of residents' vehicles, prior to occupation.

No comments have been received at the time of writing on the proposal from Severn Trent Water.

Responses to Publicity

Five objections have been received, raising the following concerns/points:

- www) The previous reason for refusal of scale and massing still apply.
- xxx) The previous reason for refusal of the development of a backland site also still applies being contrary to the character of the historical linear development of the settlement.
- yyy) Access from the existing garage/parking area at the rear of Fieldgate House is tight and is effectively a blind spot and additional traffic will exacerbate this issue.
- zzz) The proximity of the proposed dwelling is too close to the converted barn.
- aaaa) The height of the proposal allows overlooking of both the barn conversion and dwellings to the south and east.
- bbbb) The proposed dwelling would dominate its immediate location.
- cccc) It is understood that there are restrictive covenants in place preventing 'backland' development on Marlpit Lane. To allow this proposal would negate these covenants.
- dddd) The massing and height are too large – any proposed development in this location should be no higher than the converted barn which would be dwarfed by this proposal.
- eeee) The scale of the proposal would have an overbearing effect on the use of the rear garden at The Birches.
- ffff) The revised scheme appears to be a token gesture at addressing the previous reasons for refusal.
- gggg) Approving this proposal would set a dangerous precedent to allow other possible backland development at the rear of Marlpit Lane.
- hhhh) The block plan is not accurate in that it does not show the proposed dwelling in the context of existing development.
- iiii) The omission of some of the garages from the block plan appears to show a much less congested area and assists in making the proposal look more spacious than it actually is.
- jjjj) There are no other examples of backland development in Sutton.

One further email has been received from a firm of planning consultants acting on behalf of residents who live in a property on Brook Lane, which is approximately 50m to the southwest of the application site. In summary, the following points are made:

- a) The resubmitted scheme does little to address the original reasons for refusal.
- b) None of the documents submitted with the application satisfactorily address an adequate justification for a new dwelling in this location.
- c) The revised proposal does not address the issue of massing.
- d) This proposal cannot be considered to be an infill development.
- e) The proposal seeks to make efficient use of the land but does not take into account what is appropriate for the surrounding local built and natural environment.
- f) The proposal overlooks nearby properties.
- g) Concern that the agent was given positive pre-application advice.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2, S6, H1, H19, SD1, BNE1, BNE4, INF1, INF2

- 1998 Local Plan (saved policies): Saved Housing Policies 5 and 8; Environment Policy 1;

Emerging Development Plan Policies

The relevant policies are:

- Draft Local Plan Part 2: SDT1, BNE5.

National Guidance

- National Planning Policy Framework (NPPF) 6-10, 12, 14, 17, 29, 49, 53, 55, 56, 57, 64, 186, 187, 206
- National Planning Policy Guidance (NPPG) ID 26 Design

Local Guidance

- Housing Design and Layout Supplementary Planning Guidance (SPG)

Planning Considerations

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

- Principle of development including five-year housing land supply and sustainability, including recent appeal decision
- Design and character
- Residential amenity
- Highway matters

Planning Assessment

Principle of Development

Planning permission has previously been granted on the application site for the change of use from agricultural land to domestic use and the erection of a detached building for use as a garage with ancillary room above (9/2013/0666). The garage was intended, at that time, to serve the adjacent barn conversion. However, since then an appeal against the refusal of an application for the erection of two dwellings on a site fronting Common Lane and located some 40m northwest of the site has been allowed. A comparable appeal decision is a material consideration for the purposes of determining an application for similar development under similar circumstances and this is discussed in more detail in the paragraphs below.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise”.

Paragraph 14 of the NPPF states: “*at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be*

seen as a golden thread running through both plan-making and decision-taking”.

The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission, unless:

- *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or*
- *Specific policies in the NPPF indicate development should be restricted”.*

Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework.

Whilst the site lies outside the defined settlement boundary insofar as the adopted 1998 Local Plan is concerned, planning permission has previously been approved for its change of use from agricultural land to a domestic use. The rear gardens of The Birches and Bank House, two properties to the immediate north of the application site, have been extended into the countryside, following the grant of approval in 1994 (9/1994/0740). A condition of that consent restricts the erection of domestic buildings, gates, walls, fences and other means of enclosure, in the interests of protecting the open character and appearance of the area. The western boundary of the application site continues the extended boundaries of those two properties.

The LP2 reviews the settlement boundaries identified within the 1998 Local Plan (LP98) as the settlements have changed, and in some places significantly since the boundaries were originally drawn. The changes have occurred through growth that has taken place, or growth that is expected to take place through the plan period. The application site therefore currently sits outside the adopted settlement boundary for Sutton on the Hill and as such is contrary to policy H5 of the 1998 Local Plan. However, it is a material consideration that the settlement boundary is proposed to be changed through the Local Plan Part 2 Pre Submission version which was agreed through the Environmental and Development Services Committee on 5th January to be submitted to the Secretary of State subject to Full Council consideration on 19th January. Paragraph 216 of the NPPF provides guidance as to the weight that can be attributed to emerging policies, which is based on three criteria; the stage of preparation of the plan; the extent to which there are unresolved objections to relevant policies; and the degree of consistency of the relevant policies in the pre-submission plan to the policies in the Framework. It is therefore considered that the plan is at an advanced stage with no specific objections to the Sutton on the Hill boundary received and is consistent with the NPPF. Therefore significant weight can be attached to the policy.

In determining the application in 2013 for the change of use from agricultural land to domestic use, a view was taken that as the adjacent properties enjoy relatively long rear gardens, it would be somewhat anomalous for the boundary of the village to have an irregular shape. Notwithstanding the consideration in 1994 that the open character of the adjacent countryside should be maintained, the permission in 2013 also allowed for the construction of the garage building, which, in itself, restricts the open character to the rear of the application site to some degree. The garage

subject of the 2013 permission has been substantially completed but is not in accordance with the submitted plans. A retrospective application (9/2016/0553) was submitted and approved, the plans submitted in support of this application shows that the garage as built includes a first floor annexe/store, rear-facing roof-lights and the external flight of steps. The steps have not yet been constructed. Notwithstanding this, the scale and form of the previously-approved garage are in no way comparable to the proposed dwelling, the subject of this application.

Emerging policy SDT1 in the Local Plan Part 2 which has reached pre-submission stage sets out the settlement boundaries for settlements within the district. Within settlement boundaries development will be permitted where it accords with the development plan. Sutton on the Hill's revised settlement boundary includes the application site, the rear gardens of The Birches and Bank House and the appeal site on Common Lane. Given the emerging policy background and the above planning history of the application site and that of the neighbouring properties, it can be concluded that the principle of some kind of residential use of the site has been accepted, although conditions on both the 1994 and 2013 consents removed permitted development rights for incidental buildings, structures or enclosures without the prior grant of planning permission, as the Local Planning Authority needed to ensure the character of the settlement and the surrounding area was safeguarded and protected. It is considered, therefore, that whilst the principle of the change of use to a use associated with existing residential properties was, and is, acceptable, so too would the development of a standalone dwelling being within the proposed settlement boundary set out in SDT1, subject to meeting other policies in the development plan.

The Inspector for the appeal for the two dwellings fronting Common Lane acknowledged in his decision letter that the future occupiers of the properties would need to travel to larger villages or towns for a full range of shops, services and employment opportunities. Given the rural nature of the site it is likely that the majority of those visits would be by car, as it is for existing residents of the village. The Government recognises, at paragraph 29 of the NPPF that opportunities for sustainable transport options will vary from urban to rural areas. In this context the proposal would result in a modest increase in car journeys but no evidence was presented at the appeal to suggest that this increase would be significantly detrimental in environmental terms.

The current application should be assessed in light of the above comments, which are relatively recent in planning terms (28th January 2015) in that the proposal is for a single dwelling which would result in a modest increase in car journeys and therefore would not impact significantly in environmental terms with regard to the increase in car journeys.

Paragraph 7 of the NPPF identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The proposal would have small economic and social benefits resulting from:

- Direct and indirect employment opportunities;
- Economic output as a result of the employment opportunities;
- Value of the development to the construction industry;

- Expenditure from future occupiers;
- New Homes Bonus; and
- Council Tax revenue.

In order to be truly sustainable, however, the proposal has to be fully acceptable in environmental terms, including its impact on the existing built form of the settlement and its scale and massing in relation to existing development. For the reasons explained in the following section it is considered that the proposal does comply with the environmental role of sustainable development and, as the three roles are mutually dependent and the economic, social and environmental gains should be sought jointly and simultaneously (paragraph 8 NPPF), the proposal cannot be considered to be a truly sustainable form of development.

Design and character

With regard to the overall character of the settlement, Sutton on the Hill comprises an eclectic mix of dwelling types, styles and ages, the majority of which are set within large plots and arranged in a fairly loose form but most having a direct relationship with the surrounding road network, such that the village has a predominantly linear form. Over time some existing buildings have been converted leading to separate dwellings that do not have a direct relationship to the road network. Whilst the proposal would not be the only dwelling within the village to be located away from the road network, it would be the first newly constructed dwelling without its own road frontage. However, the fact that the proposal would constitute back land development is not, in itself, a reason to refuse the application, particularly as amenity issues have been addressed and many Planning Inspectors in the past have considered that such sites are classed as infill. Indeed, the incremental change of use of other buildings to dwellings has already changed the character of the settlement.

Whilst the property has a smaller area of amenity space than many of its neighbours, the rear garden, which looks out directly on to agricultural land, is adequate in terms of size being approximately 22m x10m with the house 7m away from the western boundary at its closest point. The proposal is designed to appear as a farmhouse with attached outbuildings and succeeds in reflecting the design advice provided by officers. It appears as part of the group of buildings within its immediate surroundings. Its overall appearance from the west would appear as a farm complex viewed against the existing edge of the settlement. Whilst the building has a smaller plot than the surrounding large houses the open aspect to the west gives the proposed dwelling sufficient space in which to appear much more spacious and therefore the proposal is not considered to have a detrimental impact on the existing open and green character and built form of the village and the surrounding area and therefore conforms with Policy BNE1 and the design objectives of the NPPF.

The design was an improvement over the previously submitted scheme which reflected the discussion that had taken place during the previous application. However, in line with paragraph 187 of the NPPF negotiations have resulted in the submission of the revised scheme, removing the dormer windows which were considered out of character. These have been removed and the proposal would appear as an, albeit tall, two storey dwelling with attached single storey elements.

The retained existing double garage and the two storey element would both have rooms in the roofspace but would appear as single and two storey accommodation. This revised proposal expresses a stronger relationship to the existing adjacent barn conversion, which is a single storey building of simple design with well-proportioned openings set in reveal and low, corbelled eaves. Traditional features, such as arched windows and door heads and corbelled eaves have been included within the amended scheme.

The predominant design within the settlement is 2 storeys, although Fieldgate Farmhouse on Dish Lane is part 2½ storeys. When seen in its immediate context the proposed dwelling would be large but not out of character with its immediate neighbours and is not considered it would dominate its nearest neighbours but be complementary to it. It is therefore considered that the proposed dwelling would be in keeping with the traditional built form of this part of the village.

Residential amenity

With regard to the prescribed minimum distances between new and existing dwellings, advice in the adopted SPG, Housing Design and Layout, states that:

“In order to protect existing dwellings from overbearing and to protect outlook, the blank/non-habitable elevation of a proposed two-storey property should not breach the minimum distance within the sector of view of the relevant ground floor primary windows of the existing property”. ... “For dwellings of three or more storeys, greater distances of the order of 20% more will be required based on the particular merits of the proposal”.

The closest residential property to the application site (at 5 metres) is the converted barn, also in the ownership of the applicant, which has a living room window facing the dwelling. However, the relationship between the living room window of the barn conversion and the ground floor sitting room window and first floor bedroom window of the proposed dwelling are such that there is unlikely to be any privacy issues. In any event, as the window of the barn conversion is a secondary window, it does not fall to be assessed by the distance guidelines but rather on its merits.

The new dwelling would be 20m distant from the rear boundary of Fieldgate House and 39m from the house itself. The two and a half storey element of the proposed dwelling would be some 46m – 50m distant from Fieldgate House and some 50m – 52m from The Birches. The highest minimum distance between habitable room windows prescribed in the SPG is 21m. Even allowing for an increase of 20% above those minimum distances for a development of more than 2 stories in height, (i.e. an additional 4.2m), the distances between the existing dwellings and the proposed dwelling would be well within the prescribed minimum distances.

The internal space has been designed so that only one habitable room window (the first floor bedroom on the east side) would overlook the rear garden of the barn conversion. However, this is 12 metres from the boundary and would be partially obscured by the ridge of the single storey element of the new house. No habitable windows would directly overlook adjoining gardens from the remaining first and second floors, although, owing to the height of the proposed dwelling (9.3m) and at 2

metres from the boundary, it would impact on the rear garden of The Birches and result in a sense of enclosure to that part of the rear garden area.

Ground floor windows facing The Birches, serving the kitchen and multi-purpose room, could be screened by boundary treatments, details of which would be required by condition. The first floor windows would serve en-suite rooms, which are not habitable rooms as prescribed in the Housing Design and Layout SPG. It is usual for the windows of en-suite rooms to be obscure glazed, although this would be secured by condition. The bedrooms in the roofspace would be served by rooflights on the opposite elevation from the neighbour. It is considered, therefore, that there would be no adverse impact on the amenities of neighbouring residents relating to overlooking and loss of privacy.

Highway matters

The County Highway Authority has acknowledged that the existing situation with regard to visibility onto Marlpit Lane is not ideal. However, given that the proposal is for a single dwelling and that the increased use of the access is therefore likely to be modest, no objections have been made to the proposal on highway safety issues, subject to the parking and turning area being made available prior to occupation. It would be difficult, therefore, to sustain a reason for refusal based on highway safety grounds.

Miscellaneous issues

- With regard to precedent, as each planning application proposal is assessed on its own merits there is no case to refuse the application on precedent.
- As already stated an appeal decision, where there are similarities to a planning proposal, is a material consideration that carries some weight in the determination of other applications;
- Neither the Environment Agency nor the Lead Local Flood Authority are required to be consulted on this scheme. However, no comments were received from the EA on the previous proposal and the LLFA commented as follows: *Derbyshire County Council Flood Team recommends that surface water attenuation is provided by a Sustainable urban Drainage Scheme (SuDS) and reminds the LPA of its responsibility to ensure arrangements are in place for ongoing maintenance of drainage systems.* An informative is therefore set out accordingly.
- The consultation period for amended/revised plans is prescribed as 10 days as set out in the Council's published Statement of Community Involvement as approved by the Council.

Overall conclusions

As with many planning decisions, a balance needs to be achieved between the contribution that a proposal would make towards the Council's housing land supply and any harm that would ensue as a result of the development. Whilst the Council has a five-year housing land supply, the revised settlement boundary as set out in the emerging Local Plan Part 2 defines the application site as within the settlement boundary and therefore there is a presumption in favour of sustainable development

in favour of the proposal subject to other policies in the development plan. The principal of the proposed dwelling is considered to be acceptable as the proposal is within the proposed settlement boundary, designed in such a way as to take account of its surroundings and not considered to have an adverse impact on the open character and appearance of the area being designed to appear as part of a group of farm buildings consistent with the appearance of the character of this part of the village. Whilst the proposal was previously refused on grounds of scale and massing and adverse impact on the character the settlement, being predominantly linear, the revised proposal has addressed the largely addressed issue of scale and massing and highlighted the issue of settlement pattern sufficient to cast doubt on the reasons for refusal of the previous scheme. This proposal therefore constitutes a sustainable form of development in relation to the existing pattern of development. Additionally, it is considered the amended design reflects the character and scale of existing development, both in its immediate setting or within the wider settlement. For these reasons Members are requested to approve the application as per the recommendation.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above.

Recommendation

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 drawing NO/838-01 Rev B, received on 09 January 2017; drawing NO/838-02 Rev A, received on 08 December 2016, and plan/drawing NO/838-03 Rev A, received on 08 December 2016; 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 and in the interests of sustainable development.
3. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the submitted

application drawings for the parking and manoeuvring of residents vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: To ensure that adequate parking/garaging provision is available.

5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling to which they serve is first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

6. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on or adjacent to the site (including those which would have their root or canopy structure affected), and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the appearance of the area, recognising that initial clearance and groundworks could compromise the long term health of the trees/hedgerows affected.

7. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme first submitted to and approved in writing by the Local Planning Authority.

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

8. Gutters and downpipes shall have a black finish and be fixed direct to the brickwork on metal brackets. No fascia boards shall be used.

Reason: In the interests of the appearance of the building(s), and the character of the area.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the dwelling(s) hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling(s) and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the site without the prior grant of planning permission on an application made in that regard to the Local Planning Authority.

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; the windows hereby approved serving the two en-suite bathrooms at first floor level in the north elevation shall be glazed in obscure glass and permanently maintained thereafter as such.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal 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. Derbyshire County Council Flood Team recommends that surface water attenuation is provided by a Sustainable urban Drainage Scheme (SuDS).

Item 1.7

Ref. No. 9/2016/1000/NO

Applicant:
Mr Shaun Methven
1 The Delph Centre
Market Street
Swadlincote
DE11 9DA

Agent:
Robert Turner
Turner & Co Consulting Ltd
Hilltop Works
Pool Street
Swadlincote
DE11 8EG

Proposal: CHANGES TO THE FACADE OF THE BUILDING AT 1 THE DELPH CENTRE MARKET STREET SWADLINCOTE

Ward: SWADLINCOTE

Valid Date 26/10/2016

This is a joint report with the companion application 9/2016/1018, the recommendation for which follows.

Reason for committee determination

The item is presented to Committee as the Council owns the application site.

Site Description

The site is located within the Swadlincote Conservation Area. The property is located amongst a row of modern shops which all benefit from the same aluminium shopfronts, with similar proportions, dimensions and signage styles. This particular row of shops does not form part of the properties that are covered by an article 4 direction within the conservation area and is located at the end of the town centre next to Richardson's car park.

Proposal

Consent is sought for alterations to the existing shopfront and to replace the existing signage.

The alterations consist of the removal of an old timber shopfront and the replacement with an aluminium powder coated shopfront, to be painted grey (RAL colour RAL7016) which is similar in colour to a sample from the Swadlincote Town Centre Colour Palette. The first 0.8m of the shopfront from ground level would be constructed of brick.

The proposed signage seeks to replace the existing signage with the same size and dimensions but for the signage to be illuminated by an LED backlight instead of the current neon sign.

Planning History

No relevant planning history.

Responses to Consultations

None

Responses to Publicity

None

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S7 (Retail), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE4 (Landscape Character and Local Distinctiveness) and INF6 (Community Facilities).
- Local Plan 1998 (saved policies): EV12 (Conservation Areas) and S1 (Existing Shopping Centres).

Emerging Development Plan Policies

The relevant policies are:

- Pre-Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE9 (Advertisements and Visual Pollution), BNE10 (Heritage), BNE11 (Shopfronts) and RTL1 (Swadlincote Town Centre).

National Guidance

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 32-34, chapter 7 (Requiring good design) and paragraphs 128-137.
- National Planning Practice Guidance (NPPG) ID26 (Design)

Local Guidance

- Swadlincote Conservation Area Character Statement
- Display of Advertisements SPG
- Swadlincote Townscape Heritage Scheme Conservation Area Management Plan and Article 4 Direction

Planning Considerations

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

- Appearance of the proposed shopfront
- Appearance of the proposed advertisement

Planning Assessment

Appearance of the proposed shopfront

Previous comments from the previous Conservation Officer show that owing to the property falling on the outskirts of the town centre, that the proposal would have a minimal impact on the conservation area. The proposal would be in keeping in terms of proportions and materials to neighbouring properties in the Conservation Area.

Whilst an aluminium shopfront would not be suitable in other areas of the Swadlincote Conservation Area, the property is located on a row of retail properties that display the same style frontages as originally designed in terms of materials and proportions as the proposal. On the basis of this, the proposal would not result in an unsuitable appearance within the street scene and would reflect its immediate surroundings and thus would comply with policy BNE1.

Appearance of the proposed advertisement

The proposed sign would be commensurate with the size of signs at neighbouring properties along the street scene and whilst the majority of the properties do not benefit from illuminated signage, the existing sign is currently illuminated and the use of LED backlighting would help to improve its visual appearance in comparison to the existing. The signage is in keeping in terms of the setting, size, design, illumination, materials and colour with the neighbouring properties and would comply with the principles of policies BNE1 and BNE4 of the Local Plan and policy BNE9 of the Emerging Local Plan.

The signage has been assessed against Regulation 3 of the Advertisement Regulations 2007, in that the signage would not have an adverse impact on general characteristics of the locality for the reasons outlined above. The signage would not overhang a highway, obscure/hinder surveillance devices or seek to obscure the vision of road users and pedestrians and would therefore, not pose an issue to public safety.

On the basis of the information that has been submitted, it would appear that there are no adverse issues with regard to public amenity or public safety for express consent for the display of the advertisement not to be granted. The site is located in a predominantly retail frontage and is located away from residential properties. The proposed illumination of 200cd/m would be a lesser intensity than what would otherwise be approved.

Conclusion

The proposed shopfront alterations would be in-keeping with the style and appearance of shopfronts that are located along the existing street scene and the proposed advertisement would be an improvement to the existing signage design by improving the method and appearance of the illumination.

Recommendation

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 plan/drawing E001, received on 26th October 2016; plan/drawing P001, received on 26th October 2016; and plan/drawing P002, received on 26th October 2016; 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 and in the interests of sustainable development.
3. The proposed brickwork to the frontage shall match those used in the existing building in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
4. The proposed shopfront shall be painted and finished in Ral colour number ""RAL7016"" in accordance with drawing numbers P001 and P002, unless otherwise agreed in writing by the Local Planning Authority.
Reason: To protect the amenity of the local area.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through 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.

Item 1.8

Ref. No. 9/2016/1018/A

Applicant:
Mr Shaun Methven
1 The Delph Centre
Market Street
Swadlincote
DE11 9DA

Agent:
Robert Turner
Turner & Co Consulting Ltd
Hilltop Works
Pool Street
Swadlincote
DE11 8EG

Proposal: CHANGE OF ADVERTISING SIGNAGE FROM NEON TO BACKLIT LED AT 1 THE DELPH CENTRE MARKET STREET SWADLINCOTE

Ward: SWADLINCOTE

Valid Date 26/10/2016

See report accompanying previous case.

Recommendation

GRANT express consent subject to the following conditions:

1. The advertisement shall be removed and the site restored, to the satisfaction of the Local Planning Authority, no later than five years from the date of this consent, subject to the right to apply for a further period.

To accord with The Town and Country Planning (Advertisement) (England) Regulations 2007.
2. The intensity of illumination shall not exceed 200 candelas/sq.m.

Reason: The application has been assessed on this level of intensity and may wish to make further comments if the intensity of illumination were to be increased and to preserve amenity and prevent danger to road users.
3. Standard conditions attached to all advertisement consents.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through 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.

Item **1.9**

Ref. No. **9/2016/1121/B**

Applicant:
Forestry Commission
Lady Hill
Birches Valley
Rugeley
WS15 2UQ

Agent:
Forestry Commission
Lady Hill
Birches Valley
Rugeley
WS15 2UQ

Proposal: **THE VARIATION OF CONDITION 2 ATTACHED TO PLANNING APPLICATION 9/2015/1060 FOR MARQUEE TO BE USED AS AN EVENTS MARQUEE AT ROSLISTON FORESTRY CENTRE BURTON ROAD ROSLISTON SWADLINCOTE**

Ward: **E05008814**

Valid Date **08/11/2016**

Reason for committee determination

The item is presented to Committee as the application site falls within the control of the Council.

Site Description

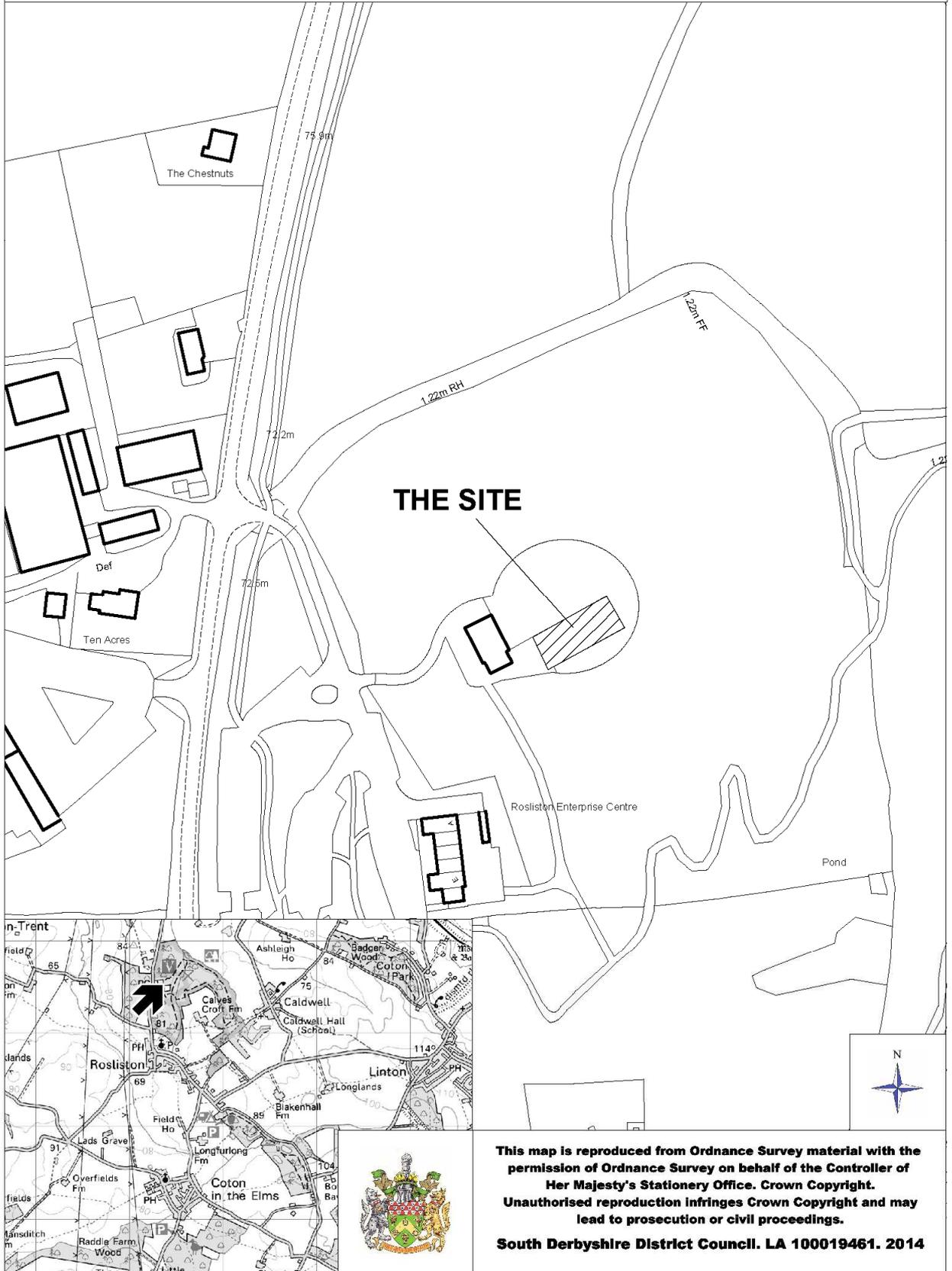
The existing marquee is located within a clearing of dense trees at Rosliston Forestry Centre.

Proposal

Permission is sought to vary condition 2 attached to planning application 9/2015/1060, which currently restricts the use of the marquee to wedding ceremonies and wedding events. The application has been submitted in order to vary the condition so that the existing marquee could be used for a number of different activities, such as:

- Family funs days
- Food and Drink Festivals
- Live Music Nights
- Themed Evening Events/ Charity Events
- Christmas Parties
- Christmas Craft Fayres
- Corporate Away Days

9/2016/1121 - ROSLISTON FORESTRY CENTRE, BURTON ROAD, ROSLISTON



- Venue Hire
- Product Launch events
- Tea Dances
- Antique/ Collector Fayres

Planning History

9/2015/1060 - Permanent siting of a marquee adjoining an existing stage and wc block in a secluded woodland setting – Approved with conditions - 25/01/2016

Responses to Consultations

The County Highways Authority has no objection to the proposal subject to the previous conditions being attached to this approval.

The Environmental Health Officer has expressed concerns due to the level of noise from other areas of Rosliston Forestry Centre. Due to the more extensive use of the marquee and the likely noise from the proposed functions; this could exacerbate the issue further. However, there would be no objection provided that a condition could be attached that prior to the first use, a scheme of noise mitigation measures can be required in order that the findings of a noise survey are implemented relating to the operation of the use.

The Contaminated Land Officer has no comments to make.

Responses to Publicity

There has been no letters of objection or support that have been received as part of the application.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF6 (Community Facilities), INF8 (The National Forest), INF9 (Open Space, Sport and Recreation) and INF10 (Tourism Development).
- 1998 Local Plan (saved policies): EV1 (Development in the Countryside), EV9 (Protection of Trees and Woodland) and C2 (Provision of Education Facilities).

Emerging Development Plan Policies

The relevant policies are:

- Pre-Submission Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and INF12 (Provision of Education Facilities).

National Guidance

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 32-34 (Promoting sustainable transport), chapter 7 (Requiring good design), paragraphs 72 (Promoting healthy communities) and paragraphs 109 and 118-123 (Natural environments).
- National Planning Policy Guidance (NPPG) ID26 (Design) and ID30 (Noise).

Planning Considerations

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

- Benefits of the proposed use
- Highways Issues
- Noise Issues

Planning Assessment

Benefits of the proposal

The variation of the condition would allow the existing marquee to be better utilised for more varied activities than it currently offers. This would help assist with the function of the Forestry Centre and would allow the centre to offer more facilities for its customers and therefore potentially increase revenue for the venue.

The marquee is surrounded by dense trees which screen the marquee from the wider countryside and therefore, protects the appearance of the openness of the countryside. The marquee is situated in an existing opening in the woodland and therefore, would not result in the loss or damage of trees or woodland. The development therefore complies with saved policies EV1 and EV9, policies BNE1 and BNE4 of the Local plan and policies BNE5 and BNE7 of the Emerging Local Plan.

Highways Issues

There have been no objections received from the County Highways Authority with regard to the application. The site retains a separate entrance and exit and has sufficient parking to accommodate the proposed changes to the marquee and the existing uses at Rosliston Forestry Centre. The proposal would not conflict with any other uses at the site with regard to parking and access and the proposal would comply with policies S6 and INF2 of the Local Plan.

Noise Issues

There have been various noise issues raised with the Councils Environmental Health Department with relating to other areas of Rosliston Forestry Centre. Whilst it is noted that there are neighbouring properties located adjacent to the centre's car park, the marquee has been erected and in position in excess of twelve months, so for the purposes of this planning application, it would be necessary to assess any likely issues that would arise due to the intensification of the use and whether this would have an unacceptable impact in terms of noise intrusion for local residents.

There have been no objections raised by the Councils Environmental Health Officer with regard to the application, subject to a noise mitigation scheme being submitted and approved prior to the first use and with the identified mitigation measures which could then be incorporated into the way the venue is used. This would be considered to be reasonable and practical and would directly address the concerns that have been expressed. The use of the condition would alleviate the perceived noise levels that could be experienced and ensure that the proposed use would not have a detrimental impact on the amenity of local residents. On the basis of this, the proposed development would comply with policy SD1 of the local plan.

Conclusion

The proposal would encourage the efficient, economic and more diverse use of an existing facility the impact of which would be possible and practical to mitigate.

Recommendation

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. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) which revokes, amends or replaces that Order(s); this permission shall relate to the use of the marquee for assembly and leisure purposes (use class D2) as described in the application documents and for no other purpose.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises, and in the interests of the amenity of the area and highway safety.

3. Prior to the first use of the proposal, a scheme of noise mitigation measures shall be submitted to, and approved in writing by, the Local Planning Authority. All identified noise control measures shall be implemented prior to the first use of the proposal and shall be retained thereafter for the life of the development.

Reason: To ensure and protect the amenity of local residents from undue noise that could be created by the development.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through 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.

17/01/2017

Item 1.10

Ref. No. 9/2016/1274/NO

Applicant:
Mr Steve Baker
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Agent:
Mr Graham Normington
James Totty Partnership
38 Wilkinson Street
Sheffield
S10 2GB

Proposal: THE DEMOLITION OF PART OF EXISTING BUILDINGS TO FORM ACCOMMODATION FOR COUNCIL STREET SERVICES DEPOT AND CONSTRUCTION OF NEW RETAINING WALL AND SECURE FENCING AT UNITS 1 & 4B BOARDMAN INDUSTRIAL ESTATE BOARDMAN ROAD SWADLINCOTE

Ward: SWADLINCOTE

Valid Date 08/12/2016

Reason for committee determination

The item is presented to Committee as the Council is the applicant.

Site Description

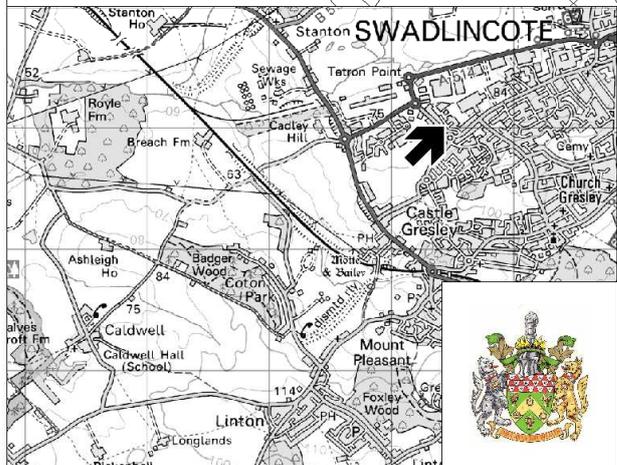
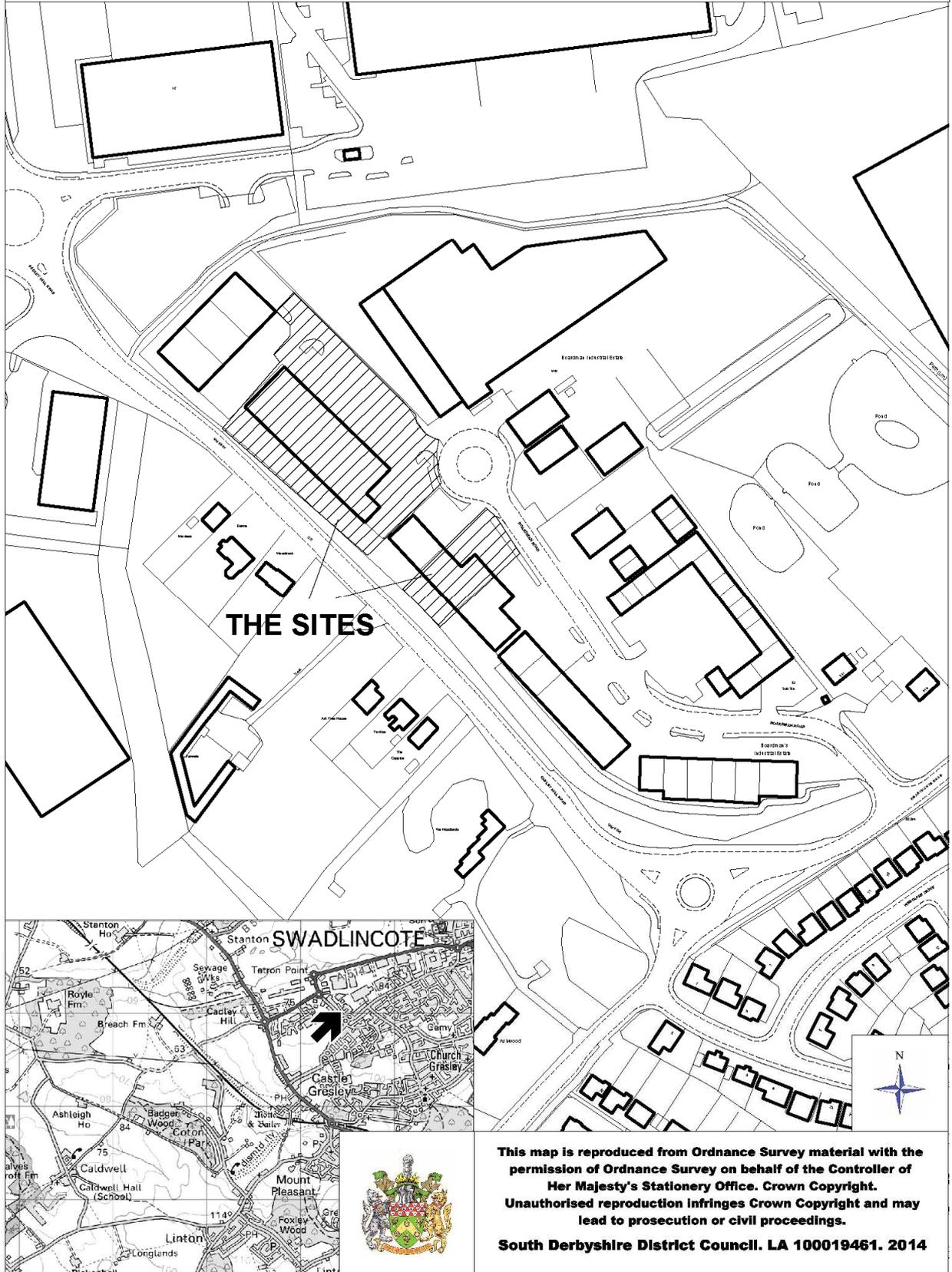
The site forms part of the Boardman Industrial Estate, first constructed in the late 1970s and extended in the 1980s. The units concerned span two separate premises within the wider estate, the main site (Unit 1) being a standalone manufacturing unit whilst the smaller premises (Unit 4b) is one of a run of smaller workshop units. The buildings themselves are of typical industrial appearance for their age, although Unit 1 has recently been refurbished internally and externally. A large forecourt exists to the front and side of Unit 1, where a smaller extension has been added more recently. There is a forecourt to Unit 4b also.

To the rear of both units is a run of semi-mature to mature trees, mainly birch, and a hedgerow bordering Cadley Hill Road. The highway is some 2m higher than the site(s) themselves, beyond which is a row of residential properties.

Proposal

It is proposed to utilise both premises as the Council's street services depot. To facilitate this, it is intended to demolish parts of Unit 1 to create greater external storage, parking and circulation space and a one-way circulation around the building

9/2016/1274 - BOARDMAN INDUSTRIAL ESTATE UNITS 1 & 4, SWADLINCOTE



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from and returning to the existing access. To the rear of the building a single row of the double depth tree planting would likely need to be removed so to allow for the construction of a retaining wall to accommodate the difference in levels. Ancillary structures and a new boundary fence would also be installed. It is intended to use Unit 1 as the main base for the depot operations, given there is ample ancillary office space within the unit. A small existing extension to the front of Unit 4 would be demolished with the external space laid out for parking of staff and smaller vehicles, along with erection of boundary fencing.

Applicant's supporting information

The Design & Access Statement outlines the purpose of the application – providing space for maintenance to Council vehicles, overnight parking for refuse collection vehicles (RCVs), the MOT of taxis, vehicle washing and refuelling facilities, sand and grit storage and mower storage. Unit 1 is to be used as the primary maintenance facility while unit 4B is to be used for storage. As the Unit 1 site must be adequate to allow large vehicular access, a one-way system is proposed for safety reasons. RCVs would reverse into parking bays on return to the facility in the afternoon. A new retaining wall would be installed to the south of the site towards Cadley Hill Road so to facilitate this one-way traffic system, and consequently a number of trees would be removed. It is considered however that the screening effect of remaining trees and the hedge would not lessen visual impacts. The demolition to Unit 1 includes the side, lower extension and removal of one bay's depth to the rear facade. Space for a fuel tank, wash bay and external store would also be provided on site, as well as a new automatic entrance gate and mesh weld fencing to the site perimeter. 42 spaces would be provided for a mix of staff and visitor parking, along with 1 disabled bay and 13 RCV spaces. Unit 4b would provide 9 parking spaces for transit vans. Drainage is to remain as existing on both premises, with only the removal of existing drainage within the demolition area.

A Coal Mining Risk Assessment concludes that other than the potential for unrecorded shallow mining works, the risk from coal mining legacy is negligible.

Planning History

9/2016/0421 Extension and creation of a new unit on land adjacent to unit 1 –
Approved July 2016.

Responses to Consultations

The County Highway Authority notes that a swept path drawing has not been submitted and the proposed layout for the parking and manoeuvring of RCVs would appear to be tight. However, in the event that the site did not operate exactly as indicated, it would be difficult to demonstrate that highway safety would be compromised as a result. In this respect there is no objection subject to conditions to require details of the proposed retaining wall prior to the commencement of works, due to its proximity to Cadley Hill Road, and to secure the provision of parking as set out on the submitted plans.

The Lead Local Flood Authority offers no objection and refers to standing advice setting out best practice for use of SuDS, etc.

Severn Trent Water Ltd has no objection subject to the inclusion of an informative.

The Coal Authority has no objection subject to the inclusion of an informative.

The Environmental Health Officer raises no objection subject to conditions to control the demolition and construction phase, including hours, and to require a scheme of noise mitigation.

The National Forest Company advises that the proposal does not meet the thresholds where National Forest woodland planning and landscaping would be expected, although it is requested that tree removal is kept to a minimum and that adequate protection is put in place for retained trees.

Responses to Publicity

None received.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E3 (Existing Employment Areas), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), INF2 (Sustainable Transport) and INF8 (The National Forest).
- 1998 Local Plan (saved policies): EV9 (Protection of Trees and Woodland).

Emerging Development Plan Policies

The relevant policies are:

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

National Guidance

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

Local Guidance

- Industrial & Office Design and Layout SPG

Planning Considerations

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

- Principle of development;
- Highway safety impacts;
- Neighbouring amenity impacts; and
- Design and layout.

Planning Assessment

Principle of development

The proposal would result in the change of use of the premises concerned from general industrial use to a sui-generis use. This causes a conflict with the literal reading of policy E3 which seeks to safeguard the loss of B1, B2 and B8 premises. However the proposed use is one which is appropriate for an industrial premises and such an estate as this one. It would predominantly serve as storage for vehicles and materials to facilitate the Council's street services function, with ancillary maintenance of vehicles. Hence, whilst technically a different use class in planning terms, the outward effects of the use would be little different to that already possible under the lawful uses of the premises. Furthermore the units have been vacant for nearly 12 months with only limited interest in their take-up for existing uses. Of those expressing an interest, one offer was made which was later withdrawn.

Highway safety impacts

The comments of the highway authority are noted. It is apparent that should manoeuvring require more than a straightforward path around Unit 1 that vehicles would unlikely obstruct the public highway as a consequence. Instead, any congestion is likely to be within the site confines. The structural integrity concerns in respect of Cadley Hill Road are also acknowledged and the requested condition would also assist in ensuring the long term health of the trees to remain as well as an appropriate visual impact where this wall would be exposed to public vantage points.

Neighbouring amenity impacts

Given the difference in levels between the proposed service yard to Unit 1 and Cadley Hill Road, the separation the road provides to the nearest residential properties, and the ability to provide acoustic attenuation a-top of the retaining wall if necessary, it is not envisaged there would be an issue with noise in principle. In addition, as RCVs would reverse into their parking bays at the end of the working day (mid-afternoon), there is a very low risk of reversing alarms in the early morning. Any noise breakout from Unit 4b would be towards other units on the industrial estate.

Design and layout

The reduction in the extent of Unit 1 is of little concern, with the affected elevations largely away from public view. A condition can control the finer detail of making good these elevations with matching materials. New and replacement surfacing can be also controlled by condition, as well as the fencing and gate details – with the fencing to be mesh weld in green so to avoid visually oppressive palisade fencing.

Summary

Taking all issues into account the sites offer an ideal location for the Council's operations akin to other surrounding land uses on the site.

Recommendation

GRANT permission pursuant to Regulation 3 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 plans/drawings 10/939 02E, 10/939 04C, 10/939 05A, 10/939 06A and 10/939 07; 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 and in the interests of sustainable development.
3. No demolition or construction works shall take place on the site, and no associated deliveries shall be received or dispatched from the site, other than between 8:00am to 6:00pm Monday to Friday, and 8:00am to 1:00pm on Saturdays. There shall be no demolition or construction works (except for works to address an emergency) or deliveries on Sundays or Public Holidays.
Reason: In order to protect the amenities of adjoining residential occupiers.
4. No generators or pumps shall be used on the site during the demolition & construction phase other than in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
Reason: In order to protect the amenities of adjoining residential occupiers.
5. No development shall commence until a scheme of noise control has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include consideration of noise arising from the demolition/construction phase; address the impact(s) that the activities will have, in terms of noise, on nearby buildings and residential properties; and set out the mitigation measures necessary. The approved scheme shall then be implemented prior to the relevant activities commencing.
Reason: To protect the amenities of occupiers of adjoining residential properties, noting that initial ground works could give rise to unacceptable impacts.
6. Where buildings are affected by works of demolition, their exposed fascades shall be made good using matching materials in colour, texture and coursing

unless alternative details of materials have been first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the building(s).

7. Prior to any works involving the removal of existing ground to the rear of unit 1 and/or construction of the retaining wall, structural and elevational details of the new retaining wall shall be submitted to and approved in writing by the Local Planning Authority. The wall shall be constructed in accordance with the approved drawings.

Reason: In order to ensure that the works do not affect the structural integrity of the public highway and to ensure that trees to be retained do not suffer undue disturbance.

8. Prior to any works involving demolition to unit 1 and/or the removal of existing ground to the rear of unit 1 and/or construction of the retaining wall, a tree survey shall be carried out to plot the exact location and root protection areas for each tree on the site. The survey shall also identify those trees to be removed and measures for the protection of those trees to be retained throughout the course of works on site. The protection measures shall be installed prior to any demolition or works to alter levels on site commencing.

Reason: In order to minimise the loss of trees along the southern edge of the site and to ensure that trees to be retained do not suffer undue disturbance.

9. Notwithstanding the approved drawings/plans, prior to the erection/installation of any boundary treatments or enclosures elevational details (including height, types and materials) of such boundary treatments/enclosures shall be submitted to and approved in writing by the Local Planning Authority. Such drawings shall be based on the positions of boundary fences and pillars shown on layout plans hereby approved. The boundary treatments/enclosures shall be completed in accordance with the approved details prior to the first use of the respective unit or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

10. Prior to first use of the premises for the purposes hereby approved, a scheme of noise control shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include consideration of noise arising from the operation of the premises; address the impact that the activities will have, in terms of noise, on nearby buildings and residential properties; and set out the mitigation measures necessary. The approved scheme shall then be implemented prior to the relevant activities commencing and mitigation measures thereafter retained/maintained.

Reason: To protect the amenities of occupiers of adjoining residential properties.

11. Prior to first use of unit 1, a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall, as far as is practicable, provide for compensatory tree planting around the site as well as strengthen the existing hedgerow along the southern boundary. 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; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

12. Prior to each respective unit being taken into use, the parking and manoeuvring space associated with that unit shall be laid out in accordance with the approved drawings and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

13. No development shall commence until a dust mitigation strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall take into account national practice guidance and highlight details of the likely resultant dust levels from activities during the construction phase at the nearest residential premises, and set out measures to reduce the impact of dust on those residential premises. The approved strategy shall then be implemented throughout the course of demolition and construction phase.

Reason: To protect the amenities of occupiers of adjoining and proposed residential properties, noting that initial ground works could give rise to unacceptable impacts.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, suggesting amendments to improve the quality of the proposal 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 proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: www.gov.uk/coalauthority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

3. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated	Page
9/2016/0461	Shardlow	Aston	Allowed	Delegated	130
9/2016/0559	Barrow	Aston	Allowed	Committee	134



Appeal Decision

Site visit made on: **27 October 2016**

By: Jim Unwin BSCFor MICFor FArborA CEnv.

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

Decision date: 14 December 2016

Appeal Ref: APP/TPO/F1040/5389
No 48 Cheal Close, Shardlow, Derby, DE72 2DY.

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order (TPO).
 - The appeal is made by Ms Maisie Berridge, against the decision of South Derbyshire District Council.
 - The application Ref: 9/2016/0461 dated 11 May 2016, was refused by notice dated 5 July 2016.
 - The work appealed is refusal of consent for felling one Norway maple tree, within G1 of the TPO.
 - The relevant Tree Preservation Order is the *South Derbyshire District Tree Preservation Order No.336 (Land at Cheal Close, Shardlow, Derby) 2010*, which was confirmed on 1 October 2010.
-

Decision

1. I grant the appeal to fell the Norway maple tree in the rear garden of No 48 Cheal Close, subject to the following conditions:-
 - i) The felling for which consent is hereby granted shall be implemented within one year of the date of this decision.
 - ii) Following felling, a replacement tree: if broadleaved of container-grown Heavy-standard nursery stock of 12-14cm stem circumference at 1m height and overall 3.5-4.25m tall, is to be planted in an agreed location in the rear garden of No 48 Cheal Close, during the first planting season (October to March inclusive) following removal of the appeal tree.
 - iii) The exact replacement location and species are to be agreed in writing between Council and the tree's owner prior to felling the Norway maple tree.
 - iv) If, within a period of five years from the date of planting, the tree (or any other tree planted as a replacement) is removed, uprooted, or destroyed or dies, another tree of the same size and species shall be planted within the first planting season following the removal, uprooting, destruction or death of the original tree, unless agreed otherwise by the Council.

Main Issues

2. I consider the main issues in this appeal are:
 - the impact the proposal would have on the appearance and character of the locality, and
 - whether the reasons given for felling the Norway maple tree are sufficient to justify that course of action.

Reasons

Appearance and character of the locality

3. Shardlow is a linear village set mostly on the southern side of B5010 London Road. At the western end of the village is the entrance to Shardlow Business Park and Manor Farm House, and just to their east is a recent residential re-development, to create Cheal Close. This comprises mostly two-storey or three-storey terraced houses. To the west and south west of the dwellings is public open space, and a children's play area.
4. The western three blocks of Cheal Close are three-storey, and No 48 is an end-of-terrace house, facing east. The front garden is very small and open, but a slightly-larger and fenced rear garden, about 6m wide by 12m long, extends west from the house. To its north is asphalt parking for the next block (called Cavendish Walk).

Amenity value of the appeal tree

5. The appeal Norway maple is tall at about 17m. The stem divides into four by 4m height, and all incline east, giving radial crown spread of 7.8m east towards the rear elevation of the building 9.2m away from the centre of the trunk, and only 3.5m to the west. The crown of the maple is dense and healthy. The stem has diameter of 57cm measured at 1.5m height, suggesting that the tree is almost mature (fully grown).
6. The appeal Norway maple stands in an L-shaped row of similar trees all of which pre-date the recent development. The closest is a similar-sized sycamore outside the rear garden, but only 3m north west from the appeal tree. Further west are two horse chestnuts. About 12m south of the appeal tree is another Norway maple, then a horse chestnut and sycamore further south complete the row. There are few other mature trees within the Cheal Close development.
7. At my site visit this row of trees was very prominent in views east from the public open space, but they are harder to see from the road, being partially screened by the height of the three-storey buildings, and by other trees and hedge in Manor Farm House's garden. In closer views the appeal tree and the adjacent sycamore merge together and are quite hard to distinguish apart.
8. I consider the appeal Norway maple to be a poorly-shaped tree, but it does have a large canopy, which makes a material contribution to the overall high visual amenity of the tree row in which it stands. However, I consider the Council's assessment that the Norway maple makes a significant contribution to amenity value is over-stated.

Impact of tree removal on local amenity value

9. If the appeal tree was removed, then the sycamore 3m away would gain more prominence. It would slightly erode the cohesion of the tree row. Overall, given the relative paucity of mature trees around Cheal Close, strong justification would be required for the Norway maple's removal.

Location of tree

10. The appeal Norway maple is a tall tree, leaning towards the rear of No 48, and extends above most of the paved rear garden. I sympathise with the Council's position that an absence of evidence of major defects justifies the tree's retention. However, this ignores the extreme dominance and over-bearing posed by the tree to occupants of No 48, and also to the occupants of No 50 immediately to the south.

Alternative work

11. The Council acknowledges that it cannot offer any alternative work, such as pruning, to mitigate the problems caused by the maple. I agree with this position, but consider the level of dominance and over-bearing sufficient to justify removing the appeal tree.
12. I note here the similar third-party representations by Claire Donnachie and Shardlow Parish Council that the appeal tree was a considered retention when the site was re-developed, and that the appellant was aware of the tree's presence when she purchased No 48. However, I am making my decision in this appeal based on the current situation.

Other matters

Shade

13. The Norway maple has been crown lifted, reducing the potential for direct shading of No 48's rear garden. It is located west from the rear windows of No 48, so direct shading will occur only from mid-afternoon onwards. This level of light loss to the rear of No 48 would be insufficient justification for felling.

Poisonous debris

14. It is known that red maple leaves and sycamore seeds are poisonous to horses. However, no supporting evidence has been presented to the appeal that leaves or seeds of this Norway maple are poisonous to dogs. Therefore, I place no weight on this concern by the appellant.

Replacement tree

15. The rear garden of No 48 is narrow, but of reasonable length, at 12m. Therefore, there is space for a replacement tree west of the appeal tree's location, but not too close to the end of the garden which drops slightly to a path. However, I require the species or variety and location of a replacement tree to be agreed before the appeal tree is felled. I am specifying planting a Heavy-standard tree so that it soon provides some landscape value to the rear of Cheal Close and to the nearby play area.

16. The appellant has suggested planting another Norway maple, but this might grow too large. A smaller maple such as a native field maple, *Acer campestre*, or another, ornamental, maple capable of reaching at least 10m ultimate height, would be more appropriate.

Conclusions

17. The appeal Norway maple tree is healthy, and provides public amenity value as part of a row of similar trees to its residential location.
18. However, the Norway maple has a poor shape and severely over-bears and dominates the rear of No 48 Cheal Close; which problems cannot be mitigated by pruning.
19. Therefore, on balance, I grant the appeal to remove the Norway maple at No 48 Cheal Close, subject to a replanting condition.

Jim Unwin

Arboricultural Inspector.

Appeal Decision

Site visit made on 29 November 2016

by **David Troy BSc (Hons) MA MRTPI**

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

Decision date: 21 December 2016

Appeal Ref: APP/F1040/D/16/3157754

The Hill Lodge, Deep Dale Lane, Barrow-on-Trent, Derby DE73 7NH

- 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 Adrian Dawson against the decision of South Derbyshire District Council.
 - The application Ref 9/2016/0559, dated 1 June 2016, was refused by notice dated 12 August 2016.
 - The development proposed is Partial Demolition, Reduction in Height and Retention of the Remaining Structure of an Existing Outbuilding for Incidental Residential Use.
-

Decision

1. The appeal is allowed and planning permission is granted for Partial Demolition, Reduction in Height and Retention of the Remaining Structure of an Existing Outbuilding for Incidental Residential Use at The Hill Lodge, Deep Dale Lane, Barrow-on-Trent, Derby DE73 7NH in accordance with the terms of the application, Ref 9/2016/0559, dated 1 June 2016, subject to the conditions in the attached schedule.

Main Issue

2. The effect of the development on the character and appearance of the area.

Reasons

3. The appeal site comprises a two storey dwelling house with a number of separate substantial outbuildings and garages set in the open countryside. The property is located about 500m north of the village of Barrow-on-Trent close to a road bridge over the Trent and Mersey Canal immediately to the south of the site. The surrounding area is predominantly rural in character.
4. The proposal relates to the partial demolition of and alterations to one of the outbuildings located in the south-east corner of the site in response to the previous enforcement appeals on the site¹. The proposed works would involve demolition of part of the building previously fitted out with residential accommodation resulting in a reduction by about 10m in length. The roof of the building would be reduced to achieve an overall height of about 3.95m with the removal of the existing clay ridge roof tile and the replacement with a lead grey composite material. The outbuilding is set back from the road behind a brick boundary wall and fence measuring about 3m in height and a garage.

¹ APP/F1040/C/15/3130893 and APP/F1040/C/15/3130894

5. The appeal building is in a relatively large plot with a wide frontage. The appeal building in its reduced form would therefore not appear overlarge, relative to the overall plot size. The reduced size and height of the building, set back with the use of matching materials and fenestrations, would ensure the proposal would be largely screened behind the existing boundary wall/fence and would sit relatively unobtrusively within the site against the two storey form of the main house and the existing outbuildings and garages.
6. As highlighted by the Planning Inspector for the previous enforcement appeals, the reduction in all of the roof ridges to permitted development height would have a significant and beneficial effect on the character and appearance of the area in terms of the bulk of the building. Similarly, the removal of primary residential type of accommodation from the building (kitchen, bathroom, living room and bedroom) would not only result in a building that would be less residential in appearance but also genuinely incidental and subservient in use to the main dwellinghouse.
7. Given the appellant's apparent need for an ancillary building for the secure storage and maintenance of his collection of motorcycles and other vehicles, the previous Planning Inspector highlighted that should the building be demolished, the appellant would have the fallback position to construct a similar size replacement building as now proposed using permitted development rights². Based on the evidence and my observations on my site visit, I share the same view as the previous Inspector and I attach substantial weight to these matters as a material consideration. I consider that the proposal before me would provide the most pragmatic and sustainable alternative solution available in this case.
8. I have noted the letter of objection from a local resident regarding insufficient water pressure on the private water supply in the area and the future intended use of the outbuilding. However, I have no substantive evidence before me that the proposal would result in any significant change in the water pressure in the area and the future use of the building can be controlled by appropriate planning conditions.
9. Consequently, I conclude that the development would not significantly harm the character and appearance of the area and would be consistent with Policy BNE4 of the South Derbyshire Local Plan Part 1 2016 and Saved Policy EV1 of the South Derbyshire Local Plan 1998. These policies seek, amongst other things, to ensure that development is a high standard of design which creates places which respond to their local context and ensure that the character of the countryside and the landscape are safeguarded and protected. In addition, it would accord with paragraph 17 of the National Planning Policy Framework (the Framework) that development should seek to secure a high quality of design and recognise the intrinsic character and beauty of the countryside.

Conditions

10. Having regard to the Framework, and in particular paragraph 206, I have considered the conditions suggested by the Council. The conditions I shall impose are based on those suggested by the Council but with some variation to the wording in the interests of precision or clarity.

² Specially the right to build outbuildings within the curtilage of a dwellinghouse granted by Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order

11. A condition detailing the completion of the works within a specific timescale of 9 months is necessary in order to ensure that the resultant building is in conformity with the development plan and national policies and is of acceptable impact in its countryside setting. In addition, I have specified the approved plans, as this provides certainty. Those conditions relating to restricting the use of the outbuilding as ancillary to the main dwelling on the site and the detailing of the external materials and finishes of the approved building are appropriate as they would safeguard the character and appearance of the existing building and the area.

Conclusion

12. For the reasons given above and having considered all other matters raised, I conclude that the appeal should be allowed.

David Troy

INSPECTOR

Schedule of Conditions

- 1) The internal and external alterations and partial demolition shown on the approved drawing shall be completed in their entirety within 9 months of the date of this decision and any materials resulting from partial demolition of the existing structure, including any building materials and rubble, shall be removed from the site within that time period.
- 2) The development hereby permitted shall be carried out in accordance with approved drawing ref: 179 HL 030 Rev B; unless as otherwise required by condition attached to this decision 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).
- 3) The building shall only be used for purposes incidental to the enjoyment of the dwellinghouse known as The Hill Lodge, Deep Dale Lane, Barrow-on-Trent, Derby DE73 7NH; and shall specifically not be used wholly or in part for living accommodation.
- 4) The external walls exposed following partial demolition shall be faced in brickwork to match the existing brickwork in colour, coursing and texture.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM:
DATE OF MEETING:	17 JANUARY 2017	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING SERVICES	OPEN
MEMBERS' CONTACT POINT:	RICHARD RODGERS (01283) 595744 richard.rodgers@south-derbys.gov.uk	DOC:
SUBJECT:	PROPOSED TREE PRESERVATION ORDER 438 LAND AT THE DALES, ASKEW GROVE, REPTON	REF:
WARD(S) AFFECTED:	REPTON	TERMS OF REFERENCE:

1.0 Recommendations

1.1 That this tree preservation order be confirmed.

2.0 Purpose of Report

2.1 To consider confirmation of this tree preservation order (TPO).

3.0 Detail

3.1 This tree preservation order was made on 4th August 2016 and includes 1 x group and 14 individual trees on land at The Dales, Askew Grove, Repton. There are more trees on the site but the individuals and group identified are seen as those worthy of protection through any redevelopment of the site.

3.2 The TPO was made at the request of the Area Planning Officer following receipt of a layout plan which suggested demolition of the current buildings here, to be replaced with houses. This site abuts the Conservation Area and the trees are mature and have a high amenity value in the area.

3.3 Three responses have been received following consultation. Their content is outlined below:

From landowner/developer

- To protect such a number of trees will affect the commercial viability/ value of the site;
- Protecting trees T10 and G1 will prohibit all necessary works to provide a suitable access observing current Highways design;

- The remainder of the trees will impede design opportunities for potentially 50% of the developable site area. Design options under consideration will not be viable with such restrictions in place;
- The tree survey (presented at the time as part of the pre application submission) did not show the 30no trees to be growing on the banked area of the site, those close to the conservation area;
- It would be the landowner's intention to leave the majority of the trees intact regardless of the type of development, with final agreement accompanied by their commitment to supplement the landscape with new trees of suitable species.

From a neighbour

- There are more mature trees on the site (which are not in the Order) which usefully screen and provide privacy. Would the developer be able to fell these without redress?
- A neighbouring property at 39 Askew Grove (and adjacent to this site) is currently for sale. Does this current scheme for redevelopment differ from the Councils previously published information in regards redevelopment here?

One letter generally supporting the order was received, the trees here said to provide a sanctuary for wild animals and birds and should be safeguarded. One question raised in that response however makes reference to an adjacent woodland and whether is it protected. Without specific detail as to which site, it is difficult to respond to that point. It may be that the adjacent woodland falls within the Conservation Area and by virtue of that situation is afforded some protection.

3.4 In answer to the comments made officers have the following response:

- The Council are committed to working with the landowner. The trees identified in the order however should be considered as constraints and any design reflective of a preference to protect them. The identified trees are felt to be the very best specimens across what is a well treed site.
- It is felt there is sufficient room to alter or create a new access without detriment to the nearby trees. It may be necessary however to use new techniques which are considerate to working in close proximity to protected trees;
- It is likely the trees on the western part of the site are actually within the Conservation Area and thus already protected. That specific 'group' works differently to the majority of the individually identified trees in this order as it is seen more as a woodland and associated with the brook that runs through it.
- If the Order is confirmed, the landowner could remove the other trees across the most immediate site here without redress. Any new dwellings proposed on the site however would have to comply with the Councils SPG in terms of

maintaining a reasonable level of privacy and amenity to premises and their occupiers.

- As mentioned in the County Councils consultation response, they have a number of options under consideration.

4.0 Planning Assessment

4.1 It is expedient in the interests of amenity to make the trees the subject of a tree preservation order. This will ensure at the very least that any retained trees are afforded maximum protection through any related construction on this presently undeveloped site.

5.0 Conclusions

5.1 It is expedient in the interests of amenity to preserve.

6.0 Financial Implications

6.1 Notwithstanding the above representation, the responsibility for trees and their condition remain with the landowner. The Council would only be open to a claim for compensation if an application to refuse works to the TPO was made and subsequently refused, and liability for a particular event or occurrence could be demonstrated.

7.0 Corporate Implications

7.1 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

8.0 Community Implications

8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

9.0 Background Information

- 9.1 Tree Preservation Order – dated 04/08/2016.
- 9.2 Neighbour letter – dated 11/08/2016.
- 9.3 Neighbour letter – dated 31/08/2016
- 9.4 Letter from Landowner (Derbyshire County Council) – dated 02/09/2016.

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM:
DATE OF MEETING:	17 JANUARY 2017	CATEGORY: DELEGATED
REPORT FROM:	DIRECTOR OF COMMUNITY AND PLANNING SERVICES	OPEN
MEMBERS' CONTACT POINT:	RICHARD RODGERS (01283) 595744 richard.rodgers@south-derbys.gov.uk	DOC:
SUBJECT:	PROPOSED TREE PRESERVATION ORDER 437: LAND AT BROOMHILLS LANE, REPTON	REF:
WARD(S) AFFECTED:	REPTON	TERMS OF REFERENCE:

1.0 Recommendations

1.1 That this tree preservation order be confirmed.

2.0 Purpose of Report

2.1 To consider confirmation of this tree preservation order (TPO).

3.0 Detail

3.1 This group preservation order was made on 25th July 2016 and covers 48 trees on land at Genista, Broomhills Lane, Repton. This continuous linear feature (stretching for some 70m) abuts a local footpath and softens the transition here from village edge to countryside by way of a vegetative corridor.

3.2 The TPO was made in order to protect the feature (as far as possible) and such the local character following receipt of a planning application (9/2016/0514) which proposes a new dwelling on the adjacent land.

3.3 One letter questioning the necessity of an order has been received and is summarised here:

- The objector questions the statement that the site is close to the conservation area, the 'site or garden not actually in the conservation area';
- The objectors have personally invested hundreds of pounds in planting these trees;
- The objectors have checked with their tree surgeon and none of the trees are endangered, indeed two are overgrown and require thinning out;
- Detailed plans (once provided by an architect) will show that only a handful of trees will need to be removed to create the gateway/site entrance. That level of tree removal would not be excessive;
- The cherry tree is not within the border shown and not visible from the road, therefore would have no impact on the amenity value if removed. The same could be said others here,

- An order here is potentially dangerous as trees need to be clipped to ensure they don't scratch passing cars;
- Development on an adjacent site has resulted in a 'reduction' in ambience and involved removing bushes and trees. The objectors wish to achieve the opposite.

Two letters supporting the order were also received. Repton Parish Council is supportive of the order and wish it to be made in perpetuity. Equally a local resident has commented that the trees do have high amenity and provide a wildlife corridor, safe roosting for birds and help preserve the rural aspect.

3.4 In answer to the comments made officers have the following response:

- The site is not within the current conservation area boundary but is certainly close enough to affect its setting. The proximity to the conservation area is one material consideration but the trees are worthy of preservation in their own right;
- There is no dispute the site has been well maintained and well planted. The planting has since matured into an attractive feature;
- The placing of a TPO does not stop routine tree maintenance or cutting back to remove conflict with passers-by;
- The creation of a new and safe access, including safe 'inter visibility' splays would more than likely involve more trees than first envisaged. Equally a preservation order ensures the trees are properly protected through any latter building work;
- Whilst the cherry tree may not be visible from the road, it does form part of the collective here, providing some depth and variety. If it is found not to be within the plotted boundary, it could be withdrawn from the schedule without significant detriment.
- Bushes are not protected by a TPO or a Conservation Area situation.

4.0 Planning Assessment

4.1 It is expedient in the interests of amenity to make the trees the subject of a tree preservation order. This will ensure at the very least that any retained trees are afforded maximum protection through any related construction on this presently undeveloped site.

5.0 Conclusions

5.1 It is expedient in the interests of amenity to preserve.

6.0 Financial Implications

6.1 Notwithstanding the above representation, the responsibility for trees and their condition remain with the landowner. The Council would only be open to a claim for compensation if an application to refuse works to the TPO was made and

subsequently refused, and liability for a particular event or occurrence could be demonstrated.

7.0 Corporate Implications

7.1 Protecting visually important trees contributes towards the Corporate Plan theme of Sustainable Development.

8.0 Community Implications

8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

9.0 Background Information

9.1 Tree Preservation Order – dated 25/07/2016.

9.2 Letter of objection – dated 26/07/2016.

9.3 Email received from same objector – dated 27/07/2016.

9.4 Neighbour letter supporting Order – 05/08/2016.

9.5 Email supporting Order – 17/08/2016.