

REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)

SECTION 1: Planning Applications

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

1. PLANNING APPLICATIONS

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

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

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

Item 1.1
Ref. No. 9/2018/0405
Valid Date 10/05/2018

Applicant:
 Mr & Mrs P & C Shaw
 Melbourne Animal Farm

Agent:
 John Steedman
 Steedman Planning
 Wayside Cottage
 Ingleby Road
 Stanton-by-Bridge
 Derby
 DE73 7HU

Proposal: Change of use of land from agricultural and equestrian to use as a facility to promote interaction between animals and the public. the erection of 3no. buildings, construction of access road, car and coach parking, pedestrian access and the creation of walk ways on land at SK3724 0194 on the north side of The Common, Melbourne, Derby

Ward: Melbourne

Reason for committee determination

The item is presented to Committee as it is a major application subject to more than two responses of support.

Site Description

The application site is triangular in shape covering a total area of 4.29 hectares, accessed via a 300m long track off The Common. The site comprises a number of equestrian paddocks with several small wooden stables scattered across the site, one agricultural storage building in the south west corner and two small woodland plantations in the north east and north west corners of the site. The site lies within open countryside and is therefore separated from the nearest dwellings, with a number of converted farm buildings and a farmhouse 150m north and several dwellings located along The Common to the south, the nearest dwelling being Four Winds 90m north east of the access track. The site lies approximately 1km south east of the settlement boundary of Melbourne and 1.9km north east of the settlement boundary of Ticknall.

Proposal

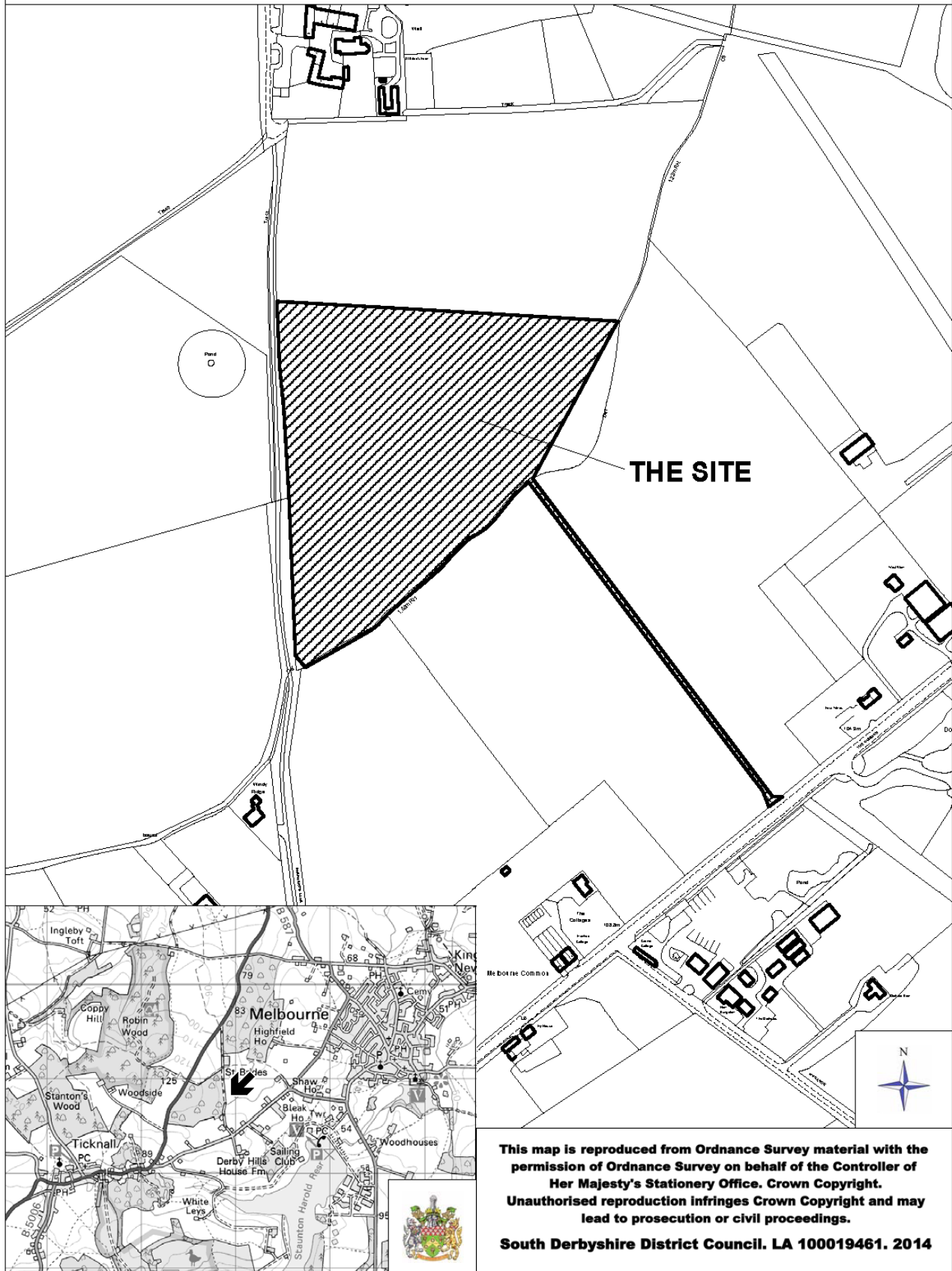
The application proposes a change of use of the land from agriculture and equestrian to use as a facility to promote interaction between animals and the public. The proposal includes the erection of three new buildings; refreshment cabin, pole barn for straw and fodder storage and additional barn to be used for workshops and educational purposes. The existing access road is to be improved, with the addition of car and coach parking areas and new pedestrian accesses.

Applicant's supporting information

In addition to the proposed site plans, floor plans and elevations, the following supporting documents were received.

The Supporting Statement provides an overview as to the requirement for on-site managers' accommodation, with the statement broken down into the main principles to be considered for the requirement of 24-hour supervision. These include justification for each animal proposed on site.

9/2018/0405 - Land at SK 3724 0194, North side of The Common, Melbourne, Derby DE73 8DH



The viability of the business makes reference to the business plan and the requirement for only a 3 year temporary dwelling at this stage as the business is an unusual proposition and should be given an opportunity to demonstrate the need for a dwelling on site. Information is provided on the proposed staffing of the business, demonstrating the complexity of managing the business and the interaction between staff, visitors and animals. Lastly, justification as to why the applicants' existing residence (0.7km from the site) is not suitable with it being considered too far from the animals.

A Supporting Statement on The Impact of the Animal Welfare (Licencing of Activities Involving Animals) (England) Regulations 2018 on the Application considers that controls over the management of enterprises which involve the keeping or training of animals for exhibition has now been tightened. Guidance produced by DEFRA in support of the legislation describes the management expectations required to fulfil the requirements of the regulations and is referenced in the statement.

A Drainage Strategy considers that at this stage only the principles of the drainage strategy have been established to show that a sustainable drainage system with a variety of SuDS components is feasible on the site. The detailed design of the SuDS will be carried out following granting of planning permission. The storage volume estimates are only preliminary at this stage and the total volume of storage will be determined when the outflow location, surfacing details and SuDS components for the proposed development have been finalised. A supporting drawing details the possible location for swales, attenuation storage and rain water harvesting tanks.

A Surface Water Drainage Statement considers that whilst the mapping of the surface water flooding risk model produced by the Environment Agency shows that the site is potentially affected by surface water flooding, in practice the areas shown to be at risk within the site are sloping and drain freely into the brook course. There is a large area of open land contained within the application site which is at a lower elevation than the proposed buildings and hard-surfaced car parking and access areas; it is proposed that this land could be used for swales the design of which could be detailed through a planning condition on any consent granted.

A Biodiversity Statement considers the potential impact on birds, bats and great crested newts, concluding that there is no requirement for a full assessment of the sites existing habitats and noting there was no requirement for this on the adjacent site Whistlewood Common.

A Supporting Statement regarding Access and Parking Considerations submitted in response to the CHA's comments provides greater justification as to the amount of car parking proposed and further information relating to traffic generation. With reference to a comparable enterprise 'Paradise Farm' and supporting traffic figures which justified the required level parking for this scheme.

A Business Plan details the proposed venture and how it will operate on a day to basis and, a brief history of the site and how the business originally started at the Ivy House, The Common, and the venture demonstrated that there is demand for such a facility.

A Projected Financial Statement for the first 3 years of the business was submitted, detailing projected costs and income.

A Financial Statement for the current enterprise for the year ending 31st March 2018 was submitted, detailing the expenses, income and assets of the business.

A Supporting Statement on the Impact of the Animal Welfare (Licencing of Activities Involving Animals) (England) Regulations 2018 on the application details the changes in law.

A rebuttal of objections was submitted following a request from the agent for any comments on the application.

A response to the Council's agricultural consultant concludes that the Council the request for a temporary period of 3 years for the residential element is of great relevance to a proposal that is

different from the norm. He urges that a grant of permission is recommended and that this application should be given a fair trial period in which to demonstrate the public response, potential viability and the need for residential supervision. If that is done, then the time for considering the long term future will be informed by the experience of the 3 years, with an entirely reversible process should the case not be proven.

Planning History

9/2016/0833	Change of use of agricultural land to the land used for the keeping of horses – Granted 11/10/2016.
9/2014/0329	The construction of an octagonal, timber-framed roundhouse, a Celtic roundhouse, 4 compost toilets, kitchen and store, creation of a pond, reinstatement of a stream and link to new pond, creation of tracks for deliveries and access and creation of parking spaces including disabled parking – Granted 07/07/2014 [adjacent site]
9/2011/0702	The erection of a general purpose agricultural building and new access – Granted 14/10/2011

Responses to Consultations

The County Highway Authority (CHA) requested amended plans relating to widening of the access track into the site and justification as to the proposed amount of parking. Based on the additional information received, which included the proposed widening of the access track and additional parking, the CHA has raised no objections subject to conditions on any consent granted.

The Lead Local Flood Authority (LLFA) initially raised a holding objection as insufficient information was provided regarding the proposed drainage strategy on site. After submitting a drainage strategy, the LLFA requested further information and as a result now has no objections subject to conditions being attached to a decision requiring more detailed information to be submitted relating to drainage.

Derbyshire Wildlife Trust (DWT) advised that there are unlikely to be any substantive ecological impacts associated with the proposed development and as such has considered that the submission of an ecological assessment is not required in this case. Therefore there are no objections, with conditions recommended for any consent granted.

The Environment Agency (EA) has no objections to the proposals and has provided advice on the government guidance contained within the PPG regarding water supply, waste water and water quality.

The National Forest Company (NFC) has noted that the site benefits from two areas of young woodland planting and parkland trees which have recently been planted with NF funding. As no planting is proposed as part of the application, it is requested that a condition be attached to any consent granted requiring a further 0.85ha of woodland planting, either on site or elsewhere within the National Forest.

The Environmental Health Officer (EHO) has raised no objections to the proposal.

Responses to Publicity

13 letters of support have been received, raising the following points:

- a) Promotes and encourages interaction with animals;
- b) Educational for the public as they can learn more about animals and life skills;
- c) Supports people with learning disabilities;
- d) A safe environment for children to learn and play;
- e) Provides a pillar/asset to the local community;

- f) Important for the local economy and nearby businesses, attracting visitors to the area;
- g) Provides employment for young people and those with disabilities and benefits them working with animals and interacting with others;
- h) Important public attraction for the local area.

Nine letters of objection have been received in addition to objections raised by Melbourne Civic Society, raising the following concerns:

- a) Information submitted as part of the application is inaccurate;
- b) The application documents reference the adjacent site Whistlewood Common as a prior example but fail to recognise that the site was approved as a result of its ethical and sustainability principles and standards;
- c) Sustainable materials are not proposed;
- d) Swales and ponds should be used to reduce flooding downstream;
- e) The proposed highway access is entirely inadequate for the volume of traffic and size of vehicles, two-way access is a minimum requirement;
- f) How and where will surface water run off the proposed new access;
- g) No parking provided for bicycles;
- h) Environmental impact study should be submitted;
- i) The development will impact Whistlewood Common due to the additional traffic and noise
- j) Disturbances to wildlife on and near to the site is a major issue;
- k) Objects to any permanent house being built on site;
- l) Trees should be used to screen views of the proposed development from the public realm;
- m) An ecological/wildlife survey should be undertaken;
- n) Reservations as to the long-term profitability and sustainability of the enterprise;
- o) The proposal is out of character for the rural area and considered intrusive;
- p) The scale of the hard landscaping and buildings is out of scale with the size of site and its rural location;
- q) The proposed access would have a detrimental impact on the existing hedge;
- r) Comparisons to adjacent site Whistlewood Common are inappropriate;
- s) Concerns over noise pollution and littering;
- t) The proposed business plan is not realistic;
- u) Concerns over animal welfare with no running water on site, development should be compliant with the relevant Riding Establishment Acts;
- v) Concerns over the proximity of the buildings to the existing water course;
- w) Evidence that there are no bats on site is inaccurate;
- x) Development better suited on a more established farm location;
- y) Concerns that the area designated as a field is not adequate for proposals set out in the business plan;
- z) Concerns over how and where the animal waste is to be disposed.

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), H1 (Settlement Hierarchy), H20 (Housing Balance), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF8 (The National Forest) and INF10 (Tourism Development)
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries) and BNE5 (Development in Rural Areas)

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

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

- The Principle of Development;
- Design and Layout;
- Neighbouring Amenity; and
- Highway Safety.

Planning Assessment

The Principle of Development

The proposed use of the site is for the erection of additional buildings and increased numbers of livestock in order to use the site as a facility to promote interaction between animals and the public. It is considered that the primary focus is not on expanding the range of employment activities but as tourism use and therefore the proposed land should be assessed against Policy INF10, which directly relates to tourism development and promoting new visitor attractions within the District.

Policy INF10 A (ii) permits tourism development where the site is not within or adjoining the urban area or key service villages, if it is in an appropriate location where identified needs are not met by existing facilities. The South Derbyshire Economic Development Strategy 2016-2020 identifies the following as an ambition:

'Promote development of the areas key sectors, such as manufacturing and tourism'. It identifies as an action, *'... continue to develop the tourism product, e.g. Rosliston Forestry Centre, Elvaston Castle, Sharpes Pottery Museum'.* The Council's Strategy identifies The National Forest as a potential catalyst for a range of wood-related and tourism businesses. These new industries have the potential to redress the decline of employment in predominantly rural sectors such as agriculture, mining and power generation.

In regard to the requirements of Policy INF10 A (ii), the support for continued development of the tourism product in South Derbyshire, and particularly within the National Forest, is established and it can therefore be concluded that identified needs are not yet being met in full by existing facilities therefore the proposal for a new tourism enterprise complies with Policy INF10.

It is noted that the applicant has removed a proposed temporary workers' dwelling from the scheme as it failed to comply with Policy H25.

Design and Layout

There are views into the site from The Common, with the highway running parallel to the site, but separated by an arable field with a distance in excess of 300m, therefore although there are views from the public realm they are limited. In addition, the ground level of the southern side of the site appears lower than that of the highway, only by approx. 1-2m further reducing the visibility and impact on the area. The existing layout of the animal holdings appears to be retained as existing with the proposed new buildings to the south west part of the site. The buildings would appear adjacent to the existing agricultural building and therefore reduces the visual harm when viewed from the public realm. The proposed size and design of the buildings matches their rural context and would integrate well with the existing building. When viewed from The Common, the buildings would

appear as a small group of agricultural buildings, which would not be unusual considering its setting. As such the proposed design and visual impact of the buildings is considered compliant with Policies SD1 and BNE1.

Neighbouring Amenity

Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers. In relation to the impacts on the residential amenities of neighbouring occupiers that surround the site, the nearest property is Windy Ridge, Shepherds Lane that is approx. 200m away from the closest proposed building. Therefore there are no concerns regarding overshadowing of neighbouring properties, as there are none close enough to be demonstrably impacted by the development. There is considerable separation from the site to all of the neighbouring dwellings within the locality of the site. The nature of the proposal is that it would be visited by members of the public during daytime hours only, with the number of visitors constrained by the size of the site and the size of the car park. It is noted that the Council's Environmental Health Department raised no objections to the proposal. As such it is considered that the proposed buildings and land use would not demonstrably impact the residential amenities of neighbouring properties and therefore is compliant with Policies SD1, BNE1 and the SPD.

Highway Safety

Vehicular access for the site is proposed via the existing access off The Common, with improvements being made to what is currently a gravel track, to make it wider and improve the road surface with tar bound quarry tailings or recycled road planings; concerns were initially raised by the County Highway Authority with the current access considered unsuitable to serve the proposal. It is noted that the CHA has now raised no objections regarding the impact on highway safety, subject to conditions being attached to any consent granted. This is a result of an amended plan improving the parking provision on site to include an area for coach parking and justification as to the proposed number of car parking spaces for visitors to the site. As such the access is considered sufficient to facilitate the proposed development and would not adversely impact on highway safety to a point where permission should be withheld. It is also considered that the proposal has provided sufficient parking provision for both cars and coaches. As such the proposal complies with the requirements of Policy INF2.

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 Block Plan, received 07 August 2019, Location Plan, Floor Plans and Elevations and Schedule of Materials, received 13 April 2018; 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 a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

a. Melbourne Animal Farm, The Common, Melbourne, Drainage Strategy, Version 0.1 (dated November 2018, Prepared by Julia Williams) including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team; and
b. DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have 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 proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.

4. 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 drainage hierarchy as set out in paragraph 80 of the planning practice guidance.

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.

5. Prior to commencement of the development, the applicant shall submit for approval to the LPA, details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.

6. Before any other operations are commenced, the existing access to The Common shall be modified in accordance with the revised application drawings, laid out, constructed and provided with 10m radii, a minimum of 5.5m in width and 2.4m x 215m visibility splays in both directions, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that even initial preparatory works could bring about unacceptable impacts.

7. Prior to the commencement of development, a scheme of biodiversity enhancement (namely the incorporation of bird nesting boxes) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first use of the development.

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

8. Prior to the first use of the site a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first use of the site or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

9. The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of visitors, staff and service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: To ensure adequate parking and turning provision, in the interests of highway safety.

10. No removal of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: The buildings on site do have potential to support nesting birds, particularly swallows.

11. The premises shall not be open to the public other than between 1000 hours and 1700 hours Mondays to Saturdays, and between 1030 hours and 1600 hours on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers.

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

Reason: To ensure safe and suitable access for all users, in the interests of highway safety.

Informatives:

1. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email Highways.Hub@derbyshire.gov.uk or telephone 01629 533190.
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. The requirement for a landscaping scheme is a result of the The National Forest's requirement for a further 0.85ha of woodland planting and landscaping to be accommodated. This could be on site or elsewhere within the National Forest. In addition, Derbyshire Wildlife Trust required that any loss of hedgerow should be fully compensated for by new native hedgerow planting in accordance with a landscaping scheme.

Item **1.2**

Ref. No. **9/2018/1287**

Valid Date **28/01/2019**

Applicant:
Mr S Adams
Bowler Adams LLP

Agent:
Mr Robert Thompson
Beckett Jackson Thompson Architects
8 Eldon Chambers
Wheeler Gate
NG1 2NS

Proposal: **THE ERECTION OF 2 NO. TWO STOREY OFFICE BUILDINGS AND ASSOCIATED CAR AND CYCLE PARKING AT BADGER FARM WILLOWPIT LANE HILTON DERBY**

Ward: **Hilton**

Reason for committee determination

This item is presented to Committee at the request of Councillor Patten as it is considered there are unusual site circumstances which should be considered by the Committee.

Site Description

The site is known as Badger Farm, located to the north of the A50 (and Hilton), and to the north east of a junction and roundabout which serves the A50 slip road and the A516. The site is accessed from Willowpit Lane.

The site is surrounded by low but mature hedgerows, with existing offices, a dwelling and egg production units (currently vacant) located to the north of the site with a field containing solar panels beyond. To the south (the area the subject of this application) the site is currently laid to grass.

Proposal

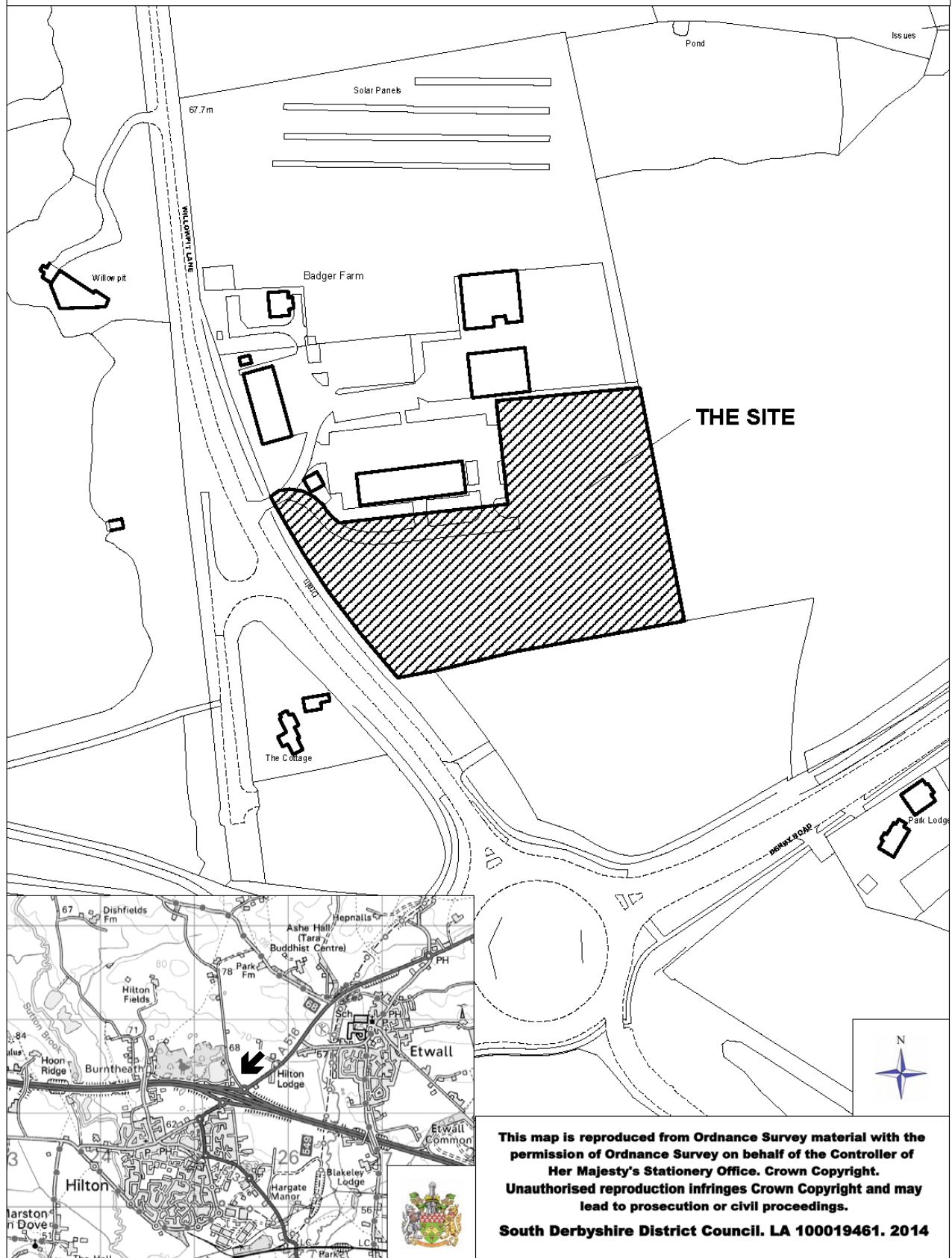
This application proposes an expansion of what the supporting documentation describes as an existing business park though the erection of two additional serviced office blocks. Each building would provide an additional 1,920 sq.m of floor space over two floors (total floorspace of 3,840).

The buildings are sited to in-fill the south-eastern corner of the site with two substantial identical two-storey office buildings measuring 75m by 13.5m designed to have the appearance of farm buildings of a similar design to the existing office buildings on site. The central area of the site is proposed as landscaping and car parking.

Applicant's supporting information

The Design and Access Statement details that the application is as a result of Bowler Adams being unable to satisfy demand for offices which will work in conjunction with their existing building. The proposal is described, with utilisation of the solar installation and foul treatment plant utilised. The proposal would provide for up to 240 office based staff. Reference is made to a 2008 appeal that considered the visual impact of an egg production unit to the east of the site to be acceptable (this permission was never implemented). The majority of new vehicle movements are considered to be domestic vehicles – unlikely to impact on existing junctions or give rise to significant noise concerns. The A516 provides a cycle path with a regular bus service (the Villager V1) in-between Derby and

9/2018/1287 - Badger Farm, Willowpit Lane, Hilton, Derby DE65 5FN



Burton. The statement briefly touches on the requirements of the sequential test and states that a) if a site is not suitable for the commercial requirements of the developer in question then it is not a suitable site, and b) in terms of alternative sites, provided the applicant has demonstrated flexibility with regards to format and scale, the question is whether alternative sites are suitable for the proposed development – not whether the proposed development could be altered or reduced so that it can be made to fit an alternative site. The proposed buildings are to enable the expansion of an existing business, adjacent to and integrally services by the existing facility, and constructed on land in the same ownership – all of these factors directly shape the commercial viability of the proposal – as such no other site is suitable for the commercial requirements of the applicant.

Comments on the suitability of the site for mineral extraction are made, such that due to the size of the site and existing development the site has sterilised the site. An assessment of the local plan has been undertaken, with large amounts of the plan quoted – the assessment considers that the requirements of policy E7 have been met. The application site is considered to be exceptionally well screened and the proposal is not detrimental to the character of the locality or residential amenity and will not cause environmental or traffic problems. It is sited on the A50 corridor, the success for business of which is noted in the Local Plan. It will not only be highly sustainable from an energy efficiency point of view but improve the sustainability of the existing building. The proposal is in accordance with Local Planning Policy and both supports and makes material the aspirations for delivering economic growth stated in the Plan, particularly with regard to the retention and expansion of local businesses and the encouragement of new enterprises.

A Planning Statement and Supplementary Planning Statement have been submitted which describes the site, the proposed development, and sets out the policy context of the site. A business case is put forward – which identifies the popularity of the existing site, and the fact that the applicants have been approached and are confident that there is sufficient demand for the development. In terms of impact on the character of the countryside the proposal is not considered to appear as isolated or unduly prominent as the site would be viewed in the context of the existing buildings. A sequential assessment has been undertaken with a number of sites assessed within Derby City and East Staffordshire and discounted for reasons of size (both too small and too large), the viability of sites and due to the applicants business model i.e. to provide additional serviced offices associated with the existing site. The applicant contends that there are no sequentially preferable sites to meet the applicants requirements.

A Flood Risk Assessment and Drainage Strategy has been undertaken. The site is located within Flood Zone 1 and the use proposed falls under the less vulnerable category in terms of flood risk. The surface water drainage strategy identifies that surface water discharge will not exceed greenfield run-off rates.

The Preliminary Ecological Appraisal identifies that no statutory designated nature conservation sites (i.e. SSSI) or non-statutory designated nature conservation sites (i.e. LWS) occur within the site, however, Hilton Gravel Pits SSSI is 40m from the site boundary to the west. No protected or notable species were recorded on the site; although the site does provide potential terrestrial habitat for great crested newt and habitat for nesting birds. A Great Crested Newt Survey was undertaken which confirmed that there are no nearby ponds which are ecologically attached to the site, with the nearest record of GCN's being around 600m away from the site. Therefore, due to the sub-optimal habitat within the footprint of works (solely short mown amenity grassland), the absence of nearby ponds which are ecologically connected to the site and the ditches being of poor habitat suitability, it is deemed unlikely that great crested newts will be within the area of proposed works.

A Transport Assessment has been undertaken following comments received from Highways England. The assessment undertook additional modelling and an assessment of junction capacity in the area – the report concludes that the traffic generated from the site could be accommodated within existing capacity.

Planning History

9/2001/0352	The erection of an organic egg production unit to be known as unit 2 on land forming part of. Approved 27/06/01.
9/2001/0353	The erection of an organic egg production unit to be known as unit 1 on land forming part of. Approved 27/06/01.
9/2001/0354	The erection of a barn on land forming part of. Approved 27/06/01.
9/2004/1605	The erection of a proposed pullet rearing unit. Approved 07/02/05.
9/2004/1606	The erection of a proposed permanent dwelling for agricultural occupancy. Approved 07/02/05.
9/2006/1289	The change of use of an agricultural building to form office accommodation. Approved 13/02/07.
9/2007/0479	Change of Use from agricultural building to office accommodation (amended scheme for that permitted under 9/2006/1289). Approved 12/06/07.
9/2007/1106	Conversion of barn to offices. Approved 16/11/07.
9/2008/0176	Outline application for the demolition of the existing poultry unit and the erection of an egg packing station. Refused 10/06/08 – Allowed at appeal 10/11/08.
9/2008/0866	Outline application for the extension and alteration of existing buildings to form an egg packing facility. Approved 12/11/08.
9/2010/0110	The construction of an additional office. Approved 08/04/10.
9/2011/0557	The erection of storage building incorporating office accommodation. Approved 02/09/11.
9/2011/0936	The installation of 216 ground mounted photovoltaic panels. Approved 19/01/12.
9/2013/0121	Application to extend the time limit for implementation of planning permission 9/2010/0110 for the construction of an additional office. Approved 22/04/13.
9/2013/0322	The erection of additional office accommodation and associated parking and a new access road to the buildings at the rear of the site. Approved 27/06/13.
9/2013/0691	The amended scheme of previously approved application 9/2013/0322 for the erection of additional office accommodation associated Parking and a new access road to the buildings at the rear of the site and new gatehouse. Approved 17/10/13.
9/2013/0322	The erection of additional office accommodation, associated parking and a new access road to the buildings at the rear of the site and new gatehouse. Approved 27/06/13.
9/2014/0609	The construction of office accommodation and creation of access roads and parking area. Approved 09/09/14.
9/2014/0667	The installation of 252 roof mounted photovoltaic panels to the roof of two existing agricultural buildings. Approved 12/09/14.
9/2014/0681	The installation of 552 ground mounted photovoltaic panels. Approved 29/09/14.

- 9/2016/0948 Creation of a new domestic vehicle access and driveway. Approved 5/12/16.
- 9/2017/0823 Change of use of agricultural buildings to storage. Approved 25/11/17.
- 9/2017/0853 The variation of conditions 2, 3, 5 and 7 of planning permission ref: 9/2014/0609. Approved 30/11/17.

As is evident above the site has significant recent planning history, which has seen the conversion of a barn to offices, the erection of a new office building, and permissions for various egg production units. The application for the conversion of the barn to office accommodation (9/2006/1289) was granted for JB Eggs as was the new office building granted under permission 9/2017/0853 (an amended scheme following the initial approval in 2010). The justification initially being for expanded office accommodation for JB Eggs, although the office building is now in use as serviced offices rather than being used for it's originally intended and justified purpose.

Responses to Consultations

Highways England offers no objection following the undertaking of additional transport modelling for the site and the A516 roundabout which serves the A50.

The Highway Authority has no objection and notes that the proposal includes the provision of 128 parking spaces for the two proposed office buildings; this is subject to conditions relating the provision of space within the site for storage etc. during the construction period, and the provision of parking in accordance with the submitted plan.

The Environmental Health Officer whilst not having any significant concerns in respect of contaminated land notes that the site is within influencing distance of a significant area of infilled land. As such there may be potential risk from ground gas migration and ingress and conditions to that effect are recommended.

Natural England considers that based on the information submitted the proposed development would not have a significant adverse impact on designated sites and has no objection.

The Environment Agency has no objection subject to a condition requiring a scheme for the installation of oil and petrol separators.

The Lead Local Flood Authority has no objection to the development subject to conditions relating to the submission of a detailed design, management and maintenance plan in accordance with the submitted FRA. Noting the additional comments provided and the need for the applicant to demonstrate that the necessary consents would be achievable to provide the SuDS scheme proposed as part of any conditions discharge.

Severn Trent Water has no comments on the proposals but suggest an informative relating to the location of public sewers.

Derbyshire Wildlife Trust note that the site falls within the Impact Risk Zone of Hilton Gravel Pits SSSI, and a Toad Crossing is present on Willowpit Lane with animals crossing the site during their annual migration. As a priority species suitable mitigation will be required, which can be secured by condition. The mitigation measures and biodiversity enhancement measures identified in the PEA (Preliminary Ecological Appraisal) should be secured though soft landscape planting and its maintenance.

The County Urban Design and Landscape Officers object to the proposed development, concluding that the development of commercial style buildings would completely change the character of the site from a farm diversification scheme to a stand-alone business park character.

The Planning Policy Team note that policy E7 supports new development which expands and diversifies the range of employment opportunities in rural areas. However, as a main town centre use the NPPF requires the application of the sequential test the development not being within an existing centre or in accordance with an up to date plan. The proposal represents speculative development to meet office accommodation needs of other businesses – The argument that the proposal forms part of the existing business is not accepted and the sequential test should be applied giving consideration to suitable sites in the nearby urban centres of Derby, Burton upon Trent and Swadlincote.

Derby City Council having provided details of a number of sequentially preferable sites within the City CBD and have commented on the justification put forward for sites being discounted and do not accept the justification for 3 of the proposed sites. Overall they are concerned about the creep of development in this location and the scale of floorspace being proposed. Whilst more rural locations can serve a function of meeting smaller scale office needs, development of the scale proposed should ideally be met within in-centre locations, helping to boost the vitality and viability of the centre and taking advantage of sustainable transport options.

East Staffordshire Borough Council has also provided details of sequentially preferable sites within their District. The assessment is considered to provide little justification in terms of constraints as to why the sites are not suitable. Specific comments are made on the Supplementary Planning Statement noting the comments regarding the sub-division of the buildings to provide for small start-up businesses – there is clearly potential for smaller businesses to be located in sequentially preferable sites.

Responses to Publicity

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

- a) The site is still classified as agricultural land including a house with an agricultural tie;
- b) The site is not in the adopted local plan for offices for general rent/lease;
- c) There is an SSSI adjacent to the site;
- d) The previous appeal removed PD rights, the trees referred to in the decision were removed within weeks of the appeal;
- e) Highway safety concerns: 400 additional movements to and from a very busy roundabout; only 128 parking spaces which will be inadequate, especially as there is no space for parking on street; Willowpit Lane is only single carriageway;
- f) Increased light and noise pollution;
- g) Already too much traffic on the lane, increased risk of accidents;
- h) Existing slow internet speeds will decrease further;

Development Plan Policies

The relevant policies are:

- Local Plan Part 1 (LP1) 2016: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S5 (Employment Land Need), S6 (Sustainable Access), E1 (Strategic Employment Land Allocation), E2 (Other Industrial and Business Development), E3 (Existing Employment Areas), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals Safeguarding), INF7 (Green Infrastructure), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), BNE1 (Design Excellence).
- Local Plan Part 2 (LP2) 2017: RTL1 (Retail Hierarchy), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows), SDT1 (Settlement Boundaries and Development).

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

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

- Principle of development;
- Landscape impact and design; and
- Highway safety.

Planning Assessment

Principle of development

In considering the principle of development it is necessary to establish the nature of the development proposed. The application is for the creation of a serviced office development on a large scale. As the local plan does not contain a specific policy on office development in rural areas the requirements of policies RTL1, E7 and BNE5 are the most relevant. This is on the basis that in Annex 2 of the NPPF, office development is defined as a 'main town centre use' and for the purposes of the Local Plan is also employment development. To this end an assessment of the principle of development is split between the need for the site to be located in a town centre (or edge of centre) i.e. the application of the sequential test required by policy RTL1 and the NPPF, and the rural economic development policy E7.

It is worthwhile noting at this point that the development proposed is speculative with no specific users in mind. Rather the justification being existing units have proven popular, although the later supporting statement submitted identifies that two users for parts of the development have been identified.

The sequential test:

The impact on town centres caused by town centre uses locating away from central locations has led to the need for such applications to be tested to see if a more sustainable location for that use can be found. As such, the use of the sequential site assessment needs to be attached significant weight in assessing the acceptability of the proposal. This approach to site selection seeks to focus new development within existing town centres, where only if sites within or on the edge of centres are not available would an out of centre site be appropriate. The application site is located within a rural area far removed from an existing centre. In assessing alternative options, the discounting of more central sites needs to be rejected for sound reasons, which are clearly explained and justified in the policy with the onus on the applicant to demonstrate compliance with the sequential approach. There is also a requirement for proposed operators to demonstrate flexibility in the suitability of sites and the format and/or scale of the proposal if appropriate.

As the development is for a substantial office scheme that would form smaller serviced offices let to a number of individual tenants, flexibility in the consideration of sequentially preferable sites should include an assessment of smaller sites that could accommodate an element of the proposed office development especially as the development is speculative with no specific end users (save for some interest from prospective occupiers as identified in

the submitted reports) but provision provided for start-up business. This is not the expansion of an existing business but the development of new buildings to accommodate numerous businesses. The applicant has not been flexible in their assessment of the suitability of sites, a significant drawback of the assessment.

The Council accepts that due to the nature of the District and the size of its settlements and centres, there are no sequentially preferable sites located within the District. This leaves an assessment of sites within the neighbouring authorities of East Staffordshire and Derby City as being the most relevant. The initial planning supporting statement submitted undertook a brief assessment of sequentially preferable sites in Derby and Burton. The assessment discounted 6 of 7 sites in Derby and 2 sites in Burton based on the size of the site (or building) being too small to accommodate the development proposed as a whole – with no flexibility provided. It is accepted that the sites assessed are too small to accommodate the whole development but not the individual smaller elements of the development proposed.

As the sites assessed are contained within neighbouring authorities, the views of the proposal and potential alternative sites were sought from the relevant authorities (i.e. East Staffordshire Borough Council and Derby City Council) each of whom have suggested additional sites for consideration.

Within Derby these sites are: The Becketwell Regeneration Area; Land at Full Street; Siddals Road /North Castleward; and Riverlights. Within Burton the sites considered preferable are: Bargates; Rugby Club Site; Centrum 100; 107 Station Street; and Branston Locks.

The sites have been assessed and it has been put forward identifying that none of the sites are suitable for the applicant. This is disputed for three sites within Derby: Full Street (In Centre)– discounted as the floorspace approved is too large. This is not sufficient justification to strike out a site noting that the site is of sufficient size to accommodate the proposed development and is suitable in principle; Siddals Road (In Centre) – The site benefits from a 2010 permission for office use which has not been implemented, the site has been discounted due to the size of the site and individual buildings, and that the age of the permissions suggests the project is not viable. Again the site could accommodate the development as a whole, according to DCC the reason the site has not yet come forward is due to a lack of lead tenant – so this is not sufficient reason to discount the site especially if the applicant has a lead tenant interested in this site that may help bring the site forward; Riverlights (Edge of Centre) – Discounted due to the size of existing units, the non-implementation of an office scheme of the site which suggests viability issues. The site for the office scheme (rear of the bus station) remains extant as the main permission for the bus station itself has been implemented, the site is of sufficient size to accommodate the development.

Within East Staffordshire five additional sites put forward have been discounted as being unsuitable for the applicant. Of these sites two are disputed: Bargates (In Centre) and Station Street (Edge of Centre) – Both of these sites have been discounted due to the applicant's business model, which is to provide serviced accommodation associated with the existing units at Badger Farm and the site is too far from Badger Farm to operate effectively. This reasoning is not considered to be sufficiently robust, noting that the PPG (Paragraph: 012 Reference ID: 2b-012-20190722) identifies that land ownership does not provide such a justification – the discounted sites could just as easily be operated as the existing with no need for them to be next to the existing units, especially as the units would accommodate a variety of unit sizes and occupants with no link save for ownership.

There appears to be no functional reason to justify the location, i.e. the proposal is speculative and is not related to existing activities on the site. The only justification provided seems to be to build on the success of existing office floorspace and to respond to demand. Allowing development simply where the demand is would be contrary to the provisions of the

development plan and the sequential approach to new office development required by the NPPF.

The application has failed to demonstrate compliance with the requirements of the sequential test. The application fails to demonstrate that a flexible approach to the assessment of alternative sites has been adopted, there are sequentially preferable town centre and edge of centre sites, which are available and suitable for the development proposed (or an alternative flexible size) and as a result the proposal would have an adverse impact on the vitality and viability of nearby centres.

Rural economic development:

The proposal is for new economic development, which in principle is supported for by policy E7 inter alia BNE5 in rural areas i.e. outside of the identified settlement boundaries. There is also an allowance within the NPPF not to apply the sequential test to small scale rural offices. However, the development of the site for nearly 4,000 sq.m of speculative serviced offices is not considered to be small scale and as such this allowance is not relevant. So whilst there is support for rural development this is not extended to such a scale of new office development without the application of the sequential test outlined above.

Policy E7 requires new development to support the social and economic needs of the rural communities in the District – which has not been demonstrated; a survey of where existing staff travel from provides little evidence of the development supporting such a need. The brief business case put forward for the development simply identifies that the existing units are popular, with the applicant having been approached by prospective occupiers and being confident that the development would be viable. Whilst there would be a benefit to the local economy through the creation of new office space and providing the space for businesses to grow, such a facility should be located in a more sustainable location where there would be additional environmental, social and economic benefits.

The governments' support for new economic development is underpinned by the aim of achieving sustainable growth, promoting prosperity and the creation of jobs. However, it is not considered that this should be a cue for abandoning planning policies and objectives. Whilst every endeavour should be taken to promote growth this should not be at the expense of the overarching principles of national and local policy, which aim to promote and help maintain vital and viable town centres. Therefore the creation of jobs in this out of centre location should not take precedence over the overarching principles of planning policy.

The impact of the proposal on local employment is one of the criteria for determining the acceptability of new proposals for economic development. The application details that approximately 240 new jobs would be created as a result of the new facilities albeit no details are supplied as to whether these are full time equivalent jobs or part time or indeed as no certain occupants have been identified it is unclear how this figure has been reached. Clearly the proposals would result in the creation of new jobs, which would be of benefit to the local community. However, in accordance with the above assessment these jobs should and would be best placed to be located within centres as the area's most accessible and sustainable locations.

Landscape impact and design

The site is located within the national 'Trent Valley Washlands' Landscape Character Area, which has a 'Lowland Village Farmlands' landscape character type. These character areas are described as gently rolling, almost flat, lowland with river terraces, containing mixed farming with arable cropping and improved pasture, medium to large regular fields with thorn hedgerows, and discrete red brick villages with farms and cottages. Immediately to the West of the site lies the Hilton Gravel Pits SSSI, a site characterised by wetlands and wetland vegetation. Willowpit Lane itself has a rural character, with large hedgerows interspersed with trees giving the lane its dominant character. The

site lies between Etwall and Hilton, at the junction with the A516 which links Etwall and Hilton. Close by, the A50 has an elevated section which flies over the twin roundabouts servicing the two settlements. Surrounding fields are mixed-arable with mature hedgerows with hedgerow trees.

There are a number of policies which are relevant to this assessment. Indeed the objectives of the LP are clear that new development needs to protect and enhance the open countryside and the quality of the landscape, and preserve its identity, character and environmental quality. 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. In particular part B of the policy sets out that “...*development that will have an unacceptable impact on landscape character (including historic character), visual amenity and sensitivity and cannot be satisfactorily mitigated will not be permitted*”. In addition, policy BNE5 seeks to ensure appropriate development in the countryside “*will not unduly impact on landscape character and quality...*” with policy E7 seeking to minimise visual intrusion and impact on the character of the locality.

Views of the site from the A50 are limited to the raised section across the top of the A516 roundabout, from where the site is highly visible. With the existing site visible through scrub trees from the roundabout at Willowpit Lane. The views into the site are very open from Willowpit Lane along the access road and into the parking areas.

Whilst views are relatively contained, the landscape character is one of low-lying village farmlands (with the obvious exception of the A50). Willowpit Lane is rural in character and the surrounding fields and adjoining gravel pit SSSI (Hilton Gravel Pits) have an open intrinsic character. The site itself currently has the appearance of a rural farm diversification scheme, with a farm house and converted former farm buildings.

When viewed in the context of the original farm buildings there would be a great contrast in scale and character as a result of this substantial development. The new commercial buildings would dominate the character of the original farm and would completely change the character from a farm diversification to a stand-alone business park character. Viewed against the backdrop of the existing buildings and located towards the road, the buildings would increase scale and massing and impact of the overall scheme. In particular, in contrast with the existing farm house, the four office buildings would provide the main character of the site.

The application allowed on appeal APP/F1040/A/08/2080292 related to the replacement of two existing modern poultry sheds and related to additional employment of 20 jobs. The current proposal represents a different scale in human activity, and an additional 240 jobs. Such an expansion would change the active nature of the site.

There appears to be no attempt to use any landscape mitigation techniques to reduce the scale and massing or impact of visibility from its surroundings, and inadequate space has been allowed that could support an effective screen. The views into the site are very open from Willowpit Lane along the access road and into the parking areas.

The building form is rather box-like and whilst timber cladding can give a muted appearance, the quantity of floor to ceiling height fenestration with visible floorplates, would appear more commercial than rural farm character.

The design and access statement accompanying the application refers to a previous appeal for an egg packing station APP/F1040/A/08/2080292 which proposed a building with a ridge height of 9.6m, however a pitched ridge height is significantly different in mass than flat roof structures. The new buildings would be over 9m high and in total there would be additional overall floor area of 3,840. This would represent a considerable increase in massing and generally their presence in relatively flat countryside would be more prominent. The appeal inspector previously took into account a large amount of planting within the appellant's land that would provide screening in the long term. This planting was immature at the time, and during visits to the site this landscaping and planting scheme does not appear to have been retained and the buildings appear very sterile and open to the wider landscape.

Other matters

The thrust of local (S6 and INF2) and national policy relating to highway matters seek to ensure that safe and suitable access can be achieved for all users, and that any significant impacts arising from the development on the existing transport network or on highway safety can be adequately mitigated. The NPPF seeks to ensure that opportunities are taken to promote sustainable transport and is explicit that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual impacts of development on the road network would be severe.

The Highway Authority considers that the existing access is acceptable in highway safety terms to serve the development and the provision of 128 parking spaces is also deemed to be acceptable. In terms of the impact of the development on the strategic highway network Highways England initially objected to the development due to the quality and detail submitted in the initial Transport Assessment (TA) – a revised TA has been submitted which satisfactorily addresses the initial concerns raised and as such Highways England has removed its objection.

The area proposed for development is presently grassland and in addition to the building footprints, the proposals include large areas of hard surfacing for access roads, parking and hardstanding. This would result in some loss of habitat and biodiversity. The landscape proposals and drainage strategies contribute little to address the loss of biodiversity. The drainage strategy for the site is attenuation with controlled runoff to the existing ditch to Willowpit Lane. To achieve any biodiversity enhancement some form of surface level swale or pond would be desirable as well as a landscape scheme including diverse habitat creation and appropriate management for wildlife.

Planning balance

Whilst developing the site in the manner proposed by this application would result in demonstrable benefits in the form of additional jobs and economic development. It is considered that this does not outweigh that fact that the application fails to demonstrate compliance with the requirements of the sequential test in particular the application fails to demonstrate that a flexible approach to the assessment of alternative sites has been adopted, with little assessment for the scope of disaggregating the development. It is apparent that there are sequentially preferable town centre and edge of centre sites, which are available and suitable with no evidence to support the assertion that some of the sites are not viable, and as a result the proposal would have an adverse impact on the vitality and viability of nearby town centres. In addition, no sound or compelling business case has been provided to justify the proposed development. The development is therefore considered to be contrary to policies S1, S2, RTL1 and E7 of the Local Plan, and the provisions of the NPPF and its supporting PPG. In addition, the site is not adequately served by public transport and as a result would rely on a significant proportion of occupiers making dedicated car borne trips, thereby contrary to the provisions of planning policy which seeks to direct new development to locations which are accessible by a choice of means of transport, reduce reliance on the private car, and limit carbon emissions, all of which weigh against the development.

The existing site provides the impression of an organic scheme of farm diversification, on a relatively low key scale. The proposal would result in a significant scale of development in this rural area,

which would result in the urbanisation of the countryside detrimentally impacting on the character of the area and landscape though a large scale commercial development at odds with its location. The proposal has failed to appropriately consider the existing characteristics of the site's surroundings and does not reflect or respond to this character such that the development of the site would result in a form of development which would dominate the landscape and result in significant change in the character of the area to its detriment. The proposal is therefore considered to be contrary to policies S1, BNE1, BNE4, BNE5 and E7 of the Local Plan, and the NPPF and its supporting PPG.

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

REFUSE permission for the following reasons:

1. The application fails to demonstrate compliance with the requirements of the sequential test in particular the application fails to demonstrate that a flexible approach to the assessment of alternative sites has been adopted, with little assessment for the scope of disaggregating the development. It is apparent that there are sequentially preferable town centre and edge of centre sites, which are available and suitable with no evidence to support the assertion that some of the sites are not viable, and as a result the proposal would have an adverse impact on the vitality and viability of nearby town centres. In addition, no sound or compelling business case has been provided to justify the proposed development. The development is therefore considered to be contrary to policies S1, S2, RTL1 and E7 of the Local Plan, and the provisions of the NPPF and its supporting PPG.
2. The existing site provides the impression of an organic scheme of farm diversification, on a relatively low key scale. The proposal would result in a significant scale of development in this rural area, which would result in the urbanisation of the countryside detrimentally impacting on the character of the area and landscape though a large scale commercial development at odds with the character of the area. The proposal has failed to appropriately consider the existing characteristics of the site's surroundings and does not reflect or respond to this character such that the development of the site would result in a form of development which would dominate the landscape and result in significant change in the character of the area to its detriment. The proposal is therefore considered to be contrary to policies S1, BNE1, BNE4, BNE5 and E7 of the Local Plan, and the NPPF and its supporting PPG.

Item 1.3
Ref. No. 9/2019/0605
Valid Date 05/06/2019

Applicant:
 Farrington Properties Limited

Agent:
 Mr James Hodgkins
 Simply Planning Limited
 Suite 204
 Cheltenham House
 Temple Street
 Birmingham
 B2 5BG

Proposal: CHANGE OF USE FROM A MIXED USE OF COMMERCIAL AND RESIDENTIAL (USE CLASS A1 AND C3) TO HOUSE IN MULTIPLE OCCUPATION WITH A TOTAL OF 8 NO. BEDSIT ROOMS (USE CLASS SUI GENERIS) WITH ASSOCIATED ALTERATIONS AT 3 CHURCH STREET CHURCH GRESLEY SWADLINCOTE

Ward: Church Gresley

Reason for committee determination

The item is presented to Committee as the development does not accord with the provisions of the Development Plan but the recommendation is of approval.

Site Description

The application property lies on Church Street, Church Gresley, with the host building being a detached two-storey property with a steep pitched, tiled gable roof, built from red facing bricks, with white render to the first floor front elevation. The ground floor front elevation features a timber framed, glazed, shop frontage. The property is traditional in character with features such as the traditional style shop frontage, stone cills/lintels and large sash style windows. The street scene is a combination of residential and a mix of commercial uses, including shops and hairdressers. The property is not separated from the footway, which is typical of the character along this part of the street scene, with the area being well built up and comprising a mix in character with modern and traditional style properties and no consistent use of materials.

Proposal

A change of use is proposed from a mixed use of commercial and residential (Use Class A1 and C3), to a house in multiple occupation with a total of 8no. bedsit rooms (use class sui generis) with associated alterations, which includes removal of the existing shop frontage.

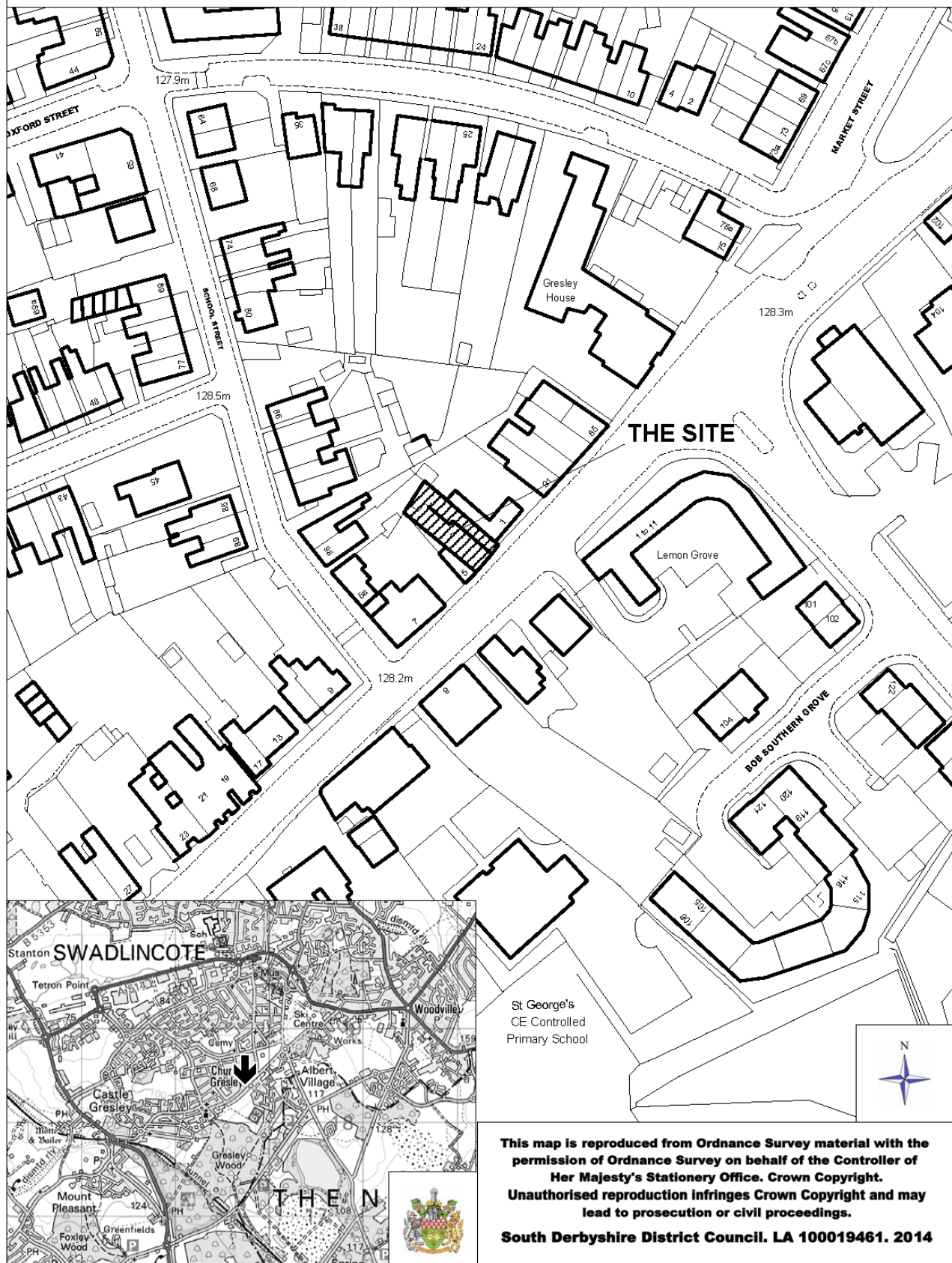
Applicant's supporting information

Supporting Marketing Evidence has been submitted to demonstrate that the unit has been fully marketed for a period of 6 months; this includes a report detailing all of the enquiries received and the change in value the property has been marketed as.

Planning History

9/1296/0673 The conversion into a bedsit unit of the ground floor store at the rear of – Granted
 21/01/1997

9/2019/0605 - 3 Church Street, Church Gresley, Swadlincote DE11 9NP



Responses to Consultations

The Environmental Health Officer has raised no objections but has recommended an informative on any decision granted, requesting that the applicant contacts Licensing/Environmental Health as a license would be required for the use as a 'house in multiple occupation' (HMO).

The County Highway Authority has raised no objections.

Responses to Publicity

Nine objections have been received, raising the following concerns:

- a) No off street parking provided, during school times this will be problematic and raises highway safety concerns.
- b) Factual errors in the application as the residential element of the property has not been vacant since Dec 2017, but has been occupied since 2015.
- c) Would result in unwanted noise, impacting neighbours.
- d) Would result in antisocial behaviour.
- e) A further strain on already fluctuating water pressure and recorded sewerage issues.
- f) It would be a shame to see the home of T.G. Green lost, it is considered a precious asset to the areas heritage.
- g) A loss of a retail unit would be harmful to the area, with there being a decline in the number shops locally.
- h) Considered to be over development of the property, 2/3 bed apartments would be more appropriate for the area.
- i) The intended use as bedsits would encourage younger people to live at the property, which is not appropriate for the area.
- j) Concerns raised over the blocking up of the neighbouring right of way and the impact that would have on access.
- k) Concerns over the impact on neighbouring privacy
- l) No market demand for the type of housing proposed.
- m) The proposal is for 8 bedsits yet the plans show a 'bedroom 9' on section AA.
- n) The consultation letter was received after the 21 day consultation period.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S7 (Retail), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE11 (Shopfronts) and INF2 (Sustainable Transport).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) and RTL1 (Retail Hierarchy).

National Guidance

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

Local Guidance

- Design Guide Supplementary Planning Document (SPD)

Planning Considerations

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

- Principle of Development;
- Neighbouring Amenity;
- Design; and
- Highway Safety.

Planning Assessment

Principle of Development

The site is located within the settlement boundary of the Swadlincote urban area within a predominantly built up residential area, with several retail units within the locality. The development would result in a loss of a retail unit and will therefore be assessed against Policy RTL1. The site is located within an existing local centre as identified on Map 1 of RTL1.

Point F of Policy RTL1 refers to the loss of retail within local centres; it states that that the loss of retail units in centres will be permitted where:

- i) The current use can be demonstrated to be no longer viable; and
- ii) The unit has been sufficiently and actively marketed for a range of retail uses over a 6 month period; and
- iii) The impacts arising from the resulting use do not cause an adverse effect on amenity, parking needs or highway safety.

Insufficient evidence has been provided to enable us to form a judgement as to whether the property has been adequately marketed for the required period. No marketing report was prepared and the asking price was not agreed with the Council. It is known that no press advertising was undertaken. Full details of mailshots, including the dates on which these took place, have not been provided. Other than the case for a proposed HMO, no evidence has been provided as to the nature of any of the enquiries received, nor of the reasons for not proceeding to purchase. Therefore the marketing evidence submitted fails to demonstrate that the current use of the unit is no longer viable as such it is considered that the proposal does not fully comply with policy RTL1.

Notwithstanding this, it is considered that the evidence submitted does show that there has been limited interest in the property as a mixed use including retail. The price as advertised was reduced from £160,000 to £150,000. The evidence shows that there have been only 6 viewings of the property to date, with the property being marketed for a sustained period of 354 days. Therefore it is considered that although the applicant has failed to fully comply with the full requirements of Policy RTL1, the proposal would allow for what is currently a vacant retail unit to be turned into a building that would provide living accommodation for 8 people. As the site is within the urban area as defined by Policy H1 and SDT1 it is considered a sustainable location where there is a presumption in favour of sustainable development.

Neighbouring Amenity

No extensions are proposed as part of the application only internal alterations and some minor external alterations to include several new window openings and the bricking up of the existing shop frontage, to include 2 new windows on the front elevation. These changes are required in order for the property to provide 8 separate bedsits. As the first and second floors of the property were previously used as a dwelling, and as the 2 new windows to the first floor side elevation would serve an en-suite and hallway, it is considered that there would be no increase in the level of overlooking of neighbouring properties if consent was to be granted. In terms of the use of the property as bedsits, it is not considered that this change would result in a level of disturbance that would be unacceptable to neighbours that surround the site as it could be argued that this use would generate

fewer disturbances than that of a potential new retail use. It is also noted that Environmental Health raised no objections and as such the proposed use is considered to comply with Policy SD1 and iii) of part F of Policy RTL1.

Design

The property is clearly visible along Church Street, with no separation from the footway. The property is currently a timber framed, heavily glazed shop frontage on the ground floor, with render and a large sash window on the first floor front elevation. The applicant originally proposed to brick up the existing ground floor frontage and install several small windows to the upper level of the ground floor; this was considered to be poor design and not appropriate for the area. As a result of an amended design, the proposal is now to brick up and render the existing shop front and to install two sash windows with cills and headers, matching the style of the first floor and that of the neighbouring property at the side. It is considered that the proposed change of use would have limited harm on the character of the area and has no impact on the street scene as it would integrate well with the character of the neighbouring dwelling. As such it is considered that the proposal would not be detrimental to the character of the surrounding area and is of a high quality design that integrates well with the existing character of the building and therefore complies with Policies BNE1.

Highway Safety

There are no car parking spaces included within the red line of the application site, as shown on the location plan. Comments have been raised as to the lack of parking provision and the impact that this would potentially have on the highway. There is no parking currently provided on site and it is considered that the proposed change of use would not result in an increase in the requirement for parking on site, with the current mixed retail use potentially generating significant traffic and parking. It is noted that the County Highway Authority have raised no objections in regards to parking or highway safety and as such it is considered that the proposal complies with Policy INF2 and iii) of part F of Policy RTL1.

Conclusion

Although technically the applicant has failed to fully demonstrate that the current use is no longer viable and therefore not compliant with Policy RTL1, when considering the planning balance, the benefits of filling what is currently a neglected vacant unit and providing bedsit accommodation for up to 8 people within a sustainable location, would outweigh the negative impacts of the potential loss of a retail unit within the local centre.

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. 50335-2019-FP-01 received 05 June 2019 and Drawing No. 50335-2019-FP-03F received 31 July 2019; 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. Prior to their incorporation in to the building hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

Reason: In the visual interest of the building and the surrounding area.

4. Prior to the first use of the bedsits, details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason: In the interests ensuring secure cycle storage is available to all residents and visitors of the HMO.

Informatives:

1. The Council's Environmental Health Department has commented that the development would require a licence having regard to the provisions of the Housing Act 2004 Part 2 (Licensing of Houses in Multiple Occupation).

Item **1.4**

Ref. No. **9/2018/1375**

Valid Date **13/03/2019**

Applicant:
Leavesley Group

Agent:
Miss Emily Weston
Fisher German LLP
The Estates Office
Norman Court
Ashby De La Zouch
LE65 2UZ

Proposal: **CHANGE OF USE FROM AGRICULTURAL LAND TO STORAGE AND DISTRIBUTION USE (USE CLASS B8) ALONG WITH DEMOLITION OF EXISTING BUILDINGS AND LAYING OF HARDSTANDING AT THE FORMER MIDLAND PIG PRODUCERS LIMITED WOODYARD LANE FOSTON DERBY**

Ward: **Hilton**

Reason for committee determination

This item is presented to Committee as it is contrary to the provisions of the Development Plan and the recommendation is for approval of planning permission.

Site Description

The site is located to the east of Woodyard Lane in Foston, a short distance to the north of the A50 and its junction at Dove Valley Park. It is bounded to the north, east and south by manufacturing and warehousing premises, including those at Dove Valley Park. Large industrial units occupied by JCB lie immediately to the east, and the FUTABA distribution centre is to the north. Smaller office units are located to the south of the site along with the LCS container storage yard which falls within applicant's wider ownership. To the west of Woodyard Lane lies a traveller site and a number of other business uses, including offices and storage and distribution. A residential property is located opposite the site entrance, although it is understood this has been unoccupied for a significant period of time. An animal rendering plant is located to the north west of the site.

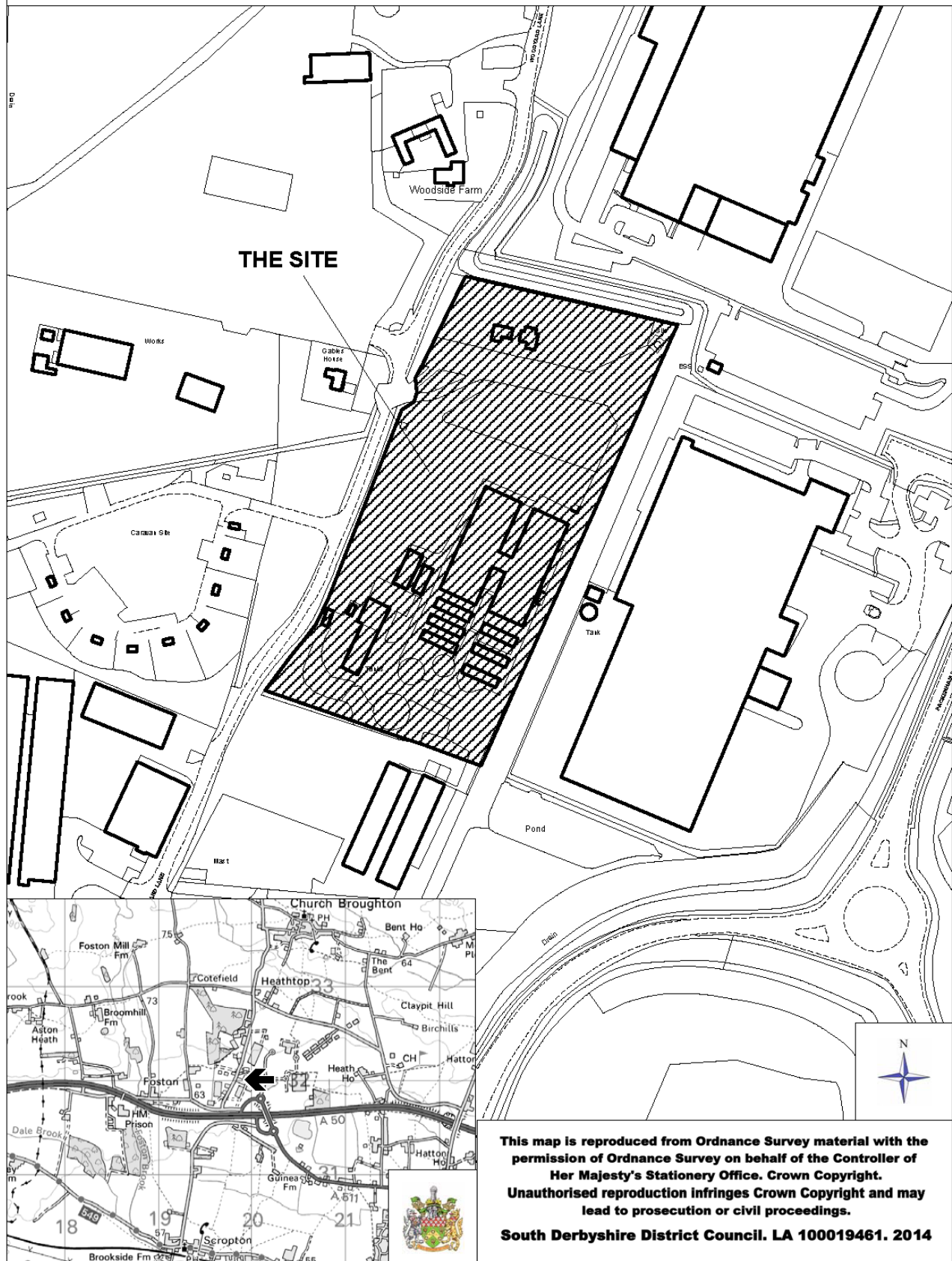
The site was formerly used as an intensive pig unit together with two 3-bedroomed detached residential properties used by agricultural workers. The agricultural buildings have been demolished and at the time of writing the site is in the process of being cleared. There is access to the applicant's wider ownership through a separate access to the southern boundary of the site, although the main access is to Woodyard Lane itself. The site is bounded by 2.4m high chain link fencing and double chain link gates to the entrance with Woodyard Lane. The western boundary with the Lane has a mature hedgerow, although of poor quality. To the north is a landscaped bund which forms part of the industrial park landscaping.

The site is within the countryside although adjoining allocated employment areas and is not subject to any specific heritage or ecological designations, although the Conygreave & Rough Woods ancient woodland lies beyond development on the northwest of Woodyard Lane. The site is located within a Flood Zone 1 area and therefore considered not to be at risk from fluvial flooding.

Proposal

Permission is sought for the change of use of agricultural land to storage and distribution (use class B8). The site would be used for open storage and distribution, with no logistics, etc. buildings

9/2018/1375 - Midland Pig Producers Ltd, Woodyard Lane, Foston, Derby DE65 5DJ



proposed at this time. The existing agricultural workers dwellings would be demolished, completing the clearance of the site following the previous removal of the buildings associated with the former pig farm. The only other operational development proposed would involve the levelling of the site and laying of a geotextile membrane with hardcore over, with this compacted to provide suitable ground for the proposed use.

Applicant's supporting information

The Design and Access Statement (DAS) contends that detailed matters such as highways, noise, lighting, contamination, flood risk and ecology have all been examined and, with mitigation where appropriate, there would be no unacceptable impact on the surrounding area. In addition, the site benefits from existing screening with trees to be retained and hedgerow improved bringing benefits to biodiversity. Having regard to the Development Plan, national planning policy and all other detailed considerations, it is advanced that the proposed development is considered to be sustainable delivering significant economic benefits. The applicant's case for this position is discussed further below.

An Environmental Noise Report notes the surrounding area is predominantly industrial and commercial in nature. It is the consultant's opinion that it could be argued the residents in the area are accustomed to noise of an industrial nature, reducing the likelihood of complaints due to the proposed operations. When comparing the noise rating level at the nearest residential property resulting from proposed operations, it is apparent that without any further mitigation measures there would be a low noise impact. For this reason, it is advanced there is no need for recommendations of further noise mitigation measures and operations would not have an adverse impact of existing residents in the area.

A Flood Risk Assessment (FRA) notes the site is classified by the Environment Agency (EA) as 'very low risk' (former Flood Zone 1), therefore the site is not at risk from fluvial flooding. The development would mitigate the risk of surface water flows with the use of appropriate drainage and Sustainable Drainage Systems (SuDS). There are considered to be no other potential flood hazards of risk to the site. With the appropriate level of on-site attenuation using a range of SuDS techniques, the proposed development is considered to reduce the risk of flooding and would not impact on the surrounding area, with surface water flows reduced from their existing rates. Site investigation will be undertaken during detailed design to determine where the current surface water runoff should discharge. Foul water flows would drain into the existing foul water sewer running along the western side of the site. It is concluded that the development would be low risk in respect of flooding and causing flooding elsewhere.

A Transport Assessment notes the site would house 28,085sqm of B8 self-storage. There are vehicle accident concerns along the section of Woodyard Lane past the site and the upgraded existing vehicle access point at the north-west corner of the development has been designed in accordance with the 'Design Manual for Roads and Bridges' (DMRB) document. Appropriate visibility splays are to be provided in accordance with Manual for Streets (MfS) guidance, which are contained wholly within the public highway boundary. A section of new footway would be provided along Woodyard Lane to connect to pedestrian routes within the site. The proposals are expected to generate approximately 80 and 65 two-way vehicle trips in the weekday AM peak and PM peak hours respectively and testing of traffic has been undertaken at a number of key off-site junction locations and for the new site access off Woodyard Lane showing that all junctions assessed would operate well within capacity in all scenarios tested. The development is therefore considered to be acceptable on highway grounds.

A Preliminary Ecological Appraisal (PEA) has identified there may be receptors subject to adverse effects in the absence of mitigation. These are hedgerows, badger, bats, Great Crested Newts (GCNs), hedgehog, herptiles and nesting birds. Suitable mitigation measures, compensation of habitat loss and enhancement opportunities are recommended and include compensation for loss of hedgerows through reinforcement of defunct lengths of the existing hedgerow along the western boundary, a pre-construction check for badger, soft felling of a tree with low bat roost suitability, and

precautionary working measures for herptiles, hedgehog and breeding birds. In conclusion, it is considered that there are no significant ecological constraints to the development. With appropriate mitigation measures and pre-construction checks, the ecological receptors identified are not anticipated be adversely affected by development of the site.

A Bat Survey confirms a common pipistrelle maternity roost with up to 42 bats on one survey date, with both buildings to be demolished housing bats. Various studies have found that common pipistrelle maternity roosts will switch roosts multiple times during the maternity period (due to temperature changes, parasite load, prey abundance, disturbance, etc.) and hence it is not uncommon to record a common pipistrelle roost during one survey, but not during a second within the maternity period (which occurred during survey work here). The surrounding habitats are considered to offer suitable foraging value and connectivity for bats; the treeline along the north and east of the site considered to be of particular value within the immediate area, particularly considering the behaviour of the maternity roost along the northern boundary. Common pipistrelle foraging activity was recorded during both surveys, with a single soprano pipistrelle pass recorded during the second survey. No other species of bats were recorded. The demolition of the two residential properties would result in the loss of two roost locations for a common pipistrelle maternity colony. In line with the Bat Mitigation Guidelines (2004), the destruction of a maternity roost would be of a high scale of impact and require the following mitigation/compensation requirements:

- Timing constraints;
- More or less like-for-like replacement;
- Bats not to be left without a roost and must be given time to find the replacement; and
- Monitoring for a minimum of 2 years.

Two active house martin nests were also recorded on the south apex of one of the building. Any works affecting potential nesting areas must be undertaken outside the main nesting period if possible. Where this is not possible, nesting bird checks should be undertaken by a suitably qualified ecologist. To compensate for the loss of house martin nesting locations, it is recommended that 2 house martin nest cups are installed in suitable locations within the site.

An Arboricultural Method Statement and Tree Protection Plan notes that a single group and 1 tree require protection during works, with no trees to be removed as a result of the development. Trees to the north-west and east of the site, along the boundary, fall outside of the site. An earth bund on the western boundary is to be erected to protect the lighting columns, chain link fence and hedgerow from any vehicles when the site is operational, with proposed hardstanding not encroaching on the root protection zones of trees. General guidance is provided as to how retained trees could best be protected during construction.

An Arboricultural Survey Report and Method Statement produced in accordance with the guiding principles of British Standard 5837:2012 'Trees in Relation to Design, Demolition and Construction – Recommendations' outlines the Root Protection Area (RPAs) of the trees surveyed, with these calculated and recorded in the Tree Survey Schedule. It is at this distance/around this area that tree protective barriers should usually be erected around any trees to be retained.

A Phase I and Phase II Ground Investigation Report notes the site is indicated to have been primarily agricultural land until the around the mid-1900s when the site was shown as being within the boundaries of RAF Church Broughton airfield, up until around 1979. The eastern boundary of the site is recorded to be within the boundary of a historical landfill site, last input in 1988. The site thereafter was in use as a pig farm and occupied by a number of structures and buildings such as silos and sheds, although this use has ceased with the majority of former structures on site have recently been demolished. Made Ground at the site generally comprises a clayey gravelly sand. The gravel comprises of varying quantities across the site and at different depths, coal, glass, ceramic (pottery) brick, concrete, tarmac, mudstone, sandstone and quartzite. The natural superficial deposits beneath the site are glaciofluvial terrace deposits. Mercia Mudstone was encountered at sample boreholes from a range of depths from 1.55m to 3.42m. Shallow groundwater was also encountered at all borehole locations at depths varying from 0.70m to 1.45m. The results of the chemical analysis resulted in no exceedances for a commercial end use. No remedial measures are

proposed from a soil contamination perspective although clean cover may be required in soft landscaping areas. Due to generally low levels of contaminants found and the proposed use for the site, it is considered the site represents a low risk to controlled waters and no further actions are required. Based upon gas monitoring undertaken to date, gas precaution measures for carbon dioxide and methane are anticipated to be required, but further monitoring is recommended. Several services are known to cross the site including two low voltage electric cables and former drainage pipes related to former site use.

Planning History

EA/2018/0004	Screening Request relating to change of use of the land from agricultural to storage and distribution (class B8) – determined not to be EIA Development November 2018
9/2017/0799	Outline application with all matters except for access reserved for the redevelopment of former agricultural land to offices (use class B1), general industrial (use class B2) and storage and distribution (use class B8) – Approved August 2018
9/2009/0147	Outline application for change of use from agricultural to B8 use – Approved July 2009
9/2009/0087	Application for approval of reserved matters of outline permission 9/2004/0762 for open storage – Withdrawn
9/2004/0762	Outline application for change of use from agricultural to B8 use – Approved March 2006
9/2003/1392	Change of use from agricultural to B1, B2 and B8 use – Withdrawn

Responses to Consultations

The County Highway Authority notes that application ref. 9/2017/0799 was for B1, B2 and B8 uses and no objection was raised on highway safety grounds, subject to various conditions. As this application is to use the site for B8 storage and distribution use, and the access to the highway remains the same as per the previous application; the same highway conditions remain applicable to this application.

The Development Control Archaeologist confirms that the proposals would have no archaeological impact.

Derbyshire Wildlife Trust (DWT) initially advised that further surveys for bats were required prior to the determination of the application. Following the provision of the Bat Survey Report, which studies the findings of detailed daytime internal and external inspection of the buildings along with dusk emergence surveys; 42 common pipistrelle bats were observed emerging from one of the two buildings scheduled for demolition, indicating the presence of a maternity roost. The Trust notes the comprehensive nature of the survey work has provided a robust evaluation of the bat activity associated with the buildings with the report concluding that, in fact, both buildings are used as maternity roosts by the same colony of common pipistrelle bats. On the basis of the information provided DWT advises that the development is likely to affect bats through disturbance of a European Protected Species (EPS) and the destruction of a breeding and resting place. All species of bats are EPS and a licence is required in order to carry out any works that involve disturbance to the animals or destruction of their breeding and resting place. A Natural England Licence will be required. An appropriate bat mitigation strategy is noted to be provided and hence DWT seek a condition to secure the adherence to that Mitigation Strategy. It is also advised that the Council needs to consider how the three tests set out in the Habitats Regulations 2017 have been addressed. Finally, two active house martin nests were recorded on one of the buildings, but

appropriate mitigation and compensation measures are included in the report. DWT therefore recommend that a condition is attached to secure this mitigation and compensation.

The Environmental Health Officer (EHO), following initial concerns over the adequacy of the submitted noise report, the impacts of reversing alarms, and the impacts of vehicles exiting the site on neighbouring residential property; has considered the amended Noise Report and is satisfied that the proposal would not cause unacceptable impacts subject to preventing the use of reversing alarms at night. Given the proposed hours of operation can be conditioned instead this is considered to address the residual concerns.

The Contaminated Land Officer previously recommended a condition to deal with any contamination remaining from the previous use of the site for military purposes.

The Lead Local Flood Authority (LLFA) initially raised objection. Revisions to the FRA and drainage strategy now mean that the proposed outfall for surface water is to a public sewer beyond the south east of the site, via existing land drains and new soakaway filter drains within the proposed site. Surface water discharge would be restricted to the greenfield QBar run-off rate of 13.38l/s for all rainfall events, by way of a Hydrobrake via an online 60m³ underground tank. This has been sized to accommodate a 1% annual event probability with a 30% climate change allowance. It is also recommended that the LPA ensure that Severn Trent Water have approved this connection to the surface water sewer so to ensure the site has a viable outfall. The LLFA thus do not objection subject to the imposition of conditions.

The County Planning Policy Officer comments that the proposals are considered to accord with the policies for economic development and employment set out in the NPPF, particularly paragraphs 80, 82 and 83. Paragraph 80 requires local planning authorities (LPAs) to help create the conditions in which businesses can invest, expand and adapt; and that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 82 requires LPAs to recognise and address the specific location requirements of different sectors, including making provision for storage and distribution operations at a variety of scales and suitably accessible locations. Paragraph 83, requires LPAs to enable the sustainable growth of all types of business in rural areas, both through the conversion of existing buildings and well-designed new buildings. It is the County's view that the proposals would provide for expansion of an existing business to the south of the site and as such uses require highly accessible locations to the local strategic highway network, the site is in a sustainable location in this respect. It is also considered that the change of use of the site would provide for a more compatible land use with its immediate neighbours compared to the previous pig farm use. In the context of these policies, it is considered that the application proposals would be compliant with policy E2, which is permissive of development of land for employment purposes, including B8 development, where this would be for an expansion of existing business. It is also considered the proposals would consolidate the existing Dove Valley Park employment area and allocations with an appropriate B8 use. It is also considered that the proposal would be compatible with the provisions of Policy E7 with it located in a sustainable and highly accessible location close to the A50, which is important for a proposed storage and distribution use. The site is also located close to an existing bus route. In addition, the applicant has submitted details with the application to demonstrate that the previous use of the site as a pig farm was not viable and that in terms of the proposed storage and distribution use, there is a good level of market demand for this type of use in the local area. The proposed use would also create new jobs, which would be accessible to the local rural community.

Responses to Publicity

The owner of Dove Valley Park has objected stating the drainage strategy shows surface water disposal across our land and the right to do so is disputed with past issues where water has been allowed to flood onto their land; that the block plan shows the southern access route as pedestrian only, yet other plans suggest this would be used for vehicular access; and there are no details of proposed pavement construction which is on their land and cannot be relied upon.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), S6 (Sustainable Access), E1 (Strategic Employment Land Allocation), E2 (Other Industrial and Business Development), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals Safeguarding), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport)
- 2017 Local Plan Part 2 (LP2): BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows), BNE10 (Heritage).

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

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

- Principle of and benefits arising from the development;
- Design and visual impacts;
- Noise and amenity impacts;
- Biodiversity effects;
- Flood risk and drainage; and
- Highway capacity and safety.

Planning Assessment

Principle of and benefits arising from the development

The proposal is not positively supported by the economy policies of the LP1, with it outwith (although immediately adjacent to) the employment allocation and existing development in and surrounding Dove Valley Park. Furthermore, the site is not previously developed land (brownfield) as defined by the NPPF due to its last use being agriculture (albeit of an intensive nature akin to industry in character). Whilst policy S5 states that provision across a range of sites, including allocations, will be made for the development of a minimum 53 hectares (net) of additional land for industrial and business development in support of the economic strategies of the Council and the D2N2 Local Enterprise Partnership; this minimum is exceeded in the form of 66.4ha allocated under policy E1.

With the site within the countryside, policy BNE5 is applicable. This states that in such locations planning permission will be granted where (*inter alia*) the development is allowed for by policy E7, is otherwise essential to a rural based activity, or is unavoidable outside settlement boundaries. Any development must also not unduly impact on landscape character and quality, biodiversity, best and most versatile agricultural land, and heritage assets. Policy E7 states “*development proposals which diversify and expand the range of sustainable employment activities on land outside of settlement boundaries will be supported by the Council provided they support the social and economic needs of*

the rural communities in the District". A set of criteria are subsequently set out, but these relate to *"the re-use, conversion and replacement of existing buildings and development of new buildings"*. The proposal is for a use of land and not re-use or construction of buildings. With this in mind, the proposal cannot properly benefit from the allowances of policy E7, and in turn BNE5.

The applicant notes that Leavesley Container Services (LCS) operates to the south of the site, and that LCS is part of the overall holdings of the applicant. The redevelopment of this adjacent site is considered to represent an extension of the company's business in this location as well as a diversification of the agricultural operations that continue in the wider area. Furthermore, it is advanced that the proposed development presents the opportunity for employment both on site and associated with the site use, with it responding to numerous enquires whom need sites in this location with good access for storage use. This is advanced to demonstrate strong demand for the proposal. Whilst these points are acknowledged, the quality of evidence which might normally be expected under provisions of policy E7 is somewhat lacking. As an open storage use, any site-specific employment generation would be limited. The applicant also refers to policy E2 which supports the expansion of existing businesses, but LCS is a self-serve storage container site. No evidence to demonstrate an intrinsic link or relationship between the two has been provided.

Nevertheless, the environs of this site are quite unique – it being surrounded to all sides by industrial and warehousing development, and with it exhibiting a quasi-industrial form of previous use. This gives good reason to look at the underlying aim of policy E7 – that being to diversify and expand sustainable employment activities within rural areas for the benefit of rural communities. The site sits squarely within an area already subject to substantial employment related development and further allocations in the LP1, where infrastructure exists to serve such uses – in particular with regard to access to the transport network and public transport for employees. As such this is an inherently sustainable location for the development proposed, according with policy S6 and supporting the strategic aims of policy S5. In essence, there is limited offence to the plan-led approach by allowing this 'infilling' of employment land.

The historical, and extant, planning permissions for the site also carry considerable weight, with the 2018 permission offering a notable fallback if permission is withheld here. Furthermore, the site has been developed twice in the last 60-70 years, firstly as an airfield and then as an intensive pig rearing facility. Much of the land is still put to foundations and hardstanding, whilst it is heavily influenced by made ground. The NPPF encourages the re-use of land which is of lower quality and this is one such opportunity.

Hence, the decision rests on whether the economic benefits of the development, which are recognised and supplemented by environmental benefits in terms of reducing demand for greenfield sites elsewhere, are outweighed by the lack of policy support or any other identified harm which might be established below. The lack of policy support, in this instance, is not considered to be fatal to the proposal given the strategy of policy S5, the complementary employment provision it would facilitate and the particular circumstances of the site. Attention is thus given to other matters before reaching a balanced judgement.

Design and visual impacts

The site does not make a positive contribution to the area in its present state, apart from the hedge and trees to the site frontage which act as an effective screen, and some trees within the northern part of the site – all identified in the survey as trees of moderate quality and value, including public visual amenity value. Such trees should be considered for retention, and this objective along with long term protection and enhancement of those features could be secured by condition.

On a landscape level, the development of this site would not provide a noticeable intrusion into the landscape which would be at odds with the features of the landscape character area. Indeed, the remaining and former buildings on the site are likely to have been of a greater impact than the use proposed. On a more localised scale, the enclosure of the site would limit the evidence of the use from the public realm, and this enclosure could be strengthened accordingly. Proposed bunds would

also assist here, subject to appropriate landscaping. Overall, the development would not bring about visual harm, particularly when it would be viewed in the wider context of Dove Valley Park and surrounding employment premises, with the proposal according with policy BNE4.

Noise and amenity impacts

The comments of the EHO above should be noted, with it possible to ameliorate any concerns relating to impacts on nearby residents by way of condition to restrict overnight use of the site. The applicant suggested this approach to overcome the concerns relating to reversing alarms, and it is an enforceable condition as a result. The applicant's consultant has also advise that additional HGV movements along Woodyard Lane, which is already heavily trafficked by HGVs from the surrounding industrial premises in the area, are unlikely to double the overall HGV count on that road (noting that doubling the number would result in just a 3dB rise in road noise levels). The proposal is therefore in conformity with policy SD1.

Biodiversity effects

The response of the Wildlife Trust is set out above and conditions requested can be attached. Tree and hedgerow protection is already discussed above. As demolition works will need to be undertaken under a Natural England licence to derogate from the offence of destruction of a bat roost, DWT has advised that the Council should demonstrate how the three tests set out at Regulation 55 of the Conservation of Habitats and Species Regulations 2017 have been considered, and state the evidence for conclusions drawn on each test as to whether the test can be met. The three tests set out within Regulation 55 are as follows:

- (i) The action will be undertaken for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment;
- (ii) That there is no satisfactory alternative;
- (iii) That the action will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range.

The Trust confirms that, on the basis of the proposed mitigation outlined in the Bat Survey Report, it is likely that the favourable conservation status of the local bat population will be maintained and, as such, test (iii) would be met.

In terms of the remaining tests, the applicant has confirmed that there is no other satisfactory alternative use of the site available as the buildings have already been vacant for a number of years and would require significant works and cost implications to bring them back into use which is not viable. If retained they would fall into further disrepair and become a health and safety risk. Their removal would facilitate the use of the area for further storage and increase the economic viability of the site. Furthermore, given the proposed use it would not work to retain them for a residential use on the open market given the commercial proposals put forward which could lead to a conflict of uses within close proximity. Furthermore, the existence of a sewage system below the properties means it would not be possible to undertake the proposed change of use to the whole site without the removal of the buildings. Overall, it is considered tests (i) and (ii) would be met. The proposal would thus be in accord with policies BNE3 and BNE7.

Flood risk and drainage

The LLFA initially noted that the proposals were to discharge surface water at 184.87l/s instead of it being restricted to greenfield run-off rates, as well as to direct it to multiple different outfalls despite the FRA suggesting that there may be scope for soakaways. The LLFA thus requested evidence to establish whether all the proposed outfalls have further off-site connectivity and if they are fit for purpose and with appropriately proposed discharge rates to each. The revised FRA proposes underground attenuation with a proposed outfall to a public sewer beyond the south east of the site, via existing land drains and new soakaway filter drains within the proposed site – although a site specific ground investigation is required to support the use of soakaways. This latter point is not

considered to prevent determination of the application at this time, with it appropriate to use conditions to finalise the detail of the drainage scheme. For instance, if soakaways are found to not be suitable then attenuation capacity would need to be increased in the detailed drainage scheme.

Surface water discharge would also be restricted to the greenfield QBar run-off rate of 13.38l/s for all rainfall events, by way of a hydrobrake. The underground attenuation has been sized to accommodate a 1% annual event probability with a 30% climate change allowance, and the LLFA is satisfied in this respect. In terms of ensuring that Severn Trent Water approved any connection to the surface water sewer so to ensure the site has a viable outfall, there is a right under the Water Act to connect to the public sewer for foul provision but not necessarily for surface water. Evidence of this can be made a pre-requisite of the detailed drainage scheme to be secured by condition. Overall, suitable drainage provision can be secured so that the site does not pose a flooding risk to other property, in accordance with policies SD2 and SD3.

Highway capacity and safety

As with the 2018 approval, the Highway Authority has no safety or capacity concerns. The applicant has proposed pedestrian linkage to the existing footway at the junction of Woodyard Lane, subject to detailed design approval, and this would assist in making the site more accessible for any employees at the site. It is also noted that the site would be within a reasonable walking distance of the extended bus route secured under phase 2 of Dove Valley Park, now in operation. This and other matters relating to highway safety could be secured by condition, satisfying the requirements of policy INF2.

Summary

Although the site is in the countryside, outside the existing Dove Valley Park site and not included as an allocation in the Local Plan; it is nevertheless effectively surrounded by, and part of, employment land uses. Furthermore, its previous use for intensive farming displayed industrial characteristics and the site is relatively well served by a range of transport options to enable employees to sustainably reach their place of work. There is also an extant permission for a broadly similar form of development here. The site does not make a positive contribution to the general character of the area, apart from the roadside hedge and trees and specimen trees within the site.

Whilst there is a conflict with employment and 'locational' policies of the LP1, having regard to the circumstances described above the proposal is not considered to prejudice the general application of policy across the District's rural areas, nor undermine the strategy of employment land provision across the Plan period. This limited harm to the primacy of the plan-led system is considered, in this case, to be outweighed by the benefits which would arise. As such the proposal represents sustainable development, and accords with the aims of policies S1 and S2 of the Local Plan.

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

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 ref. 20181211-003C, received on 13 March 2019, 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 development shall be carried out in strict accordance with Bat Mitigation Strategy detailed in section 5 of the Bat Survey report prepared by Quants Environmental dated July 2019 and the conditions of the requisite Natural England Licence, a copy of which shall be submitted to the Local Planning Authority once issued.

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

4. The development shall be carried out in strict accordance with the house martin mitigation and compensation recommendations included in section 4.3.2 of the Bat Survey Report prepared by Quants Environmental dated July 2019.

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

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

Reason: In the interests of safeguarding existing habitat and the visual amenities of the area, recognising that initial preparatory works could bring about unacceptable impacts.

6. No development other than demolition of existing buildings shall commence until space has been provided within the site for storage of plant and materials, site accommodation, loading, unloading, manoeuvring and cleaning of wheels of goods/construction vehicles, and parking and manoeuvring of employees and visitors vehicles, with this space laid out in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. Once implemented, the approved facilities shall be retained free from any impediment to their designated use throughout the construction period. All construction vehicles shall have their wheels cleaned on a hard surface before leaving the site in order to prevent the deposition of mud or other extraneous material on the public highway.

Reason: In the interests of highway safety, acknowledging that construction traffic will create impacts on highway safety on commencement of development.

7. The existing accesses shall be retained available for use by construction traffic throughout the construction period.

Reason: In the interests of highway safety, acknowledging that construction traffic will create impacts on highway safety on commencement of development.

8. 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 Local Planning Authority 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.

9. Prior to any works to construct a hard surface, setting of site levels or installation of services/utilities, a detailed assessment to demonstrate that the proposed destination for surface water accords with the hierarchy in paragraph 80 of the planning practice guidance (or

any revision or new guidance that may replace it) shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall demonstrate, with appropriate evidence including porosity testing, that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- i) into the ground (infiltration);
- ii) to a surface water body;
- iii) to a surface water sewer, highway drain, or another surface water drainage system;
- iv) to a combined sewer.

Reason: To ensure that surface water from the development can be directed towards the most appropriate waterbody in terms of flood risk and practicality, noting that certain works may compromise the ability to subsequently achieve this objective.

10. No construction of a hard surface, setting of site levels or installation of services/utilities shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
 - a) the Flood Risk Assessment by Infrastructure Planning and Design Ltd (Report No. R-001, FINAL status, Issue B, July 2019) including any subsequent amendments or updates to those documents as approved by the Lead Local Flood Authority; and
 - b) DEFRA's non-statutory technical standards for sustainable drainage systems (March 2015);

has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the site, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of the site or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

Reason: To ensure that the principles of sustainable drainage can be incorporated into the development, noting that initial preparatory and/or construction works may compromise the ability to mitigate harmful impacts.

11. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 20. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the effective operation of the surface water drainage scheme following construction of the development.

12. Prior to the development being taken into use, the existing northern access to the site shall be provided in accordance with the drawing ref. IPD-16-370-111 Rev G (contained at Appendix A of the submitted Transport Assessment) and be provided with a minimum width of 7.3m, 10m kerbed radii and visibility sightlines of 4.5m x 57m, the area forward of which shall be cleared and maintained in perpetuity clear of any obstructions exceeding 600mm in height relative to the nearside carriageway edge.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety.

13. The existing southern access to the site shall be used for pedestrian access only unless and until the junction with Woodyard Lane is provided with a minimum width of 7.3m, 10m kerbed radii and visibility sightlines of 4.5m x 120m, the area forward of which shall be cleared and

maintained in perpetuity clear of any obstructions exceeding 600mm in height relative to the nearside carriageway edge, details of which shall be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety.

14. Any gates shall be set back at least 10 metres into the site from the highway boundary.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety.

15. A footway link shall be provided to the bus stop on Uttoxeter Road prior to the first use of the development, in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure safe and suitable access for all users and in the interests of encouraging sustainable modes of transport.

16. Prior to the installation of any lighting details of a scheme for external lighting shall be submitted to and approved in writing by the Local Planning Authority. No external lighting other than as approved shall be installed without the prior written approval of the Local Planning Authority upon an application made in that regard.

Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties and to minimise sky glow.

17. Prior to the laying of hard surfaces or creation of bunds, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard landscaping shall be carried out in accordance with the approved details prior to the first use of the site, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation/use of the site or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

18. The storage use hereby permitted shall not take place other than between 0700 hours and 2000 hours Mondays to Saturdays, with no deliveries other than between 0700 hours and 1900 hours weekdays and 0800 and 1300 hours on Saturdays. The use hereby permitted shall not take place whatsoever on Sundays, public holidays and bank holidays.

Reason: To safeguard the amenities of nearby occupiers

Informatives:

1. Where development is proposed, the developer is responsible for ensuring that development is safe and suitable for use for the purpose for which it is intended. The developer is thus responsible for determining whether land is suitable for a particular development or can be made so by remedial action. In particular, the developer should carry out an adequate investigation to inform a risk assessment to determine:
 - whether the land in question is already affected by contamination through source - pathway - receptor pollutant linkages and how those linkages are represented in a conceptual model;
 - whether the development proposed will create new linkages, e.g. new pathways by which existing contaminants might reach existing or proposed receptors and whether it will introduce new vulnerable receptors; and
 - what action is needed to break those linkages and avoid new ones, deal with any unacceptable risks and enable safe development and future occupancy of the site and neighbouring land.

A potential developer will need to satisfy the local authority that unacceptable risk from contamination will be successfully addressed through remediation without undue

environmental impact during and following the development. In doing so, a developer should be aware that actions or omissions on his part could lead to liability being incurred under Part IIA, e.g. where development fails to address an existing unacceptable risk or creates such a risk by introducing a new receptor or pathway or, when it is implemented, under the Environmental Liability Directive (2004/35/EC). Where an agreed remediation scheme includes future monitoring and maintenance schemes, arrangements will need to be made to ensure that any subsequent owner is fully aware of these requirements and assumes ongoing responsibilities that run with the land.

2. That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact Natural England: 0300 060 3900.
3. The County Flood Risk Team advises:
 - Any alteration to existing impermeable surface area of the site may exacerbate surface water flood risk, so new impermeable surfaces should be limited where possible. Where an increase in impermeable area is unavoidable, Derbyshire County Council (DCC) strongly promote Sustainable Drainage Systems (SuDS) to be incorporated within the design of a drainage strategy for any proposed development, applying the SuDS management train with an appropriate number of treatment stages. Applicants should consult Table 3.3 of the CIRIA SuDS Manual (C697) to confirm the appropriate number of treatment stages, or contact the EA or the DCC Flood Risk Management Team directly. Surface water drainage should be designed in line with the non-statutory technical standards for SuDS (March 2015) where reasonably practicable, and ground infiltration to manage the surface water is preferred over discharging to a surface water body or public sewer system.
 - Any SuDS should be designed to ensure that the maintenance and operation requirements are economically proportionate and that a maintenance plan is available to the persons/organisations that will be responsible for ongoing maintenance.
 - The applicant is advised to contact the Environment Agency (EA) that hold modelling data for Main Rivers and some ordinary watercourses if fluvial flood risk is a concern.
 - Due to the historic mining and mineral extraction operations in Derbyshire, adits may exist beneath the surface. The applicant is therefore advised to investigate the potential for hidden watercourses existing on the land prior to any works being undertaken.
 - Development located in areas where the water table is at a shallow depth may be susceptible to groundwater flooding. Development site drainage should be considered carefully to avoid any increased risks associated with groundwater. DCC would not recommend infiltration as a means of development site surface water disposal in areas where geohazards or ground instability are deemed likely without appropriate analysis of the risks involved. Infiltration of surface water to the ground is also not advised in sensitive groundwater areas without an appropriate SuDS management train.
4. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
5. Any watercourses, attenuation pond(s) and/or swale(s) which might need to be delivered on site to satisfy conditions should be designed to accord with health and safety guidance as set out in the CIRIA SuDS Manual 2015 (C753) or guidance that may update or replace it, and to meet the requirements of the Construction (Design and Management) Regulations (CDM) 2015 through assessing all foreseeable risks during design, construction and maintenance of the pond, minimising them through an 'avoid, reduce and mitigate residual risks' approach.
6. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access

works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email Highways.Hub@derbyshire.gov.uk or telephone 01629 533190.

7. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
8. The Highway Authority recommends that the first 10m of the proposed access road 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.