

Date: 29 January 2018

Dear Councillor,

**Planning Committee**

A Meeting of the **Planning Committee** will be held in the **Council Chamber**, Civic Offices, Civic Way, Swadlincote on **Tuesday, 06 February 2018 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Conservative Group**

Councillor Mrs Brown (Chairman), Councillor Mrs Coe (Vice-Chairman) and Councillors Coe, Ford, Mrs Hall, Harrison, Muller, Stanton and Watson

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

## **AGENDA**

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

- 1** Apologies and to note any Substitutes appointed for the Meeting.
  
- 2** To receive the Open Minutes of the following Meetings:-  
  
Planning Committee 7th November 2017 Open Minutes **4 - 6**  
  
Planning Committee 28th November 2017 Open Minutes **7 - 12**  
  
Planning Committee 19th December 2017 Open Minutes **13 - 18**
  
- 3** To note any declarations of interest arising from any items on the Agenda
  
- 4** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
  
- 5** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **19 - 62**
  
- 6** PROPOSED TREE PRESERVATION ORDER 474 – LAND TO THE EAST OF RYKNELD ROAD (HIGHFIELDS FARM DEVELOPMENT), DERBY **63 - 65**

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

- 7** The Chairman may therefore move:-  
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
  
- 8** To receive the Exempt Minutes of the following Meeting:-

Planning Committee 28th November 2017 Exempt Minutes

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

PLANNING COMMITTEE

7<sup>th</sup> November 2017

**PRESENT:-**

**Conservative Group**

Councillor Roberts (Chairman), Councillor Mrs Brown (Vice-Chairman) and Councillors Mrs Coe, Ford, Mrs Hall, Harrison, Muller, Stanton and Watson

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

PL/80 **APOLOGIES**

No apologies for absence were received

PL/81 **MINUTES**

The Open Minutes of the Meetings held on 26<sup>th</sup> September 2017 were taken as read, approved as a true record and signed by the Chairman.

PL/82 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations had been received.

PL/83 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

**MATTERS DELEGATED TO COMMITTEE**

PL/84 **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

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

PL/85 **THE ERECTION OF A DETACHED BUNGALOW WITH ACCESS AND PARKING AT LAND TO THE REAR OF 64 FABIS CLOSE SWADLINCOTE**

Councillor Tilley addressed the Committee as Ward Member for Swadlincote, expressing concerns regarding the application, requesting the matter be deferred for a site visit.

The registered speaker opted to return when the matter was rescheduled.

**RESOLVED:-**

***That the application be deferred to allow for a site visit to be conducted.***

PL/86 **THE PRUNING AND FELLING OF A TREES (AS IDENTIFIED AS WITHIN G1) COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER 149 AT OLD STATION CLOSE ETWALL DERBY**

**RESOLVED:-**

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

PL/87 **THE DISPLAY OF VINYL ADVERTS TO THE FRONTAGES AT 5-11 & 15 WEST STREET SWADLINCOTE**

This application was discussed jointly with the application below

The Planning Services Manager presented the report outlining the events leading to the subsequent applications and highlighted that both proposals would address the need to improve the visual impact of the buildings.

As local Ward Member, Councillor Tilley, whilst referring to the recent Environmental and Development Services Committee, maintained the opinion that the proposal would act as a temporary measure that lacked vision and did not fully address the need for renovation.

Some Members commented on the need for a colour scheme where the columns in between the windows would help identify the individual units. The Planning Services Manager agreed to inform the Economic Development Manager.

**RESOLVED:-**

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

PL/88 **ALTERATIONS TO THE SHOP FRONTS AT GROUND AND FIRST FLOOR AND ALTERATIONS TO THE WINDOWS AT 5-15 WEST STREET SWADLINCOTE**

This application was discussed jointly with the application above

**RESOLVED:-**

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

PL/89 **PLANNING AND OTHER APPEALS**

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

9/2016/1099      Main Street, Linton  
9/2016/1122      Derby Road, Melbourne

PL/90 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:-**

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

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

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

The meeting terminated at 6.20pm.

COUNCILLOR A ROBERTS

CHAIRMAN

PLANNING COMMITTEE

28<sup>th</sup> November 2017

**PRESENT:-**

**Conservative Group**

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

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

**In attendance**

Councillor Smith (Conservative Group)

PL/91 **APOLOGIES**

Apologies for absence were received from Councillor Stanton (Conservative Group)

PL/92 **MINUTES**

The Open Minutes of the Meeting held on 17<sup>th</sup> October 2017 were taken as read, approved as a true record and signed by the Chairman.

PL/93 **DECLARATIONS OF INTEREST**

Councillor Ford declared a personal interest in Item 2.1 by virtue of being acquainted with the applicant and stated that he would be leaving the Chamber whilst the matter was debated.

Councillor Harrison declared a personal interest in Item 1.6 by virtue of being the Melbourne Sporting Partnership Chairman.

Councillor Tilley declared a personal interest in Item 2.1 by virtue of being acquainted with the applicant and stated that he would be leaving the Chamber whilst the matter was debated.

PL/94 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

**MATTERS DELEGATED TO COMMITTEE**

PL/95 **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

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

PL/96 **THE ERECTION OF A DETACHED BUNGALOW WITH ACCESS AND PARKING AT LAND TO THE REAR OF 64 FABIS CLOSE, SWADLINCOTE**

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

Dr Helen Kirkby (applicant's agent) attended the Meeting and addressed Members on this application.

Councillor Tilley addressed the Committee as Ward Member for Swadlincote, referring to local concerns regarding the proposed development being out of character for the area, the gradients on site, the nature of the ground and the narrow driveway, all combining to make it, he felt, an inappropriate development.

Other Members referred to the restricted driveway, safety issues, site elevations, the overbearing nature of the proposed development, parking issues, particularly to the rear of the existing property, frontal visual impact, boundary treatment, delivery and refuse vehicle access, as well as noting that it was a single storey proposal and clarifying what was possible on site under permitted development rights.

The Planning Services Manager responded to all matters.

***RESOLVED:-***

***That planning permission be refused contrary to recommendation, deemed contrary to Local Plan policies, contrary to the character and amenity of area and due to poor access.***

PL/97 **DEMOLITION AND REPLACEMENT OF SUN ROOM AND CANOPY AND THE INSTALLATION OF NEW DOORS AND WINDOWS, ALONG WITH THE ERECTION OF FENCES & GATES AT COMMON FARM, 26 MAIN STREET, MILTON, DERBY**

This application was dealt with jointly with the application below.

The Principal Area Planning Officer informed Committee of alterations to the application since the report was submitted, relating to the wall, track and trellis.

Mr Peter Watkins (objector) attended the Meeting and addressed Members on this application.

The Principal Area Planning Officer clarified the village boundary lines and added that planning permission is not a grant of lawfulness, suggesting that a condition could be added to confirm that the application does not make usage lawful.

Councillor Smith addressed the Committee as Ward Member for Repton, supporting the above suggestion in helping determine the boundary lines by way of having Planning Enforcement investigate the rear boundary.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Director of Community & Planning Services, with a request that recent hard surfacing works be investigated by enforcement.***

PL/98 **LISTED BUILDING CONSENT FOR THE DEMOLITION AND REPLACEMENT OF SUN ROOM AND CANOPY AND THE INSTALLATION OF NEW DOORS AND WINDOWS ALONG WITH INTERNAL ALTERATIONS AT COMMON FARM, 26 MAIN STREET, MILTON, DERBY**

**RESOLVED:-**

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

PL/99 **RETENTION OF PIPEWORK ASSOCIATED WITH A NEW TREATMENT PLANT AT DAY NURSERY, STAKER FLATT FARM, STAKER LANE, MICKLEOVER, DERBY**

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

Mrs Louise Thorne (objector) and Mr Chris Tolley (applicant) attended the Meeting and addressed Members on this application.

Members queried the ongoing usage of the septic tank, drainage facilities and investigations, the legal use of the land in question, the age of the package treatment plant on site and its capacity now and allowance for growth.

The Principal Area Planning Officer addressed the issues raised.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Director of Community & Planning Services, with an extra condition requiring porosity tests and re-design if necessary.***

PL/100 **THE RETENTION OF AN EXISTING PORTABLE BUILDING FOR USE AS PART OF THE DAY NURSERY, RETENTION OF OTHER EXISTING**

**BUILDINGS AND STRUCTURES, STAFF CAR PARKING AND PACKAGE TREATMENT PLANT (RE-SUBMISSION OF WITHDRAWN APPLICATION REF. 9/2016/1277 WITH MINOR AMENDMENTS) AT DAY NURSERY, STAKER FLATT FARM, STAKER LANE, MICKLEOVER, DERBY**

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

Mrs Louise Thorne (objector) and Mr Chris Tolley (applicant) attended the Meeting and addressed Members on this application.

Councillor Mrs Brown addressed the Committee as Ward Member for Etwall, referring to the 1996 planning permission, the retrospective nature of this application and the structures to which it relates. Condition 3 to the original permission which related to maintenance of the access was also raised, a condition with which the applicants had been unable to comply with as they did not own the land adjoining the access. Parking was also raised as an area of concern, suggesting that alternative parking arrangements be investigated.

The Principal Area Planning Officer responded to all queries, suggesting that with regard to the maintenance of the splay from the drive, it could be conditioned and achieved using only Highways land.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Director of Community & Planning Services, subject to investigating alternative car park design, for which delegated authority was granted to the Planning Services Manager, as well as a condition securing maximum achievable visibility at the access within highway limits.***

Abstention: Councillor Mrs Brown.

PL/101 **THE ERECTION OF TWO BRICK PLAYER DUGOUTS ALONGSIDE THE MAIN FOOTBALL PITCH AT MELBOURNE SPORTS PAVILION, COCKSHUT LANE, MELBOURNE, DERBY**

**RESOLVED:-**

***That planning permission be granted under regulation 3/4 as recommended in the report of the Director of Community & Planning Services.***

PL/102 **THE ERECTION OF A REAR EXTENSION AT 2 NAPIER CLOSE, CHURCH GRESLEY, SWADLINCOTE**

**RESOLVED:-**

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

PL/103 **THE PRUNING OF OAK TREES COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NUMBER 360 AT GRAVEYARD, MAIN STREET, NETHERSEAL, SWADLINCOTE**

**RESOLVED:-**

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

Councillors Ford and Tilley left the Meeting at 7.30pm.

PL/104 **THE ERECTION OF AGRICULTURAL/FORESTRY WORKERS DWELLING AT MANOR FARM, CHURCH STREET, HARTSHORNE, SWADLINCOTE**

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

The Principal Area Planning Officer referred to a typographical error on page 67 of the report, where 'cannot not' should have read 'cannot'. Reference was also made to the relevant wording in the Local Plan, requiring there to be an established, existing and essential need, that the business be economically sustainable and where the need cannot be met by the existing provision. With regard to this application, opinion was that the functional need tests had not been met.

Mr Peter Burchell (applicant) attended the Meeting and addressed Members on this application.

Members expressed concern relating to the information content of the report, the treatment of the advice provided by the agricultural consultant contracted by the Council. Support was voiced for rural businesses, National Forest ventures and diversification. Reference was made to the Local Plan and that this application be treated as exceptional, there being evidence of an existing rural business and sustainability. The needs of a livery were raised in the context of establishing an essential need and the potential for business growth. Queries were also raised as to the interpretation of policy and the feasibility of temporary accommodation.

**RESOLVED:-**

***That planning permission be granted contrary to recommendation, there being a sufficient case established to satisfy policy tests. Delegated authority for conditions granted to the Planning Services Manager.***

Abstention: Councillor Roberts.

PL/105 **PLANNING AND OTHER APPEALS**

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

9/2014/1013      Blackwell Lane, Melbourne

9/2016/1086      Jawbone Lane, Melbourne  
9/2017/0205      Talbot Meadows, Hilton

Councillor Smith left the Meeting at 8.05pm.

PL/106      **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:-**

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

**EXEMPT MINUTES**

*The Exempt Minutes of the Meeting held on the 17<sup>th</sup> October 2017 were taken as read, approved as a true record and signed by the Chairman.*

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

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

The meeting terminated at 8.10pm.

COUNCILLOR A ROBERTS

CHAIRMAN

PLANNING COMMITTEE

19<sup>th</sup> December 2017

**PRESENT:-**

**Conservative Group**

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

**Labour Group**

Councillors Dr Pearson, Shepherd, Southerd and Tilley

**In attendance**

Councillor Hewlett (Conservative Group) and Councillor Richards (Labour Group)

PL/109 **APOLOGIES**

Apologies for absence were received from Councillor Mrs Brown (Vice-Chairman) and Councillor Stanton (Conservative Group)

PL/110 **DECLARATIONS OF INTEREST**

The Committee was informed that no declarations had been received.

PL/111 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

**MATTERS DELEGATED TO COMMITTEE**

PL/112 **REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

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

PL/113 **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 1,100**

**DWELLINGS, AN EXTRA CARE FACILITY, A LOCAL CENTRE COMPRISING: A SMALL SUPERMARKET WITH A FLOORSPACE NOT EXCEEDING 1000 SQM (NET); A SMALLER RETAIL UNIT WITH A TOTAL FLOORSPACE NOT EXCEEDING 200SQM (NET); A CAFE/RESTAURANT WITH A FLOORSPACE NOT EXCEEDING 200 SQM (NET); A PUBLIC HOUSE WITH A FLOORSPACE NOT EXCEEDING 650 SQM (NET); A DOCTORS SURGERY OR CRECHE; AND A COMMUNITY FACILITY, AS WELL AS A PRIMARY SCHOOL TOGETHER WITH ASSOCIATED PLAYING FIELDS AND THE PROVISION OF ASSOCIATED INFRASTRUCTURE (INCLUDING ROADS, FOOTPATHS, CYCLEWAYS, SUSTAINABLE URBAN DRAINAGE AND OPEN SPACE) AT LAND AT NEW HOUSE FARM MICKLEOVER DERBY**

It was reported that members of the Committee had visited the site earlier in the day. The Principle Area Planning Officer updated the Committee on correspondence received, subsequent amendments and a statement from Councillor Mrs Brown as local Ward Member.

Councillor Matthew Holmes, Derby City Council (objector) and Mr Michael Watts (applicant's agent) attended the Meeting and addressed Members on this application.

Members sought clarification on the affordable housing allocation. The Principle Area Planning Officer explained that the Council's Strategic Housing Manager had advised that the affordable housing mix in the report be amended and that Derby City Council be given nomination rights to half of these homes to help meet their waiting list demand. The Officer clarified that the remaining affordable housing would be in the form of a commuted sum to be used to provide off-site affordable housing and the amount would be finalised in consultation with the District Valuer. The Officer also confirmed that Highways England's recommendation would be adhered to, following ongoing discussions.

Members requested that consideration be given to the spine road as a clearway with adequate width. The Planning Services Manager agreed to raise the matter with the County Council. Members discussed the recommendation that it was deemed unnecessary for Derby City to be a party to the Section 106 Agreement as South Derbyshire District Council would have control to ensure that the development would be fit for purpose and achieve the necessary aims.

Councillor Muller addressed the Committee as Ward Member for Etwall, voicing support for the points made by Councillor Mrs Brown in her email and welcomed the amendments made to the recommendation in order to address these. The Councillor was joined by other Members in accepting the proposed appointment of an independent engineer to assess flood risk. Other Members raised concerns about the design of the Sustainable Drainage Systems particularly in relation to health and safety and referred to the latest CIRIA standards.

**RESOLVED:-**

**A. That delegated authority be granted to the Planning Services Manager, Chairman and Vice-Chairman of Planning Committee to conclude the following:**

- i) Securing the appropriate level of financial contribution for the Section 106 Agreement for the community building if not provided on-site by the developer;**
- ii) Securing the appropriate level of financial contribution for the Section 106 Agreement for the off-site affordable housing contribution in consultation with the District Valuer;**
- iii) Securing all other reasonable contributions through on-going detailed negotiation;**
- iv) Any reasonable conditions/informatives requested by Derby City Council and Highways England following the conclusion of on-going discussions.**

**B. Subject to A, permission be granted subject to the conditions set out in the report with the inclusion of: a reference to safety design and engineer sign-off in condition 30; amendment to condition 22 (double negative corrected); delegation to allow flexibility to move conditions to the Section 106 Agreement and vice-versa; allow a fallback contribution in the Section 106 Agreement of £3.5m to enable Derbyshire County Council to build and deliver a primary school with sufficient land as early as possible; commuted sum for Council to adopt Sustainable Drainage Systems if necessary; revise on-site affordable housing provision in accordance with Strategic Housing Manager's request.**

PL/114 **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF UP TO 132 DWELLINGS AT LAND AT SK2719 3256 SITE B WOODLAND ROAD STANTON SWADLINCOTE**

The Planning Services Manager presented the report informing Committee of history of the application.

Mr Stuart Ashton (Applicant) attended the Meeting and addressed Members on this application.

Councillor Richards attended the Meeting as Ward Member for Newhall and Stanton and addressed the Committee welcoming the application but raised concern regarding the education grant opportunity. Other Members concurred requesting that authority be delegated to the Planning Services Manager in order for the concerns to be addressed with County Council.

One Member sought clarification on whether service charges would be imposed on households on this site. The Planning Services Manager responded that this could be a possibility if the site is managed by a private company.

**RESOLVED:-**

***That planning permission be granted as recommended in the report of the Director of Community & Planning Services, with a request to await reconsideration by Derbyshire County Council on its position on secondary school contribution and that authority be delegated to the Planning Services Manager to delete the additional Affordable Housing contribution, if necessary.***

PL/115 **APPROVAL OF RESERVED MATTERS FOR LAYOUT, SCALE, APPEARANCE AND LANDSCAPING OF PLANNING PERMISSION REF: 9/2014/1141 ON LAND AT SK3825 9087 JAWBONE LANE KINGS NEWTON DERBY**

The Planning Services Manager presented the report reminding Committee of the Inspector's decision to grant the outline application earlier in the year and revisions made to Condition 1 in relation to the approved plan numbers.

Mrs Jessica Long (objector) attended the Meeting and addressed Members on this application.

Councillor Hewlett attended the Meeting as local Ward Member highlighting concerns that the location of the site had been specified as Kings Newton, and noted that Melbourne would be more accurate. The Councillor also raised concerns relating to the proposed design, position of the affordable housing and lack of bungalows, The Planning Services Manager responded to the issues raised and advised that the Street Naming and Numbering system had selected the locality as Kings Newton, but agreed that future reference of the site would be Melbourne.

Councillor Harrison addressed the Committee as the other Ward Member and whilst concurring with the objector's comments on the need for one, two and three-bedroom properties, questioned why local requirements did not supersede the Inspector's decision to allow four-bedroom houses on this development. The Planning Services Manager responded addressing these concerns. The inclusion of the condition for details of safety design of detention pond was welcomed by the Councillor.

**RESOLVED:-**

***That consent be granted as recommended in the report of the Director of Community & Planning Services subject to amendment of Condition 1 changing plan numbers, inclusion of the condition for details of safety design of detention pond and future reference of the site as Melbourne.***

Abstention: Councillor Harrison

PL/116 **THE ERECTION OF A THREE BEDROOM DETACHED DWELLING WITH INTEGRAL GARAGE ON LAND ADJACENT TO 16 DALSTON ROAD NEWHALL SWADLINCOTE**

Committee was informed that this application had been withdrawn.

PL/117 **PROPOSED TREE PRESERVATION ORDER 468 ON LAND TO THE EAST OF 29 PENKRIDGE ROAD, CHURCH GRESLEY**

**RESOLVED:-**

***That this Tree Preservation Order (TPO) be confirmed with modifications as per the plan attached to the report.***

PL/118 **TREE PRESERVATION ORDER 476 AT MELBOURNE SENIOR CITIZENS CENTRE, CHURCH STREET, MELBOURNE**

Whilst referring to the Background Information section of the report, Councillor Watson commented that where correspondence is received, it would be helpful to detail whether the opinion is in favour or against the proposed order. The Planning Services Manager agreed that this would be provided in future reports.

Councillor Hewlett addressed the Committee as local Ward Member raising concerns relating to the effects of the growing tree including the health and safety implications for those visiting the centre. The Planning Services Manager responded advising that a notice had been submitted to fell the tree, so if the order was not confirmed then felling would be permitted.

Some Members commented that although the removal of the tree would potentially affect the street scene, the local Ward Members' comments were of concern and therefore replanting of a suitable replacement would be acceptable.

**RESOLVED:-**

***That this Tree Preservation Order (TPO) not be confirmed and a suitable replacement be requested.***

Abstention: Councillor Shepherd

PL/119 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

**RESOLVED:-**

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

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

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

The meeting terminated at 8.00pm.

COUNCILLOR A ROBERTS

CHAIRMAN

# **REPORT OF THE STRATEGIC DIRECTOR** **(SERVICE DELIVERY)**

## **SECTION 1: Planning Applications** **SECTION 2: Appeals**

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

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## 1. PLANNING APPLICATIONS

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

Reference	Item	Place	Ward	Page
9/2017/1184	1.1	Hartshorne	Woodville	21
9/2017/1160	1.2	Swadlincote, Church Gresley, Newhall, Midway, Hartshorne, Woodville		43
9/2017/1211	1.3	Melbourne	Various Melbourne	51

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 Strategic Director (Service Delivery)'s report or offered in explanation at the Committee meeting require further clarification by a demonstration of condition of site.
2. Further issues of principle, other than those specified in the report of the 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.**        **9/2017/1184/FM**

**Applicant:**  
**Mr George Dunnicliff**  
**C/O Agent**

**Agent:**  
**Mrs Michelle Galloway**  
**Pegasus Planning Group**  
**Pegasus Group**  
**4 The Courtyard**  
**Church Street**  
**Lockington**  
**DE74 2SL**

**Proposal:**    **THE SITING OF FOUR CABINS FOR HOLIDAY ACCOMMODATION AND CREATION OF ASSOCIATED PARKING, ALONG WITH THE WIDENING OF THE ACCESS ON LAND TO THE REAR OF NOS 45 TO 49 MANCHESTER LANE HARTSHORNE SWADLINCOTE**

**Ward:**           **Woodville**

**Valid Date**    **02/11/2017**

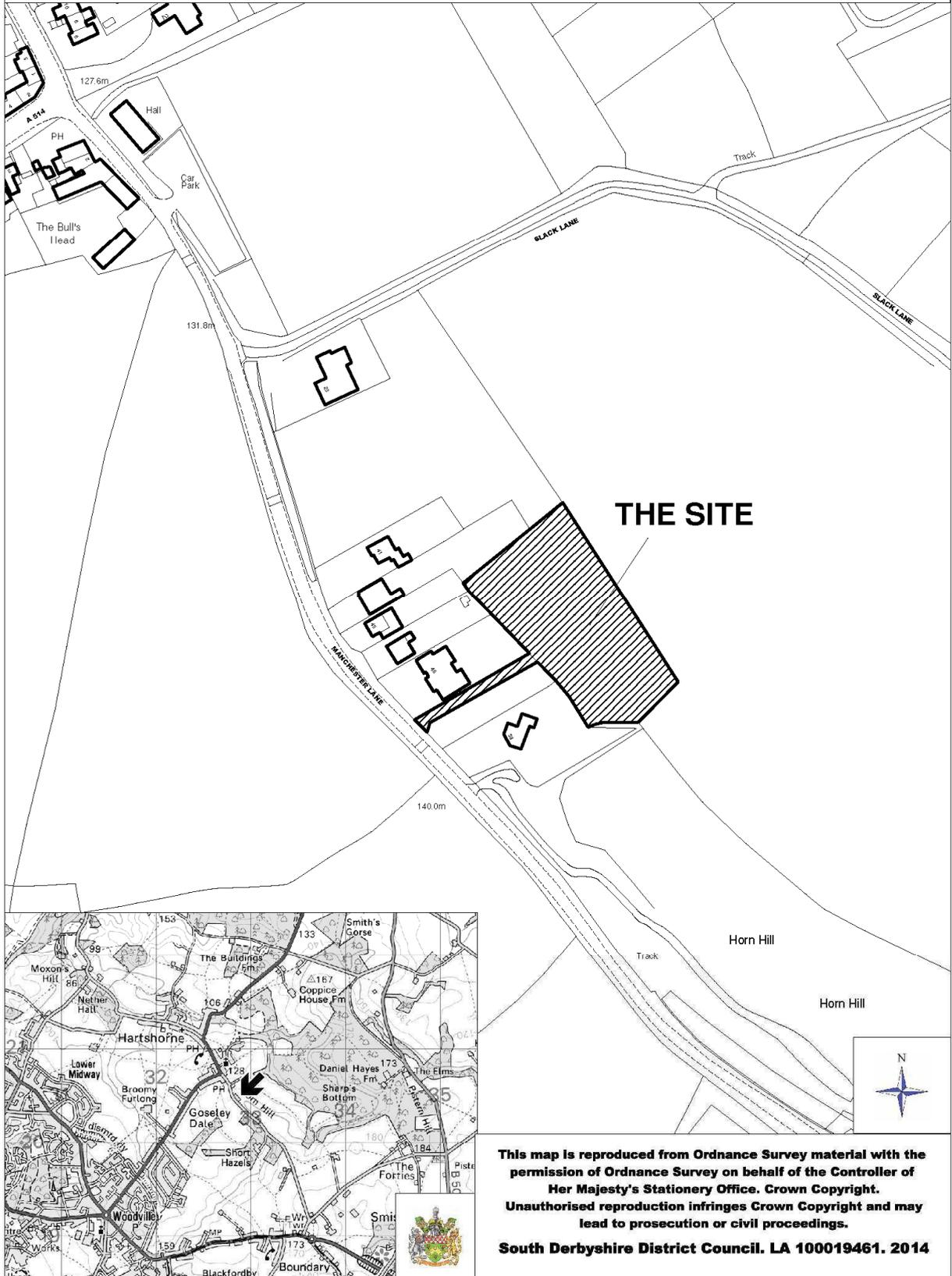
**Reason for committee determination**

The item is presented to Committee at the discretion of the Planning Services Manager, noting the previous request of Councillor Kim Coe to bring the item before the Committee as local concern had been expressed about a particular issue, including access and highway considerations; and that the unusual site circumstances should be considered by the Committee.

**Site Description**

The site comprises some 0.45 hectares of agricultural land lying to the rear of 45 to 59 Manchester Lane, forming a hammer shape. The principal part of the site which lies to the rear of the dwellings is broadly rectangular with the small part providing a linear corridor connecting to Manchester Lane by a second smaller area. The land appears not to be farmed in any fashion, the larger area down to rough grass with extensive weeds noted. This larger area slopes steeply from the rear boundaries of the residential gardens towards a mature hedgerow on the eastern edge of the site (now the subject of a Tree Preservation Order (TPO)), where the land continues to fall beyond that across an arable agricultural field. The National Forest Way (NFW) passes along the eastern side of that field, and wraps around it to the north connecting back with Manchester Lane along Slack Lane, adjacent to number 23. The smaller area rises up from Manchester Lane and passes between numbers 49 and 59 Manchester Lane. A small section of hedgerow and a gateway exist at the interface with the highway (also the subject of a recent TPO).

9/2017/1184 - Land to the rear of 45 to 49 Manchester Lane, Hartshorne, Swadlincote DE11 7BE



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This section of Manchester Lane has low-key ribbon residential development on its eastern side, comprising houses and bungalows in brick and render. In the immediate vicinity of the access, dwellings are at single storey height only. It is fragmented from the main village and along its length, 'petering out' as one travels south down the Lane. Manchester Lane is subject to a 30mph speed limit in the vicinity of the site, and has traffic calming measures (speed bumps). It is around two lanes wide at the site access and whilst it has street lighting, it has no formal footways.

## **Proposal**

It is intended to site four holiday cabins on the main part of the site, each of these unique in size and configuration although all having a similar rectangular footprint. All would be externally faced in timber (stained brown), single storey with low-pitched roof, and have an external decking area with hot tub. One plot would provide for 3 bedrooms, two would provide for 4 bedrooms and one plot would provide for five bedrooms. They would be served by individual car parking bays and a turning area located close to the end of a drive leading from Manchester Lane would allow for service vehicle access. The proposal also includes on-plot planting/landscaping.

## **Applicant's supporting information**

A Planning Statement describes the detail of the application and notes that the existing field boundary (subject of a Tree Preservation Order) would be retained and subject to a programme of long term positive landscape management (by way of the Landscape Management Plan). This would ensure that it is retained as a substantial hedgerow and continues to perform a screening function to the site and the proposed development. All proposed landscape mitigation would be subject to a high quality detailed landscape scheme that would ensure that the functions of the landscape components are delivered; reflecting positively on the design quality of the proposed development as a whole. It is advanced that careful consideration has been given to the layout to ensure that the proposals would provide a sustainable form of development which would not have a harmful impact upon either the existing landscape features or the character of the area, and that this proposal would provide much needed self-catering holiday accommodation, considered to align within the national, local and National Forest objectives which seek to bolster the tourism economy by securing more accommodation facilities to provide opportunities for overnight stays and short-term breaks. It is contended that the proposals are consistent with Local Plan policies, in particular policies E7 and INF10 of the Local Plan Part 1, and the proposals have been designed to ensure the development would have an acceptable impact upon the character of the area, would not harm existing levels of residential amenity, nor have a 'severe' impact upon the existing highways network. The proposal is considered to provide a sustainable form of development having regard to the context of sustainability set out within paragraph 7 of the NPPF:

- Economic Role - The proposed development would assist in creating both direct and indirect employment opportunities as well as existing local services and businesses. The proposal is therefore considered to contribute to building a strong, responsive and competitive economy;

- Social Role - The proposed development has been designed to ensure it is in keeping with the character of the surrounding area. The proposal would provide wider social benefits.
- Environmental Role - The proposed development would not have a significant impact on the environment in terms of ecological or wider landscape impacts. The site is located within an accessible location to existing facilities and public transport provision.

Having regard to the above, it is advanced there are no adverse impacts associated with the proposals that would significantly and demonstrably outweigh the identified benefits.

A Highway Impact Statement confirms that, following a speed survey, the proposed development would provide safe and suitable access, and demonstrates that the proposals could make use of the existing opportunities for sustainable travel. It has also been established that the development would not generate significant movement and so there is no requirement for any detailed analysis of the potential traffic increases on the surrounding highway network. It is therefore considered that the proposals comply with the requirements of the NPPF. Hence, there should be no grounds for objecting to the application.

A Landscape and Visual Assessment (LVA) considers and adopts best practice guidance for its creation and is accompanied by a series of drawings looking at topography, landscape character, public viewpoints and rights of way, and supporting the landscape and visual analysis. It is advanced that landscape and visual constraints and opportunities have been used to positively influence layout and associated mitigation. Overall these ensure that mitigation is an inherent part of the proposals. Physical landscape impacts would be limited to the alteration of the current grassland enclosure (including internal road layout, parking and accommodation units), but also a landscape led scheme for mitigation that would make a positive contribution to the National Forest. The overall impact on landscape character would largely be restricted to the site with some very limited influence on its immediate context. This would be limited to a short section of Manchester Lane and from a short section of the National Forest Way (NFW) to the north-east and east. Elsewhere, in the local and wider landscape, the visibility of the proposed development would be limited to such an extent that it would not influence landscape character. In this context, the existing baseline includes prominent residential development along Manchester Lane that fronts onto the existing highway, with occasional prominent garden structures adjacent to the site. In relation to visual impacts, views are restricted to a short section of the NFW (to the north-east) and from the upper storeys of existing properties immediately to the west/south-west. In both instances views are likely to be limited to the two units located closer to the higher ground of the site and also limited to the roofline of the cabins. Furthermore, mitigation (including retention and management of existing hedgerows and tree belts and also the National Forest planting) would form an effective screen to reduce visibility of the proposals. These views would be generally seen against the context of the existing post-war residential development and their associated garden buildings. As such, visual impacts are not considered to be significant. Overall the proposals are considered to be acceptable in landscape and visual terms as they would not give rise to an undue level of impact overall.

The applicant has also provided a short rebuttal to the assessment made by the Council's landscape advisor. This is considered when making the assessment below.

A Landscape Management Plan sets out a landscape design strategy summarised as:

- the existing field boundary vegetation (subject of a TPO) would be retained and subject to a programme of long term management to establish a minimum overall height of 5 metres to perform a screening function;
- retention and reinforcing of existing hedgerows, trees and vegetation where appropriate;
- new native tree planting within the site to provide additional screening to the retained vegetation;
- site access focussed on the existing field gate, aiming to retain vegetation where possible;
- traditional laying of the existing remnant hedgerow to increase its density and promote regeneration of growth; including English Oak standard tree planting to contribute to the quality and amenity of the frontage;
- on the higher parts of the site, to the rear of the existing properties, proposed native woodland planting would be implemented; and
- creation of communal open spaces for users of the site but retention of some views to the surrounding landscape context.

It is noted that appropriate management is fundamental to the success of the landscape spaces and their function. A list of landscape management objectives for the scheme is set out to ensure the landscape strategy is fulfilled:

- ensure landscape management procedures accord with The National Forest Company management guidance;
- ensure successful planting operations, establishment and continued growth through to maturity of the new trees, shrubs, wildflower grasslands and amenity grass for the benefits of the users and wildlife;
- ensure the continued health and welfare of existing grassland, trees, hedgerows and vegetation across the site;
- establish a functional and attractive landscape that contributes to visual amenity of the site and enjoyment by users; and
- identify any defects in the landscape early and address them promptly.

An annual review of landscape management procedures would identify any required changes in landscape management processes, allowing for minor variations in maintenance or timing of work. The management plan will be fully revised every 5 years to take on more major changes.

## **Planning History**

9/2017/0342     The siting of four cabins for holiday accommodation and creation of associated parking, along with widening of access – Refused 30

June 2017. An appeal has been lodged against this refusal, although it is yet to be validated by the Planning Inspectorate.

## **Responses to Consultations**

The County Highway Authority notes they previously commented on application ref. 9/2017/0342 for the same number of holiday cabins, and did not raise any objections subject to conditions. That response recognised the access is in a location subject to a 30mph speed limit and traffic calming, and the speed survey submitted demonstrated that average speeds are 33.4mph travelling north and 29.6mph travelling south. They also noted that sufficient visibility can be achieved and was demonstrated, along with sufficient parking and manoeuvring space. It is now noted that the only change to their interests is the amended internal layout, which remains acceptable, and thus they raise no objection subject to conditions to control visibility splays, space within the site for parking and turning, positioning of gates and the gradient of the access.

The National Forest Company (NFC) notes the scale of the development is below that where National Forest woodland planting would be expected, but normal development related landscaping should be expected. The illustrative landscape masterplan shows areas of native woodland planting along with native tree planting which the NFC welcomes, and further details and the implementation of this should be secured by condition. It is noted that since the determination of the previous application, the NFC has launched a new Tourism Growth Plan setting out a 10-year plan for they will realise the potential of the Forest as a visitor destination. The Plan explains that a thriving tourism sector needs to deliver more accommodation to increase overnight stays, which are of greater benefit to the local economy. In particular, accommodation that can reflect the ethos of the National Forest through its design, landscaping and the provision of information would assist with the delivery of the Growth Plan. The proposed woodland belt and specimen tree planting is considered to help give the site an appropriate setting and frame views towards woodlands to the north-east of the site, and the suggestion that National Forest interpretation would be included is also welcomed along with the use of timber boarding for the cabins and the inclusion of log burners. The provision of accommodation close to the National Forest Way is a further aspiration of the Growth Plan as it allows more people to make use of this long distance walking route. The ability for visitors to book one-night stays as they walk the Way would be particularly welcomed. The NFC notes that in providing additional overnight accommodation the development would be in alignment with the Growth Plan, although they recognise that the principle of development on this specific site and the suitability of the proposal is for the Local Authority to determine.

The Environmental Health Officer seeks details of the proposed drainage of the site (both foul and surface water) and details of any external lighting provision. Some concern is also raised regarding the potential for the outdoor facilities supplied to each cabin to impact upon neighbouring residential amenity by way of noise. It is requested that the following be required as part of a noise mitigation scheme for the site:

- hot tubs switched off and vacated by 11pm;

- all hot tubs to be enclosed, design of which to first be agreed;
- acoustic screening to all outdoor seating areas sufficient to break line of site with neighbouring residential property, design of which to first be agreed;
- no external music permitted;
- no garden heaters; and
- no fixed external cooking facilities.

The Council's Economic Development Manager states that the aims of the development align with those of the South Derbyshire Economic Development Strategy and The National Forest Growth Plan, as set out in the applicant's Planning Statement. Both documents recognise tourism as an expanding sector of the local economy with potential for further growth. Also, as a means of job creation in rural areas, that will also support local services, such as village shops and pubs. Maximising the potential of The National Forest is highlighted in the Economic Development Strategy as one of the key issues for South Derbyshire. The latest research reveals that nearly 8.2 million visitors came to the National Forest in 2016, and that tourism spend has now reached £395.2m, sustaining 4,849 FTE jobs - a further increase on the growth stated in para 5.30 of the Planning Statement. The development proposes Non-Serviced Accommodation. In The National Forest this sector has grown dramatically: from 17,000 visitors in 2003 to 50,000 in 2016; from 94,000 tourist days in 2003 to 331,000 in 2016; from 80 people directly employed in 2003 to 208 in 2016. Over the period 2003-16 the number of Non Serviced Accommodation bed spaces has risen by 1,605, of which 431 were in self-catered units. The popularity of Non-Serviced Accommodation has also grown relative to other forms of accommodation (e.g. hotels). Further the growth is increasingly year-round, with the highest levels of growth taking place during off-peak periods. The above data indicates a growing demand for the type of Non-Serviced Accommodation proposed. That the planned units can accommodate larger groups and wheel chair users should further add to their attraction.

### **Responses to Publicity**

Hartshorne Parish Council objects for the following reasons:

- i) inconsistency with the Local Plan and national planning requirements with the proposal leading to an extension of the ribbon development on Manchester Lane, outside the village envelope and resulting in a harmful intrusion into open countryside;
- ii) whilst some additional planting is proposed the development would detrimentally impact on natural habitats and wildlife (and the National Forest);
- iii) pedestrian access to the rear of the site and the impact on the hedgerow will need to be taken in to account in terms of visual effects;
- iv) the site is proximate to an area of historic interest (Horn Hill) and a formal request has been made to the Council to recognise this area as a Conservation Area;
- v) detrimental impact on current unobstructed views;
- vi) impact on surrounding listed buildings, including Manor Farmhouse and Hartshorne Parish Church;

- vii) Manchester Lane is a narrow country lane with 4 accidents in the last year (a photograph has been provided detailing an accident on Manchester Lane in December 2017);
- viii) the Highway report is not an accurate representation, having been undertaken in the school holidays;
- ix) there is no pavement for pedestrians and no street lighting;
- x) lack of site management and heightened risk of anti-social behaviour; and
- xi) there is no guarantee that the proposal would create any local jobs.

Hartshorne Village Residents Association objects to the proposals, and do not consider the revised application overcomes the previous refusal by the Committee. The proposal is contrary to policy BNE5 as it is not a rural based activity or appropriate rural diversification, and it would have a major impact on the countryside. The Highway Impact Statement is considered irrelevant, with two recent accidents nullifying that report and proving Manchester Lane is potentially dangerous. Despite the additional landscaping the development would be a major intrusion in to the countryside and the setting of Horn Hill. The surrounding area has been requested to be designated a conservation area. No consideration has been given to the social impact of the development, which could be occupied by stag and hen parties or family celebrations, which could lead to antisocial behaviour. A full complement of up to 32 persons would outnumber the local residents. Policy INF10 should also take into account the impact on the local community.

12 objections have been received from 7 addresses, raising the following concerns/points:

#### Principle

- a) holiday cabins are inappropriate development in Hartshorne, which already has sufficient accommodation (Bulls Head and Mill Wheel);
- b) Hartshorne it is a service village for larger surrounding villages – not a tourist location, as it has too few amenities and local attractions;
- c) the site is outside the settlement boundary for Hartshorne;
- d) no evidence of economic need is demonstrated, with the Repton Road site not succeeding as tourist accommodation due to lack of demand;
- e) Sykes Cottages suggest Hartshorne could be used as a base for tourists to access the Peak District, thus turning the projected Hartshorne holiday makers into day visitors who would inflict considerable environmental impact;
- f) limited services and facilities within easy reach;
- g) no business plan to support the development so it contradicts policy E7;
- h) it would provide negligible employment opportunities;
- i) previous refusals on the site for residential development in 1968 and 1972;
- j) the proposal would actually increase the carbon footprint due to the need to drive to services/facilities;
- k) visitor reviews of cabin sites suggest amenities and site service are a high priority;

#### Landscape, character and heritage

- l) an alien pattern of development and an unwarranted intrusion in to the landscape and countryside;
- m) the development of this prominent and elevated site would have a huge impact on the character and local distinctiveness of the surrounding area
- n) harmful intrusion into the countryside;
- o) impact on local heritage assets and listed building (Horn Hill and St Peters Church);
- p) impact on views from the National Forest Way;
- q) erosion of existing ribbon of development and significance of Horn Hill;
- r) varying floor levels are likely required, increasing the prominence of the cabins;
- s) it would badly affect the natural and residential environment;
- t) loss of views;
- u) no tree survey has been submitted despite the TPO;
- v) impact on hedgerows and wildlife;
- w) visually incongruous and uncharacteristic of the village;
- x) the tranquil connection between the historic core and Horn Hill, and its importance, should be protected;
- y) the proposed cabins, providing accommodation for 32 people, would be tightly packed together on half a hectare, whereas Calke Abbey only accommodates up to 30 across the whole estate;

#### Highway safety

- z) Manchester Lane is a narrow country road with no pavements, and any increase in traffic and pedestrian use would be very dangerous;
- aa) recent accidents of Manchester Lane;
- bb) lack of parking provision for the disabled;
- cc) Manchester Lane already busy at peak times, and the associated increase in traffic volume would have implications;
- dd) narrowness of the Lane away from the site access;
- ee) visitors would not be aware of existing highway safety risks;
- ff) traffic measurements not representative of the typical traffic patterns, with a one day assessment, a lack of information on holiday cottages making the information unreliable, and it being out of date;
- gg) adequacy of parking provision given the number of bedrooms proposed;

#### Impact on amenity

- hh) consideration of the Human Rights Act;
- ii) utilising web-based noise data, a prediction of the impact of the use of the site has been undertaken, and noise - particularly from the proposed hot tubs - would exceed the required noise limits set out in the British Standard and the WHO guidelines;
- jj) the use of BBQ's is a concern;
- kk) impact of service/delivery vehicles regularly visiting (e.g. takeaway, online shopping, etc.);
- ll) significant loss of residential amenity from noise, activity and car use of so many tourists;
- mm) overlooking of existing dwellings/loss of privacy;

- nn) hedging would not provide adequate screening;
- oo) proximity of the access road to properties and associated noise, as well as structural concern;
- pp) unsupervised use of the cabins is inappropriate in a quiet, residential area;
- qq) likely to attract large parties to stay in the cabins, resulting in greater chance of disturbance to adjoining occupiers;
- rr) light pollution;
- ss) security of existing dwellings and increase in criminal activity in the closed season;

### Other

- tt) no details have been submitted in respect of the proposed drainage on the site, with reference to other validation requirements of local planning authorities;
- uu) due to the site levels, it is likely a pumping station will be required which could cause major issues, especially with the amount of water required for the hot tubs;
- vv) concern about how often the hot tubs will be emptied and reporting and controls over their use;
- ww) the proposal would create business competition with the Bulls Head;
- xx) local pubs have no shortage of customers and a regular influx of tourists would be detrimental to the existing 'local' ethos of these venues;
- yy) it would have significant competition from more appropriately situated and well equipped visitor accommodation sites, such as Conkers;
- zz) inaccuracies within the application forms; and
- aaa) this re-application has not changed in any material way from the previous application and should be refused for the same reasons.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF8 (The National Forest) and INF10 (Tourism Development).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE7 (Trees, Woodland and Hedgerows) and 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 development;
- Landscape character and design;
- Amenity impacts; and
- Highway safety and parking provision.

## Planning Assessment

### Principle of development

Whilst the site lies outside of the existing and proposed settlement confines for Hartshorne, the usual strategic approach to new residential development is relaxed for tourism development. The principal policies are E7 and INF10 of the Local Plan Part 1. E7 sets out that *"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"*. The development of new buildings also need a sound business case; capacity on the local highway network to accommodate the traffic generated; that the development will not give rise to any undue impacts on neighbouring land; that it is well designed and of a scale commensurate with the proposed use; and visual intrusion and the impact on the character of the locality is minimised. The supplementary text of the policy points towards policy INF10 when considering tourism development.

Policy INF10 supports tourism development in principle across the District, without limitation on whether it is within a settlement confine or not. This includes overnight accommodation *"...in other appropriate locations where identified needs are not met by existing facilities"*. It is expected that new tourism development to be:

- i) *"provided through the conversion or re-use of existing buildings or;*
- ii) *accommodation of a reversible and temporary nature, or*
- iii) *sustainable and well-designed new buildings, where identified needs are not met by existing facilities, subject to all the other relevant policies in the Local Plan" [and]*

*"New tourism development that is likely to give rise to undue impacts on the local landscape, natural environment or cultural heritage assets will be refused"*.

The National Forest Growth Plan continues to recognise the need to expand tourist accommodation provision, particularly in regard to the self-catering sector, in the National Forest. The response of the NFC makes this apparent.

The applicant's Planning Statement makes similar reference to the Growth Plan, as well as its predecessor (the National Forest Vision and Action Plan for Sustainable Tourism (2009)). The applicant also highlights the Visitor Economy Review and Investment Study (VERIS) which was completed for the Local Enterprise Partnership (LEP) in May 2014. The VERIS identified a need for investment to increase and improve visitor accommodation provision across Derbyshire and Nottinghamshire as a key requirement for realising the growth potential of the visitor economy. The Visitor Accommodation Strategy (June 2017), on behalf of the LEP's Visitor Economy Advisory Group, was commissioned to provide a robust assessment of the future opportunities for visitor accommodation development across Derbyshire and Nottinghamshire, and the requirements for public sector intervention to support and accelerate visitor accommodation development. The Strategy identified the potential for the development of all forms of non-serviced accommodation (including holiday lodges) across the area, particularly in the Peak District, Sherwood Forest and the National Forest. It identified that the non-serviced accommodation sector is performing very strongly, with many businesses consistently having to turn away business at weekends and in summer, resulting in frequent shortages of non-serviced accommodation at these times. It also identified the area's potential to attract family gatherings due to the central location in the country.

This is wholly consistent with the supporting text to policy INF10, which states:

*"...The Heart of the National Forest area is a particular focus for tourism development. New visitor attractions and accommodations that would diversify the appeal of the area throughout the year will be encouraged.... South Derbyshire offers a mix of types, standards, sizes and prices of tourist accommodation although The National Forest Vision and Action Plan for Sustainable Tourism identifies a need to expand provision, particularly in regard to the self-catering sector".*

The applicant also makes clear that they intend to work in partnership with Sykes Cottages – a well-established independent holiday cottage letting agency. Sykes has provided clarification of this, with their current lists covering 10,000 properties across the UK with the goal of listing 25,000 by 2020. However, they note they only list 8 properties within a 10-mile radius of Hartshorne, and 68 within a 20-mile radius – noting that they also list 547 properties in the Peak District. It is advanced that more properties are required in the immediate locality, and an influx of holidaymakers to the region would significantly benefit local businesses, such as shops, pubs and restaurants. The prospect of additional employment is also a factor as the properties will require cleaners and regular maintenance. Stays would be typically for 7 nights, supplemented by 2 or 3 night short breaks which are more common in off-peak periods, with a mix of family and older groups across school holiday and term times.

In light of the above and the comments from the Council's Economic Development Manager, it is considered the proposal is soundly justified in business terms, with both the demand evident through the Local Plan and supporting surveys/studies from the NFC and LEP, and the operation of the business properly thought through. The proposal therefore complies with policy E7 (in so far as justifying the proposal in principle) as well as criterion (ii) of policy INF10. The test here is therefore not one of principle, but of balance – assessing the proposal against the final limb of policy

INF10 and the remaining requirements of policy E7, with the benefits weighed against the impacts.

### Landscape character and design

The previous application was refused on this matter, the decision notice stating:

*“Notwithstanding the submitted details, the proposed development would constitute an alien pattern of development and an unwarranted intrusion into the landscape and countryside to the east/northeast of the development along Manchester Lane. The development would therefore have an unacceptable impact on landscape character contrary to Saved Policy EV1 on the South Derbyshire Local Plan (1998), Policies S1, BNE4 and INF10 of the Local Plan Part 1 (2016) and emerging Policy BNE5 of the Submission Local Plan Part 2”.*

Since that decision, the 1998 Local Plan has been replaced by the Local Plan Part 2 such that EV1 is no longer relevant.

The site is on the northern edge of the Leicestershire and South Derbyshire Coalfield National Character Area (NCA). The landscape is a plateau with unrestricted views of shallow valleys and gentle ridges with views northwards into the wooded rolling landscape of the Melbourne Parklands NCA. The County Council's Landscape Character of Derbyshire assessment broadly uses the national landscape character areas and sub-divides them into landscape character types (LCTs). The relevant landscape character types are patches of semi-natural woodland, occasional remnant ancient woodland, scattered hedgerow trees and locally dense trees along watercourses. Small-scale woodlands are often associated with areas of former parkland or with estate ownership. The description notes that woodland cover is being significantly extended through initiatives within the National Forest area.

Whilst within the National Forest, the site is not under any landscape designation or historic landscape which confers or implies national value and/or protected status. The National Forest Way (NFW) passes through Hartshorne and near the site as part of the stage from Moira to Hartshorne. The site is of value for its role in helping to provide a link between the village and the surrounding landscape, as well as contributing to a green and rural setting for views – particularly from the NFW. To the south and off Manchester Lane there are limited views into the site.

The Council's landscape advisor comments that the applicant's assessment methodology is lacking in some respects. It is argued that the visual impact upon neighbouring receptors has not been considered, and woodland planting in and adjacent to a residential setting may not appropriate. Nonetheless, the latter must be recognised as part of the 'ethos' to encouraging tourist accommodation in the National Forest, with occupants of the lodges transitory and not likely to expect the same standard of living as if they were permanent residential homes. Whilst the outlook for existing occupiers would be altered by the woodland planting, it is not inappropriate given its National Forest location and the NCA and LCT descriptions. Importantly, the applicant contends that the impacts are not considered to be significant, and this is felt to be correct as the site is very localised when compared

to the rest of the National Forest context and, from a landscape point of view, is unremarkable and in a physically poor condition. Visually, the impact would be less than significant and even mitigated as long as the (now protected) hedge line remains and is supplemented with additional planting. The landscape management plan seeks to ensure an appropriate regime for the long term retention and management of this edge.

The hedge line at the Manchester Lane end of the site is also protected by way of a TPO. Members should note that TPOs are most effective when they are used to manage trees, and they should not be used to impose a blanket restriction on any works. In order to facilitate access, a short section of these trees would need to be removed. Whilst counting against the proposal to a degree, this loss is considered to be a minor one in the wider scheme and new landscaping could mitigate for this impact over time – especially given the ‘surplus’ nature of the land immediately adjacent to the access road.

It is recognised that the local community has sought the designation of the Horn Hill area as a conservation area. The Conservation Officer has advised that a designation cannot be supported. It must therefore be recognised that the area is not a designated heritage asset. Nonetheless, there has been discussion with the Conservation Officer on whether there is demonstrable evidence of heritage significance which might make the site ‘valued’. The NPPF is clear in distinguishing ‘valued landscape’ from landscape which has a ‘designation’, and the Courts have held ‘valued’ means something other than ‘popular’. In short, landscape can only be ‘valued’ if it has physical attributes which take it out of the ordinary. The Landscape Institute’s Guidelines for Landscape and Visual Impact Assessment (GLVIA3) reflect this, noting that an absence of designation does not necessarily mean an absence of landscape value. GLVIA3 also identifies a range of factors that can help in identifying valued landscapes, these including aspects such as rarity, tranquillity, recreation value and conservation interest.

This site does not possess physical aspects which would elevate it to being ‘out of the ordinary’. The only focus is whether there is an associative link between the village and the hill. However, this is far from categorical. The Doomsday book records various possibilities of the origin to the name ‘Hartshorne’, one of which could be the physical landscape surrounding the village (i.e. Horn Hill). The hill is not recognised as a scheduled monument, nor does it even feature on the Historic Environment Record. Whilst it is recognised that most settlements will take their name from certain landscape features in or around them, this does not equate to heritage significance. In any case, the proposal is not considered to erode any local importance of the hill and its associative value – it clearly read as ‘overlooking’ the village and it remaining largely free of built form under this proposal. The proposal is also not considered to impact on the setting of listed buildings nearby, with their significance unaffected by the development of this site. Biodiversity effects are considered to be positive overall, with retention of important habitat and its enhancement through additional planting.

Notwithstanding the above, the reason for refusal highlighted the general pattern or ‘grain’ of development along Manchester Lane. Hartshorne has evolved largely away from the historic cores (Church Street and Brook Street) in a linear and ‘ribbon’

fashion – although not exclusively, and this point was explored during the Rodney Meadow appeal. The concern is that this development would alter this perception of Hartshorne as a linear settlement, eroding this pattern along its travel corridors and creating a cluster sitting ‘out-of-kilter’ with the surrounding development. This may remain unaltered since the refusal, but it must equally be recognised that there is some development ‘at depth’ away from the roads through the village. The key is whether it is appropriate sitting to the rear of this ribbon. The nature of the development is increasingly commonplace in the National Forest area, and given it would be supplemented by landscaping; there would be a degree of softening over time, reducing the legibility of this site appearing at odds with the existing ribbon development. Consideration is also given to consolidation of the ribbon, but infill policy would allow for this to occur along the Manchester Lane frontage where the perception of consolidation would be most appreciated. The built form here would be set back reducing this perception of continuity. With the cabins set low to the ground by way of design, and capable of assimilation into the countryside, it is not considered in this instance that the proposal achieves an undue impact on the character of the area which might outweigh the general Local Plan support for the proposal.

### Amenity impacts

The concerns of neighbouring residents are noted. Assessment must consider whether adverse impacts are likely to occur in respect of noise disturbance, light pollution and loss of privacy/overlooking. In terms of the latter, the distances in the Council's SPD are comfortably achieved - even for the closest dwelling. Boundary planting would overcome and residual perception of overlooking in due course. Concerns in respect of lighting across the site can be appropriately controlled by way of condition. Attention therefore rests on the impact from visitors and their vehicles in the use of the site.

The comings and goings of vehicles along the access road would be limited to the number of cabins proposed. The average daily movements associated with a cabin are broadly similar to that which might be associated with the domestic use of a dwelling. In this respect, it is not considered vehicle noise could be substantiated and the EHO raises no objection in this respect. The same considerations echo to the use of the units, particularly their external areas. Use of such areas would depend on favourable weather conditions and vary with the seasons, and the applicant has made efforts to minimise any potential conflict by ensuring the primary amenity areas face away from existing dwellings. Nonetheless, the EHO sustains some local concerns over the use of these areas and seeks a condition to require:

- hot tubs switched off and vacated by 11pm;
- all hot tubs to be enclosed, design of which to first be agreed;
- acoustic screening to all outdoor seating areas sufficient to break line of site with neighbouring residential property, design of which to first be agreed;
- no external music permitted;
- no garden heaters; and
- no fixed external cooking facilities.

Whilst the first four controls can be applied by way of condition, the latter two controls are not considered to fulfil the 'reasonable' test. The presence of a garden heater might facilitate later use of the external areas on chilly evenings, but their prohibition would make no difference when ambient temperatures are sufficient in any case, or the decision to wear additional clothing. In the same vein, whether cooking facilities are external and/or fixed would not necessarily alter the ability to utilise these areas for dining or other activities. On this basis, these parts of the condition cannot be sustained. Irrespective of this finding, the remaining controls and lack of objection from the EHO is considered to result in the amenity impacts being acceptable.

#### Highway safety and parking provision

The conditions on Manchester Lane are well appreciated, particularly during peak hours. However the survey appears to have been carried out in 'free flow' conditions, in accordance with guidance, resulting in the ability to achieve the necessary visibility splays for average speeds. Accordingly, the County Highway Authority raises no objection, and this is significant. They also do not raise issue with pedestrian safety in occupants linking to the NFW or to services within Hartshorne, and it should be noted that this situation is no different to that for existing occupiers. It must also be acknowledged that self-catering accommodation is usually operated on the basis of a 'local guide' being present in each unit, which aids those not familiar with the area in utilising local services in the most suitable fashion.

The parking provision is commensurate with that usually expected for conventional residential dwellings, with 3 spaces per unit. However, each unit may not necessarily attract 3 vehicles, particularly when families may arrive in a single vehicle. The provision is therefore considered to be more than adequate, and equally positioned so to minimise its visual and amenity impacts.

#### Summary

With the principle of development established, the decision is a finely balanced one - couched in weighing the tourism and economic benefits against the visual and character impacts. The long term future of the protected hedge line can be secured so to provide some certainty on the ability this has to help mitigate these impacts. The proposal would introduce a slightly 'inorganic' grain of development in this particular locale, but it is the type of development which has been supported elsewhere in the National Forest and wider District on such a basis. It is also not a completely alien form of development along the linear routes around Hartshorne. Similarly, the amenity impacts would be broadly comparable to that possible through conventional occupation of the existing dwellings adjacent. With a managing agent intended to oversee their use, there would also be a means to record and address any isolated incidents, which cannot be mitigated under the planning process.

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 plans/drawings PL35R, PL36D, PL38D, PL39D and PL40E; 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. Notwithstanding the provisions of Part C Class 3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, (or any Order(s) revoking or re-enacting either or both Order(s)); the cabins shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order without the prior grant of planning permission by the Local Planning Authority, and:

i. the building shall not be occupied as a person's sole, or main place of residence;

ii. the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days and shall not be re-occupied by the same person(s) within 3 months following the end of that period; and

iii. the site operator shall maintain an up-to-date register of the names of all occupiers of the holiday cabins, and of their main home addresses, and shall make that information available at all reasonable times to the Local Planning Authority.

The contact details for the site operator shall be supplied in writing to the Local Planning Authority prior to the first occupation of a cabin on the site, any subsequent change in operator (including their contact details) shall be notified to the Local Planning Authority no later than 5 days following that change.

Reason: The creation of unrestricted dwellings in this location would be contrary to the development plan and the objectives of sustainable development.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; none of the holiday cabins

hereby permitted shall be enlarged, altered or extended, and no outbuildings, enclosures/boundary treatments or hard surfaces erected/created, without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

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

5. No development shall commence until all existing trees and hedgerows on the site, which are not shown to be removed on the approved plan, are fenced with steel mesh fencing to 2.3m high supported by steel scaffold poles staked at 3 metre centres. The fencing shall be positioned at the outer limits of the root protection area for each tree/hedgerow and retained in position until all building works on adjoining areas have been completed unless otherwise agreed in writing with the Local Planning Authority.

Reason: To protect the trees/landscape areas from undue disturbance, noting that initial works could lead to unacceptable impacts.

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

Reason: In the interests of safeguarding and enhancing the biodiversity offer of the site.

7. Before any other operations are commenced, the existing access to Manchester Lane shall be modified in accordance with the approved plans, laid out, constructed and provided with a 2.4m x 42m visibility splay to the northwest and a 2.4m x 50m visibility splay to the southeast, 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: In the interests of highway safety, noting that safe and suitable access is required throughout the construction and operational stages of the development.

8. No development shall commence until details of the finished floor levels of the holiday cabins and associated surfaces and decking hereby approved, and of the ground levels of the access road and wider site relative to adjoining land levels, has been submitted to and approved in writing by the Local Planning Authority. Such details shall include details and drawings of any retaining structures, where required. Thereafter the development shall be constructed in accordance with the agreed levels.

Reason: To protect the amenities of adjoining properties and the locality generally.

9. No development shall commence until details of a scheme for the disposal of foul water has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use. If there is a requirement for a pumping station, full details of this and an assessment of the noise which may be generated by its operation, shall be included with the details submitted.

Reason: In the interests of pollution control, noting that uncontrolled discharges could cause unacceptable impacts if the scheme is not designed correctly from the outset, and to ensure associated features do not generate other unacceptable impacts.

10. No development shall take place until a detailed design, timetable for implementation and associated management and maintenance plan of surface water drainage for the site, in accordance with Defra non-statutory technical standards for sustainable drainage systems, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that, as a minimum, suitable capacity is proposed to attenuate peak flows from the site. The scheme shall be carried out in conformity with the approved details prior to the first occupation of each respective cabin/hard surface served by the surface water drainage system.

Reason: To ensure that it is possible to incorporate sustainable drainage systems before the development begins in the interests of flood protection.

11. No construction of a lodge shall commence until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the appearance of the buildings and the locality generally.

12. Notwithstanding the submitted indicative landscaping plan, prior to the first occupation of a cabin hereby approved, full details of the landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area, recognising the need to achieve a suitable level of visual screening to the site by way of native and woodland planting.

13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next

planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. Thereafter, the landscaping shall be maintained in accordance with the Landscape Management Plan ref. P17-1573 (dated October 2017) with any changes to that Plan as part of the annual or 5-yearly review first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area and the health of protected trees over the lifetime of the development.

14. Prior to the first occupation of a holiday cabin hereby approved, details of the body or organisation responsible for implementation of the Landscape Management Plan (LMP), as required under condition 13, along with details of the legal and funding mechanism(s) by which the long-term implementation of the LMP will be secured by the developer/site owner, shall be submitted to and approved in writing by the Local Planning Authority. Any subsequent change to that body or organisation shall be notified to and approved in writing by the Local Planning Authority in line with the requirements of this condition.

Reason: In the interests of safeguarding and enhancing the long term visual and biodiversity offer of the site.

15. Prior to the first use of a cabin hereby approved, a noise mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority. This scheme, as a minimum, shall include measures to ensure:
- i) hot tubs are switched off and vacated by 11pm;
  - ii) that all hot tubs are enclosed according to a design to be provided with the details submitted;
  - iii) acoustic screening to all outdoor seating areas sufficient to break line of site with neighbouring residential property, of a design to be provided with the details submitted; and
  - iv) no external music is permitted or facilitated.

The physical measures included as part of the noise mitigation scheme shall be installed in full prior to the first use of each respective cabin and thereafter retained/maintained as such, with all other measures in the noise mitigation scheme carried out in accordance with the approved scheme throughout the lifetime of the development.

Reason: To avoid undue disturbance to adjoining property in the interests of safeguarding their present standard of amenity.

16. No external lighting shall be installed until precise details of the intensity, angling and shielding, and the area of spread of the lights have been submitted to and approved in writing by the Local Planning Authority. The lights shall be installed in accordance with these details and thereafter retained in conformity with them. The submitted scheme shall comply with the latest guidance published by the Institute of Lighting Engineers.

Reason: To preserve amenity impacts on adjoining occupiers and in the interests of wildlife and the visual amenity of the area.

17. Prior to the first occupation a holiday cabin comprising the development, the internal service road, parking and manoeuvring space shall be provided in accordance with the approved plan and thereafter be retained free of any impediment to their use for such purposes.

Reason: In the interests of highway safety.

18. No gates or other barriers shall be erected within 10m of the highway boundary and any gates shall open inwards only.

Reason: In the interests of highway safety.

19. The proposed access drive to Manchester Lane shall be no steeper than 1:30 for the first 10m from the nearside highway boundary, and 1:12 thereafter. Measures to prevent the flow of surface water onto the adjacent highway shall be implemented as part of its creation, and subsequently maintained in perpetuity free from any impediment to its effective use.

Reason: In the interests of highway safety.

Informatives:

1. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority). Property specific summary information on past, current and future coal mining activity can be obtained from: [www.groundstability.com](http://www.groundstability.com).

2. If external lighting is proposed, you are advised that it should be by way of low level bollards and bulkhead lighting only.

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

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

5. Pursuant to Section 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 gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

6. 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.

7. The applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance (search for 'Street naming and numbering' at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk)) and you are advised to engage with the Council as soon as possible to enable the issuing of street and property names/numbers created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developers' responsibility to erect the appropriate signage once the build(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

- Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
- Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

Further advice can be found online at [www.south-derbys.gov.uk](http://www.south-derbys.gov.uk) or by calling (01283) 228706.

**Item**            **1.2**

**Ref. No.**        **9/2017/1160/NO**

**Applicant:**  
**Ms Kate Allies**  
**Unit 1a Rosliston Forestry Centre**  
**Burton Road**  
**Rosliston**  
**Swadlincote**  
**DE12 8JX**

**Agent:**  
**Ms Kate Allies**  
**Unit 1a**  
**Rosliston Forestry Centre**  
**Burton Road**  
**Rosliston**  
**Swadlincote**  
**DE12 8JX**

**Proposal:**    **THE ERECTION OF PAVEMENT PLAQUES, WALL PLAQUES AND LECTERNS AT VARIOUS LOCATIONS IN AND AROUND SWADLINCOTE**

**Ward:**        **SWADLINCOTE, CHURCH GRESLEY, MIDWAY, NEWHALL, WOODVILLE**

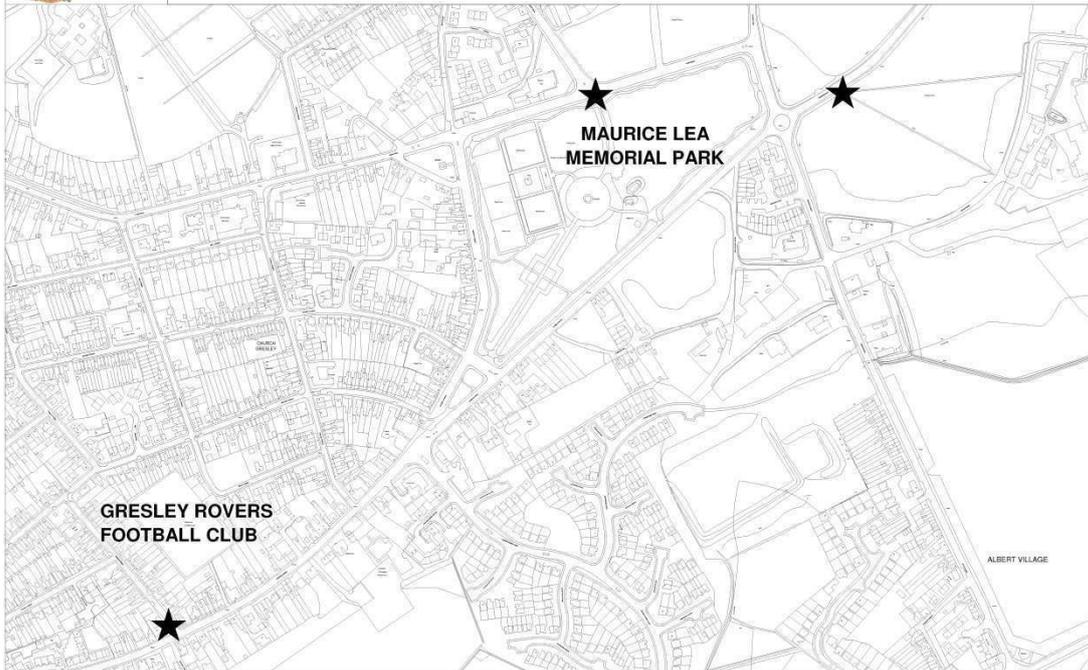
**Valid Date**   **17/11/2017**

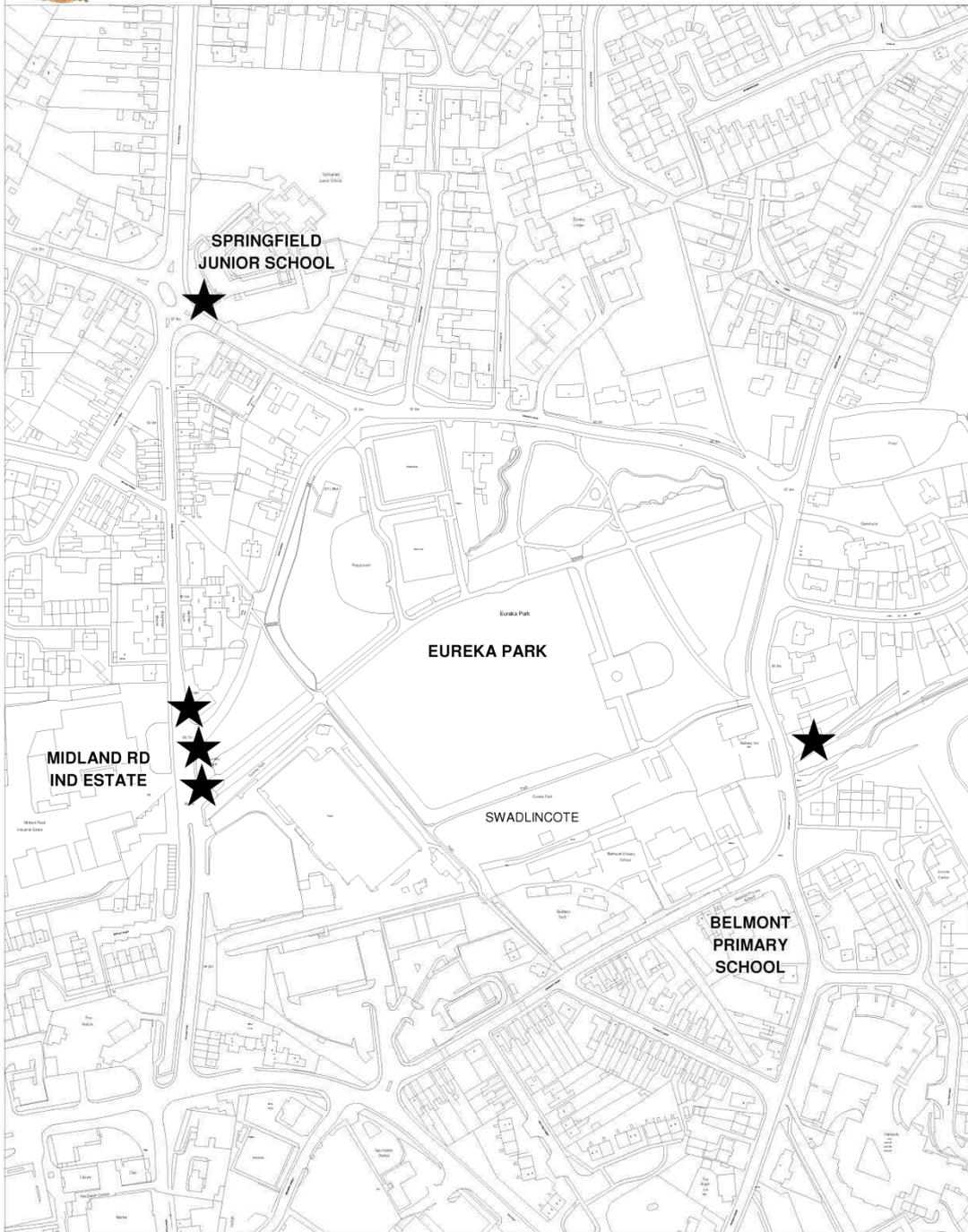
**Reason for committee determination**

The item is presented to Committee under Regulation 3 as the Council is the applicant.

**Site Description**

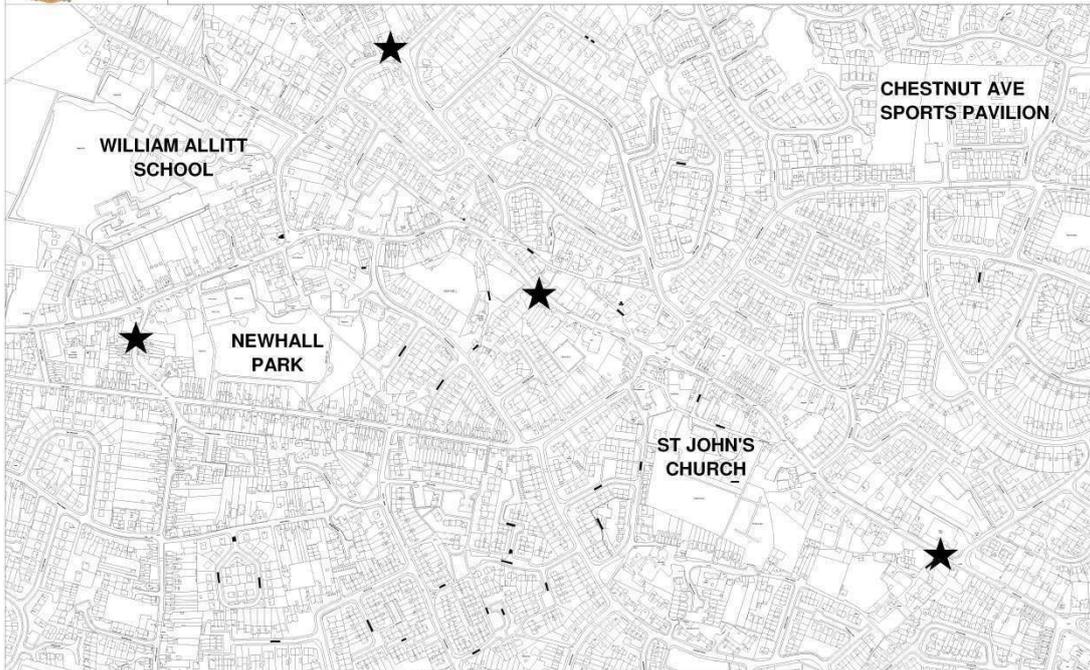
The “site” consists of various properties and areas of pavement within Swadlincote Town Centre and the wider Swadlincote Area. Consent is sought to display plaques on various properties, sink plaques into the pavement and erect lecterns at various points within the Town Centre, the Pipeworks, Church Gresley, Midway, Newhall, Hartshorne and Woodville. The plaques and lecterns are part of a Heritage Trail that has been designed to commemorate previous occupants who have previously lived in the buildings concerned or historic events that have taken place throughout the town centre and wider area. Some of the most sensitive locations are within the Delph, the Pipeworks and Bretby Potteries as these areas are located within a short distance of listed buildings.







9/2017/1160 - Newhall, Swadlincote

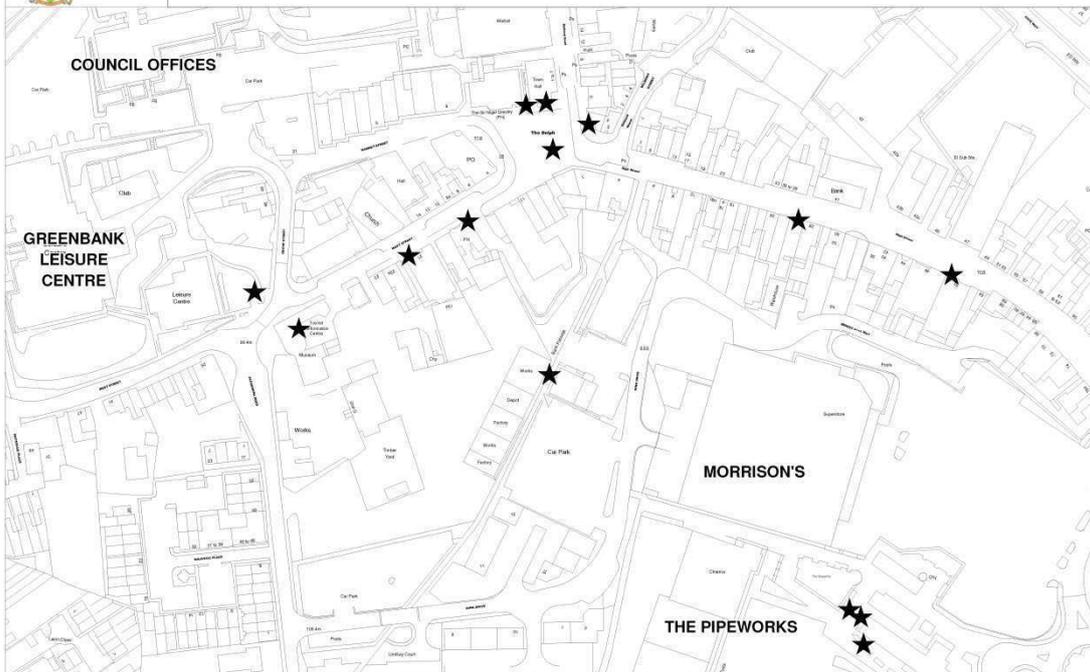


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100019461 2014.

Unspecific scale - A4



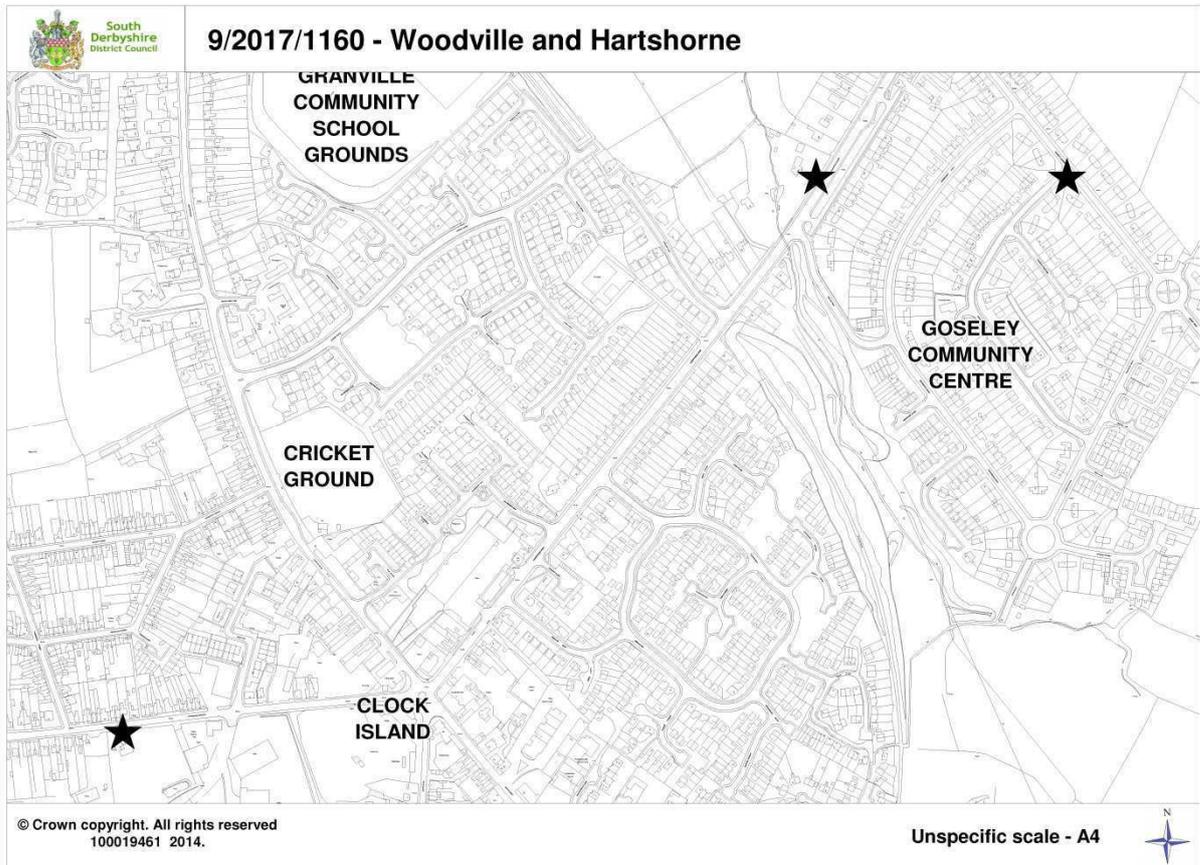
9/2017/1160 - Swadlincote Town Centre



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## Proposal

The plaques that would be fixed to the buildings would be made out of zinc and would be 300mm in diameter. The pavement plaques would be constructed out of bronze and would be set into a square shape, as this would be easier to fix to the ground. The lecterns would be painted black to complement the surrounding street furniture along the Delph and silver at the Pipeworks and along Common Road. The Lecterns would be A1 in size and would be one metre in height.

## Planning History

There is no relevant planning history.

## Responses to Consultations

The County Highway Authority has not responded to date.

## Responses to Publicity

There has been no comments/objection received as part of the application.

## Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development) and BNE10 (Heritage).

### **National Guidance**

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

### **Local Guidance**

- South Derbyshire Design Guide SPD
- Swadlincote Town Centre Character Statement

### **Planning Considerations**

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

- Size and Appearance of plaques and Lecterns
- Impact on heritage assets
- Highways issues

### **Planning Assessment**

#### Size and Appearance of plaques and lecterns

The proposed plaques and lecterns would be of a high quality design and would be constructed out of hard-wearing material with a painted finish. The plaques would be large enough for people to read the items about the Heritage Trail; at around 300mm in diameter, but would not be large enough to have a negative or over dominant effect on the buildings or the public realm. The plaques and lecterns would therefore, make a positive contribution to the status of the Swadlincote Conservation Area and would help to raise awareness of the history of the town and the wider area.

#### Impact on heritage assets

Policy BNE2 of the Local Plan Part 1 and Policy BNE10 of the Local Plan Part 2 stipulate that development should protect, conserve and enhance heritage assets within the District. The position of the proposed plaques would have a neutral impact on the historic fabric of the buildings and would seek to promote the heritage of the Swadlincote Area. On the basis of this, it would be considered that the proposed plaques and lecterns would have a positive impact on the heritage assets.

The most sensitive locations as part of the proposal are the affixing of the plaques to Sharpe's Pottery Museum and Bretby Pottery and the positioning of lecterns adjacent to the chimney and associated buildings at the Pipeworks. However, this

would not result in undue harm to the historic fabric or setting of the listed buildings. The materials and form of the plaques and lecterns would be sensitive to the heritage assets and would be positive in promoting the historic interest and public interaction with the town. A condition could be attached stipulating that all plaques shall be fixed to buildings through mortar joints. This would mean that the buildings could be easily repaired if the plaques were ever to be removed in the future and there would be no impact on the historic fabric of the buildings.

On the basis of this, it is considered that the proposed plaques and lecterns would be acceptable and would preserve the character and appearance of the Conservation Area and setting of the listed buildings.

### Highways issues

Whilst the County Highway Authority has not responded to date, it would not appear that there would be concerns with regard to pedestrian or vehicular safety by way of installing the pavement plaques and lecterns. In addition, the applicant would also be required to obtain a separate permission from the County Highway Authority to ensure that the proposed works would be carried out to a particular specification i.e. not create trip hazards. On the basis of this, it is considered that there would be no highway issues that would affect the suitability of the application.

### Conclusion

The proposed plaques and lecterns would have a minimal impact on the appearance of the Swadlincote Conservation Area and the wider area. They would be well designed and would help to elevate and promote the history in the local area. On the basis of this, the proposal would comply with the principles of policies BNE1 and BNE2 of the Local Plan Part1 and policy BN10 of the Local Plan Part 2.

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 under Regulation 3 subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The plaques and lecterns hereby permitted shall be carried out in accordance with sizes and locations as specified within the Swadlincote Heritage Trail A: Swadlincote Town Centre Table 1, received on 26th October Month 2017; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. Any fixtures or fittings shall be affixed to the building through the mortar joints.  
Reason: To limit any damage to the buildings and historic fabric and to ensure that the works are reversible.

**Item**            **1.3**

**Ref. No.**        **9/2017/1211/FH**

**Applicant:**  
**Mr G Smith**  
**52c Derby Road**  
**Melbourne**  
**Derby**  
**DE73 8FE**

**Agent:**  
**Mr Mike Morris**  
**Planning & Design (T/A)**  
**74 Church Street**  
**Denby Village**  
**Ripley**  
**DE5 8PH**

**Proposal:**     **DEMOLITION OF CONSERVATORY AND THE ERECTION OF A REAR EXTENSION AT 52C DERBY ROAD MELBOURNE DERBY**

**Ward:**           **MELBOURNE**

**Valid Date**    **13/11/2017**

**Reason for committee determination**

The item is presented to Committee as the proposal does not conform to the Council's SPD guidelines with regard to separation distances however site conditions would dictate that these distances could be reduced.

**Site Description**

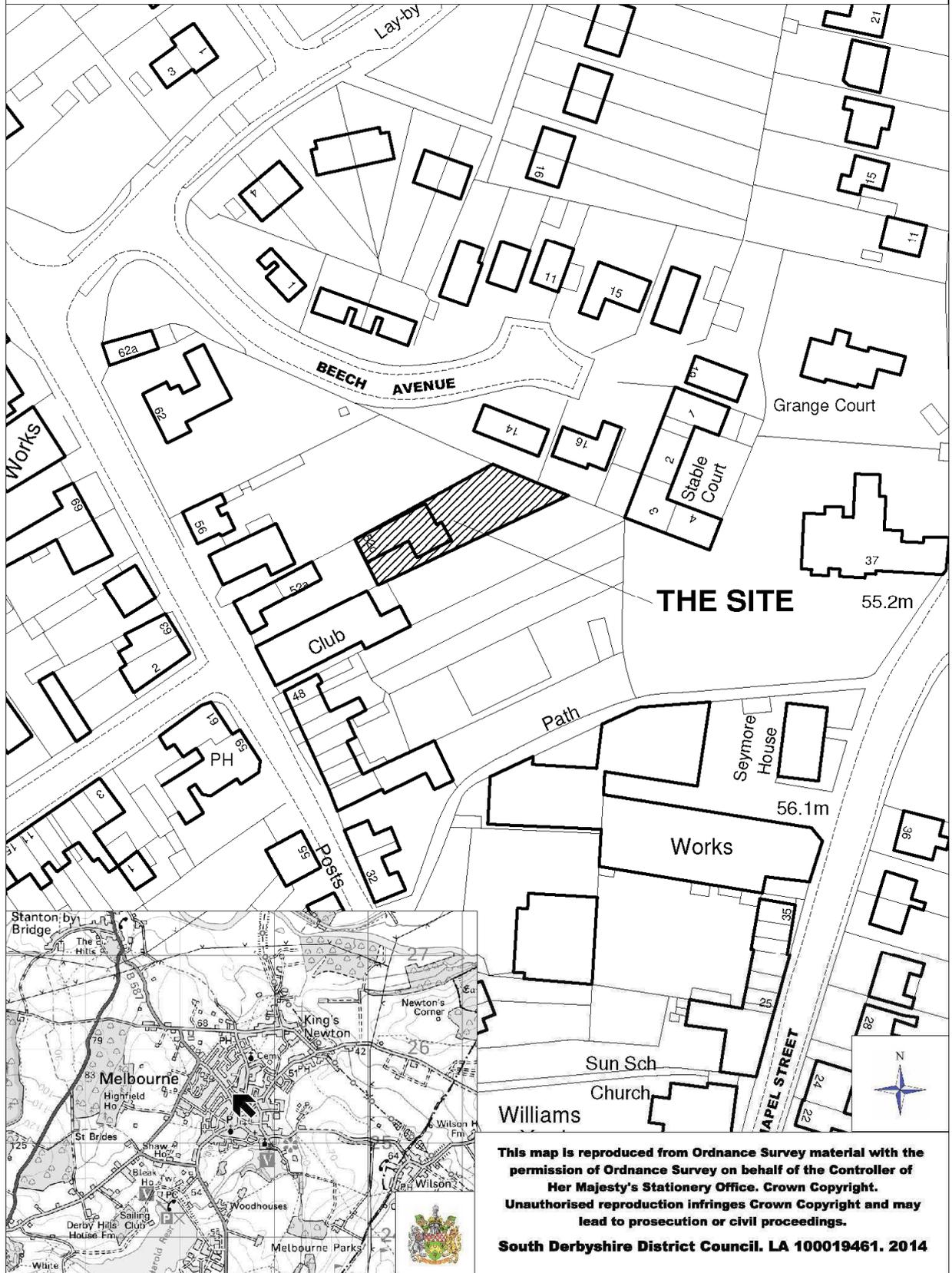
The application site is located within the key service village and conservation area of Melbourne. The property has not been identified as a building that contributes positively to the special architectural or historic character of the conservation area in the 2011 Adopted Melbourne Conservation Area Character Statement.

The application property is situated on a back-land plot formerly associated with a commercial business. The ground level descends gradually from Derby Road to where the dwelling is sited some 30 metres from the highway edge and the building is framed by and glimpsed between the road frontage properties, 52 Derby Road and the Amalfi White restaurant. To the rear lie properties on Beech Avenue which contain houses which back onto the application site in relatively close proximity separated by a stone wall.

**Proposal**

The application seeks planning permission for the demolition of the existing glazed uPVC conservatory to the rear (north-east side) of the property and its replacement

9/2017/1211 - 52c Derby Road, Melbourne, Derby DE73 8FE



with a single storey brick and tile lean-to extension that would span the rear width of the existing dwelling.

### **Applicant's supporting information**

The submitted Design and Access Statement covers the following points:

Located on Derby Road in Melbourne the site, which slopes down towards the rear, is accessed via a narrow electronically gated driveway. The property is a circa 2000 architecturally designed 2-storey detached house with an attached double garage. The dwelling is not listed but falls within the Melbourne Conservation Area.

The proposed extension is to provide additional family amenity space (garden room) incorporating a small boot room as an entrance from the garden. The use of the domestic extension would have no adverse impact on neighbouring properties.

The proposed extension will be 8.335m wide and 4.8m in depth at its deepest and will provide 30.6 square metres of additional accommodation.

The extension will be situated to the rear of the property and accessed through the existing kitchen area and from the dining room via a sliding door panel.

There will be no alterations to the front of the property or the existing parking area. Due to the varying levels within the site, the extension floor level will be 450mm below that of the house floor level.

The extension will be subservient to the main house both in width and height and will have no detrimental impact on the site in terms of bulk or massing.

The extension will be built of facing brick to match the existing property in both colour and texture; brickwork detailing will match that of the existing. The roof will be of clay plain tiles to match those of the existing house in colour and texture; the application form states the use of Weinerberger 20/20 flat interlocking clay tiles. Black guttering will be supported on galvanised rise and fall brackets, discharging into black round rainwater pipes. Three black roof windows will be inserted into the roof. Side elevation windows will be white UPVc in the style of the existing windows and the bi-fold sliding doors will be grey powder coated aluminium.

Materials from sustainable sources will be used where available. Surface water drainage will employ sustainable methods – soakaways will be installed dependant on suitable ground conditions.

The design and layout of the proposed extension would be appropriate to this property within the conservation area. Its size (width/depth) and position to the rear of the main property would not impact on the amenities of the neighbouring properties or the landscaping within the curtilage. Given the materials to be used, it would have no detrimental impact on the character and appearance of the conservation area.

The following additional information was received from the applicant after a request to amend the plans so the proposed extension encroaches no further than the existing [unauthorised] conservatory:

*“Our conservatory has been in place for over 10 years, having been built by the former owner prior to our purchasing the property in 2004. We have photographic evidence should this be required.*

*Whilst we understand the guidelines set out within the SPD, other material considerations also need to be taken into account and, in this case, there are mitigating factors that significantly reduce the line of sight to our neighbours' properties on Beech Close.*

- i) The boundary wall is over 7 feet in height and as such all but obscures any line of sight in to their ground floor property (or indeed from theirs to ours), and also prevents any issues in respect of over-dominance;*
- ii) The floor level in our proposed extension will be 300mm lower than the existing conservatory, thus reinforcing the obscuring of the line of sight; and*
- iii) Notwithstanding (i) and (ii) above, the relative angles of our property and our neighbours' to one another would in any event further reduce any mutual overlooking (i.e. they do not directly face one another).*

*In light of the above points we are minded to leave our application as originally submitted, and would request that the application be determined as currently proposed”.*

## **Planning History**

9/2001/0711/F – single dwelling on land to rear of 52 Derby Road – approved (committee decision) with conditions on 26/09/01  
Condition 6 – Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, the dwelling hereby permitted shall not be altered, enlarged or extended, no satellite dishes shall be affixed to the dwelling and no buildings, gates, walls or other means of enclosure (except as authorised by this permission or required by any condition attached thereto) shall be erected on the application site (shown in red on the submitted plan) without the prior grant of planning permission on an application made in that regard to the Local Planning Authority. Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and/or the street scene.

9/2002/0343/F – detached house and double garage on land to the rear of 52 Derby Road – approved with conditions on 19/06/02 (committee decision and condition 6 applied as above). This is the scheme that has been implemented.

No further applications have been found for the site and as such the existing conservatory would be in breach of condition 6 above. The applicant has advised that the conservatory was erected by the previous owner and has been in place for more than 10 years. By virtue of Section 4 of Part 1 of the Planning and Compensation Act 1991 where there has been a breach of planning control

consisting of the carrying out of building operations without planning permission within the curtilage of a dwellinghouse, no enforcement action may be taken after the end of the period of 4 years beginning with the date of the breach. As the proposal is to demolish the existing conservatory, there is no need for the applicant to apply for a Lawful Development Certificate for an existing use in order to regularise the development.

### **Responses to Consultations**

Melbourne Parish Council and Melbourne Civic Society have raised no objections.

### **Responses to Publicity**

None received.

### **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy BNE2 (Heritage Assets – A(i) Conservation Areas, A(iii) Listed Buildings)
- 2017 Local Plan Part 2: H27 (Residential extensions and other householder development), BNE10 (Heritage)

### **National Guidance**

- National Planning Policy Framework (NPPF): Paragraphs 6-10 (Achieving sustainable development), paragraphs 11-14 (The presumption in favour of sustainable development), paragraph 17 (Core principles), paragraphs 56, 57, 58 and 61 (Requiring good design), Chapter 12 (Conserving and enhancing the historic environment), paragraphs 186 and 187 (Decision-taking), paragraphs 196 and 197 (Determining applications) and paragraphs 203-206 (Planning conditions and obligations) and Annex 1 (Implementation)
- Planning Practice Guidance (PPG): ID:21b-006 and ID:21b-014 (determining an application), ID:26 (good design), ID:18a-001 and ID:18a-018 (historic environment)

### **Local Guidance**

- South Derbyshire Design Guide (SPD): November 2017 – Appendices A & G
- Melbourne Conservation Area Character Statement (CACS) – Adopted 2011

### **Planning Considerations**

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

- The impact on the character and appearance of the conservation area; and
- The impact on the amenities of the surrounding neighbours.

## **Planning Assessment**

### The impact on the character and appearance of the conservation area

The application site forms part of later development to the rear of a plot along Derby Road within Melbourne Conservation Area. The existing building makes a neutral contribution to the character of the conservation area.

The proposed extension would be single storey and of brick and tile construction. It would be subservient to the host and would be pulled in from the main building line.

The Conservation Officer has advised that while there would be a preference to maintain the distinction between the various elements of the building, e.g. the projecting rear gable and the main rear wall, considering the subservient nature of the extension this would not be considered to have a detrimental impact. It would be advised that the number of rooflights be reduced considering the degree of illumination that would be provided by the proposed glazing and considering that this would be the most visible element from the surrounding properties. Overall, the proposal would remain subservient to the host dwelling, would maintain the character of the plot and, due to its location at the rear of the building, would preserve the neutral contribution that the building makes to the character of the conservation area.

There would be restricted public views of the proposed extension from Beech Avenue, which is outside the conservation area boundary, and these would be at a distance of some 20 metres. It would therefore be unreasonable to insist on the removal of the proposed rooflights as it would be difficult to argue that they would adversely harm the setting of the conservation area. Again, the use of uPVC windows in the side elevations of the proposed extension and the proposed new window in the side (southeast) elevation of the host building would be screened from public view and the neighbouring properties by their location and the existing 1.8m closed boarded fencing at either side of the host property. It is therefore considered that these items would not have a detrimental impact on either private or public views.

As such the proposal would conform to the requirements of the NPPF in that there would be no harm to the heritage asset and to Policy BNE2 of the 2016 Adopted Local Plan Part 1 and Policy BNE10 of the 2017 Adopted Local Plan Part 2 in that the character and appearance of the conservation area would be conserved.

### The impact on the amenities of the surrounding neighbours

Levels between the existing ground floor of 52c Derby Road and the closest neighbour to the rear, 14 Beech Avenue, vary to the extent that the application property sits approximately 1.3m above the ground floor level of the affected neighbour. It should be noted that the garden spaces are at the same ground level and 14 Beech Avenue has an existing conservatory to its rear (south) aspect that is within 1m of its rear garden boundary with the application site. The existing conservatory at 52c Derby Road is 15m away from this same boundary at its closest point.

The Council's Design Guide (SPD) assumes that sites are relatively level, with little or no screening and normal ground floor and first floor layouts. The guidance also assumes straightforward identification of front, rear and side elevations. Where situations arise that do not readily fit these guidelines, as in this instance, decisions will be made on the merits of the case. The guidance goes on to state that where the view between windows can be prevented (e.g. by a screen wall or fence of reasonable height) then the minimum distances may be reduced.

The floor level of the proposed extension would sit 0.5m below the floor level of the existing conservatory and although the proposed extension would sit approximately 0.8m further forward than the existing (unauthorised) conservatory, the change in levels together with the existing 1.8m stone wall that sits between the two neighbours should be sufficient to preserve the current privacy level between them for all but the very top section of the neighbour's conservatory windows. As such the proposal would not materially increase the impact of the existing substandard separation distances.

Separation distances and screening (existing stone boundary wall) between the application property and 16 Beech Avenue, located to the east of No. 14, are adequate to comply with SPD guidance. The neighbours to the front of the property along Derby Road would not be affected by the proposal.

In view of the above-mentioned circumstances with regard to the situation between the application property and 14 Beech Avenue, the proposal is considered to substantially comply with the Council's SPD with regard to maintaining current privacy levels and with Policy H27 of the 2017 Adopted Local Plan Part 1 in that the proposed development would be of a scale and character that is in keeping with the host and would not be unduly detrimental to the living conditions of the adjoining properties or the general character of the area.

The proposal would conform to Policy SD1 of the 2016 Adopted Local Plan Part 1 in that it would not lead to adverse impacts on the environment or amenity of existing and future occupiers within and around the proposed development.

The proposal would conform to the requirements of the NPPF and the NPPG and with Policy S2 of the 2016 Local Plan Part 1 in that planning applications received by the Council that accord with the policies in the Local Plan Part 1 (and where relevant, with policies in neighbourhood plans) will be dealt with positively and without delay unless material considerations indicate otherwise.

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. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.  
Reason: To safeguard the appearance of the existing building and the locality generally.

## **2. PLANNING AND OTHER APPEALS**

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

<b>Reference</b>	<b>Place</b>	<b>Ward</b>	<b>Result</b>	<b>Cttee/Delegated</b>
9/2017/0513	Milton	Repton	Dismissed	Delegated
9/2017/0516	Milton	Repton	Dismissed	Delegated

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## Appeal Decision

Site visit made on 9 January 2018

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26<sup>th</sup> January 2018

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### Appeal A: Ref: APP/F1040/W/17/3185086

#### The Dovecote, Brook Farm, Main Street, Milton, Derbyshire, DE65 6EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ian Tittershill against the decision of South Derbyshire District Council.
  - The application Ref 9/2017/0513, dated 7 May 2017, was refused by notice dated 14 September 2017.
  - The development proposed is described as '*single storey rear extension, new conservation rooflight in existing kitchen area, alterations to existing rear elevation window to form door opening and partial rebuilding of front elevation garden wall.*'
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### Appeal B: Ref: APP/F1040/Y/17/3185085

#### The Dovecote, Brook Farm, Main Street, Milton, Derbyshire, DE65 6EF

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr Ian Tittershill against the decision of South Derbyshire District Council.
- The application Ref 9/2017/0516, dated 7 May 2017, was refused by notice dated 14 September 2017.
- The works proposed are described as '*single storey rear extension, new conservation rooflight in existing kitchen area, alterations to existing rear elevation window to form door opening and partial rebuilding of front elevation garden wall.*'

### Decision

1. Both appeals are dismissed.

### Main issues

2. The main issues in respect of both appeals are the effect of the proposal on the special architectural and historic interest of the listed building at The Dovecote and in respect of appeal A only, the setting of the listed building at Brook Farmhouse and the character and appearance of the Conservation Area.

### Reasons

3. In considering proposals for planning permission, the duty imposed by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraph 132 of the National Planning Policy

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

Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. The paragraph goes on to say that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 134 requires that where the harm is less than substantial, it should be weighed against the public benefits of the proposal. The development plan includes policies BNE2 of the South Derbyshire Local Plan (LP) Part 1 (2016) and BNE10 of the LP Part 2 (adopted on 2 November 2017), which reflect the statutory duty and accord with the Framework.

4. The Dovecote forms part of a group of mid C18th, former farm buildings sited around a courtyard to the side and rear of Brook Farmhouse, also a grade II listed building which faces the road. The listing description for The Dovecote states that it is listed for its group value only. Its contribution to the group, the setting of Brook Farmhouse and the Conservation Area derives from its simplicity of form and limited number of openings which reflect its former agricultural use. The Dovecote comprises a tall, three storey main building with a pitched roof topped by a wooden cupola and weather vane and attached to two low single storey pitched roof buildings to one side. To the rear of one of the lower buildings is a single storey, gabled extension.
5. The building is sited end on to the road and the proposed extension would be sited on the rear elevation of the main building. It would have a lean-to pitched roof. The siting of the extension on this elevation would disrupt the largely solid elevation which contains only two windows. Although the French doors in the rear elevation would match those of the existing kitchen, the much greater extent of glazing, despite its slight set back from the end wall of the elevation, is uncharacteristic of a former agricultural building and would not achieve the appellant's intention of replicating a woodstore. Whilst partially screened from the road by a garden wall and row of conifer trees and despite its floor level being lower than the footway, the side elevation of the extension would be clearly seen when approaching along Main Street from the south. Despite its lesser scale, its siting and form would detract from the simplicity of the existing building. This would undermine its contribution to the group, the setting of Brook Farmhouse and the Conservation Area.
6. The proposals also include the rebuilding of the front boundary wall with the existing bricks for an approximate length of 4m. I saw that the wall is currently leaning and supported by a telegraph pole but without further details of the proposed height and precise length, I am unable to properly assess its effect on the heritage assets.
7. I must give considerable weight to the conservation of those heritage assets. The proposed works would provide an orangery which would provide additional living accommodation, access to the garden and improved daylight which the appellant considers necessary due to some loss of light that would occur through improvements to the courtyard elevation. However, those would be private benefits and are not necessary for the continued viable use of the building.
8. The other examples with lean to extensions referred to in the appellant's Design and Access Statement differ from this case significantly. The extension at Common Farm was built many years ago and it is unclear to me whether or

not it is authorised. The Old Post Office is not a former agricultural building and has a different character from that of the appeal building. They do not, therefore, provide justification for these proposals.

9. Whilst the level of harm arising from the proposal would be less than substantial, there are, therefore, no public benefits that would outweigh the identified harm as required in paragraph 134 of the Framework.

**Conclusion**

10. I conclude, for the reasons given above, that the proposed scheme would fail to preserve the special architectural and historic interest of the listed building at The Dovecote, the setting of Brook Farm and the Conservation Area. It would, therefore, conflict with LP policies BNE2 and BNE10 and the development plan as a whole and there are no material considerations that justify determining the appeals otherwise. The appeals should be dismissed.

*Sarah Colebourne*

Inspector

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	6 <sup>th</sup> FEBRUARY 2018	CATEGORY: DELEGATED
REPORT FROM:	STRATEGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	RICHARD RODGERS (01283) 595744 <a href="mailto:richard.rodgers@south-derbys.gov.uk">richard.rodgers@south-derbys.gov.uk</a>	DOC:
SUBJECT:	PROPOSED TREE PRESERVATION ORDER 474 – LAND TO THE EAST OF RYKNELD ROAD (HIGHFIELDS FARM DEVELOPMENT), DERBY	REF:
WARD(S) AFFECTED:	WILLINGTON & FINDERN	TERMS OF REFERENCE:

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## 1.0 Recommendations

1.1 That this Tree Preservation Order (TPO) be confirmed without modification.

## 2.0 Purpose of Report

2.1 To consider confirmation of this TPO.

## 3.0 Detail

3.1 This tree preservation order was made on 24<sup>th</sup> August 2017 in respect of a 38 individual trees (of mixed species) situated across land currently being developed for housing (Local Plan Part 1 strategic housing site (H12)).

3.2 The TPO was made at the request of the Principal Planning Officer. The land, prior to development was predominantly green field and features a number of individually important trees. Those trees are seen to be important to both the amenity and ecology of the area.

3.3 One letter of objection has been received.

- Full planning permission has already been granted for the comprehensive development of the site and such the works are exempt from protection under Regulation 14 (vii) of the TPO Regulations 2012;
- Moreover we are advised that the Council surveyed the site prior to issuing this Order and has confirmed that no inappropriate activities were observed with the ongoing development and appropriate tree measures provided; the additional protection of the trees therefore is unwarranted;
- The order seeks to protect 8 trees for which a TPO (using previously submitted TEMPO assessments carried out by FPCR) is indefensible. There is no evidence provided with the order that indicates a contrary view;

- Given the inappropriate inclusion of a number of trees, the order should be withdrawn or amended to omit those 'indefensible' trees.

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

- The bulk of the trees here are protected by planning condition, part of an approved landscaping scheme. As such their retention is planned for and so should not stand in the way of the development;
- Some of those trees that were intended for retention have been removed without prior dialogue. This order as such adds a more enforceable level of protection for the trees, which in turn should ensure retention of those identified trees, as the development progresses.
- The trees have been inspected at close quarters by the Council's tree officer and found to warrant protection. The number of trees protected is significantly less than first consulted on (see TPO460) where it is acknowledged some of the trees did not meet the standard required.
- DCLG TPO Guidance refers, where relevant, to an assessment of the amenity value of trees or woodlands, where authorities may consider taking into account other factors such as importance to nature conservation.
- Protecting trees of value accords with the Corporate Plan theme of Sustainable Development having environmental/ecological/wildlife benefits.

#### **4.0 Planning Assessment**

4.1 It is expedient in the interests of amenity to make the trees the subject of a TPO.

#### **5.0 Conclusions**

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

#### **6.0 Financial Implications**

6.1 The Council would only be open to a claim for compensation (in certain circumstances) in relation to any future planning application if an application to undertake works to the TPO was made and subsequently refused.

#### **7.0 Corporate Implications**

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

#### **8.0 Community Implications**

8.1 Trees that are protected for their good visual amenity value enhance the environment and character of an area and therefore are of community benefit for existing and future residents helping to achieve the vision for the Vibrant Communities theme of the Sustainable Community Strategy.

## 9.0 Background Information

- a. 24 August 2017 - Tree Preservation Order
- b. 26<sup>th</sup> September 2017 – Letter of objection

