

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

## **SECTION 1: Planning Applications**

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

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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.**

<b>Reference</b>	<b>Item</b>	<b>Place</b>	<b>Ward</b>	<b>Page</b>
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When moving that a site visit be held, Members will be expected to consider and propose one or more of the following reasons:

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

**Item**            **1.1**

**Ref. No.**        **9/2018/0833/U**

**Applicant:**  
**c/o Agent**

**Agent:**  
**Mr Sam Salt**  
**Pegasus Group**  
**4 The Courtyard**  
**Church Street**  
**Lockington**  
**DE74 2SL**

**Proposal:**    **THE CHANGE OF USE OF VACANT GYMNASIUM (USE CLASS D2) TO BAR AND RESTAURANT (USE CLASS A3/A4) WITH ALTERATIONS INCLUDING RAILINGS, WINDOWS/DOORS, REAR STAIRS, A REAR TERRACED AREA, REAR CANOPY AND A 2.5M HIGH REAR BOUNDARY WALL AT 71 DERBY ROAD MELBOURNE DERBY**

**Ward:**           **Melbourne**

**Valid Date**    **01/08/2018**

**Reason for committee determination**

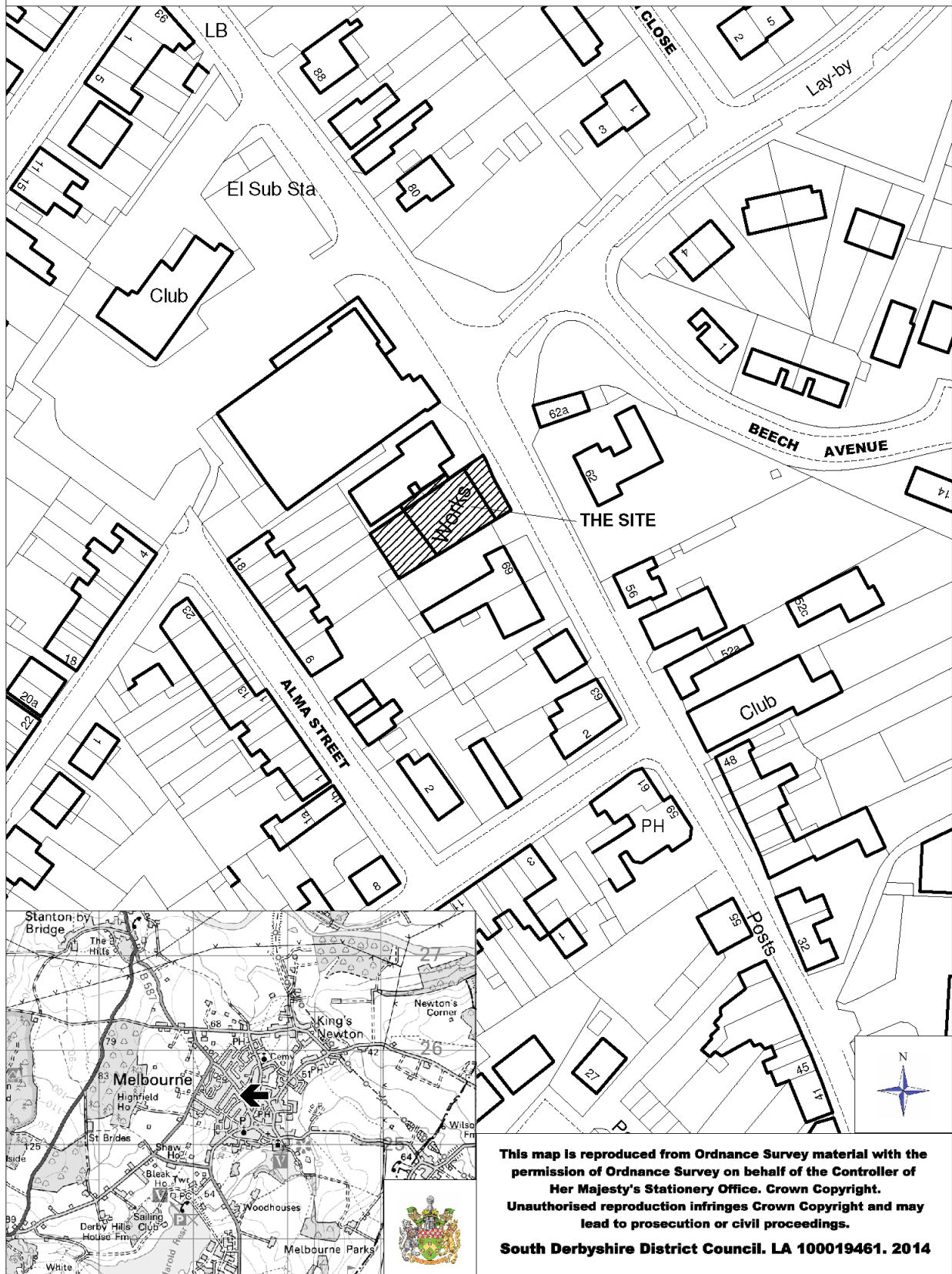
The item is presented to Committee at the request of Councillor Harrison as concerns and issues have been raised that need to be debated.

**Site Description**

The application site comprises a three-storey, brick and tile building, originally built in the early 1900s to accommodate a boot manufacturing business. Most recently the building has been used as a gymnasium, but is now vacant. There is an unkempt and overgrown area of land to the rear which is enclosed by a close-boarded fence and contains an outbuilding and a set of steps leading to the second floor. The site frontage is enclosed by a low brick wall, originally topped with wrought iron railings which have since been removed.

The site is within the Melbourne Conservation Area and located on the southwest side of Derby Road. There are residential properties to the east and west, a print studio and a food store (Sainsbury's Local) with its own designated carpark to the north and bed & breakfast accommodation (The Coach House) to the south. Whilst the building is not listed it has been identified as a non-designated heritage asset that makes an important contribution to the character of the Melbourne Conservation Area.

9/2018/0833 - 71 Derby Road, Melbourne, Derby DE73 8FE



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South Derbyshire District Council. LA 100019461. 2014

## **Proposal**

Permission is sought to change the use of the building to a bar/restaurant together with alterations to include new railings to the front of the property, new windows and doors, replacement spiral stairs to the second floor, the formation of a rear terraced area and the erection of a 2.5m high rear brick boundary wall. No parking provision is proposed as part of the new use. The submitted plans show a covered rear external seating area with a fire pit, bin and barrel stores and steps up to a new terrace at first floor level which would provide a smaller outdoor drinking area and a spiral fire escape staircase leading to/from the second floor which would be used for storage and male toilets. The first floor would be used mainly as restaurant space, with the ground floor being used as a bar area and eating area. Disabled toilets would be provided on the ground floor, female toilets on the first floor and male toilets on the second floor.

## **Applicant's supporting information**

The application is supported by a number of documents, namely:

1. Planning Statement
2. Design and Access Statement
3. Transport Statement and
4. Noise Impact Assessment

Taking each document in turn, the following conclusions have been submitted:

### Planning Statement

- The site is within an area where there are existing retail uses which extend out from the centre of Melbourne and therefore a sequential test approach is not necessary.
- The main alterations are internal with a number of stud walls to be removed. External alterations have been kept to a minimum to ensure the change of use is sympathetic to both the building and the character and appearance of the conservation area.
- There is good connectivity to the town centre and the proposal would secure a use that assists in maintaining the vitality of this.
- The proposal is consistent with the relevant policies in the local plan and the NPPF.
- The development is considered to be sustainable and should, therefore, be approved.

### Design and Access Statement

- The entire design process has considered the existing building and it has been seen as essential to retain the overall existing appearance. Fire escape routes from the upper floors have been designed into the building via the spiral stairs and other fire escape routes for the second floors would be via stairs opposite the bar and a newly formed exist via an existing window to the

front of the property, the cill of which would be lowered and then converted to a door.

- The proposal will provide Melbourne with a high-quality bar and restaurant and also provide employment for local construction companies as well as for local retailers, service providers and additional employment opportunities within the business itself.
- New, better quality paving would be provided to the rear of the building and mill board would be laid to the front terrace area. The proposal also includes a replacement 2.5m high brick boundary wall.
- Access for the disabled would be provided to the ground floor from outside via a stair lift. Although it would not be possible to provide disabled access to other floors, all food and drink services would be available on the ground floor.
- Nearby bus stops provide good links to the surrounding area and the site is within walking distance of the town centre.

### Transport Statement

- There are sustainable transport facilities in the vicinity of the site, notably the continuous footway network within Melbourne and the No.2 bus service which runs past the site and provides access to Swadlincote and Derby. The route provides a 30 minute service between Monday and Saturday and an hourly service on Sundays.
- Over the course of the day there would be a reduction in traffic on the local highway network compared to the existing use.
- Over the course of the day there would be a reduction in the demand for car parking compared with the existing use.
- The change of use would therefore be beneficial to the local highway network.
- The occasions when the demand for parking is greatest will be during the evenings, when there is less traffic.
- A parking beat survey confirmed the local area caters for a demand for 26 parking spaces during a weeknight and the same during a Saturday late morning/afternoon.
- The capacity of the survey zones was 29 vehicles giving a surplus of 3 parking spaces.
- With the proposed development in place there would be a demand for 4 extra car parking spaces during the evening, compared with the existing use. However, the proposed development will not utilise the 5 car parking spaces allocated for the existing gym in the car park at the corner of Derby road/Queensway.
- As a result, after taking up the 3 spare spaces in the survey area, probably on Beech Avenue, 6 further on-street car parking spaces would be needed beyond the survey area.
- A small number of spaces would be available to the north of the survey area. However, most people are likely to park on Queensway, where there are no parking restrictions and sufficient on-street space.
- Overall, the objectives of the NPPF can be satisfied and it would be unreasonable to prevent the development on transport grounds.

## Noise Impact Assessment

Noise monitoring was undertaken over a weekend period in April 2018 and comprised an L1-Automated noise logging meter located at ground floor level at a position close to the southwestern site boundary adjacent to residential gardens to the southwest. The position was chosen as it is screened from traffic noise on Derby Road and the noise climate at this location is representative of conditions at the rear of the nearest dwellings on Alma Street as well as at the bedroom windows to The Coach House B&B.

The Assessment concludes with the following statement:

*“Survey work carried out at this site indicates that the overall noise climate for both daytime and night time is determined by road traffic noise from Derby Road adjacent to the site. Additional intermittent noise is generated by aircraft movements associated with East Midlands Airport located to the east of Melbourne. The internal and external noise criteria for new dwellings recommended by BS8233 can readily be achieved with respect to break-out from the internal restaurant areas. For the external dining area the construction of a 2.4m high wall or acoustic fence to screen the area from the residential gardens will enable BS 8233 criteria to be achieved. Based upon the results of the site monitoring noise limit criteria for any newly installed items of plant have been derived in accordance with the principles of BS 4142”.*

## **Planning History**

- 9/1998/0732: The change of use to fitness studio with associated car parking at junction of Derby Road and Queensway. Approved 18/01/1999.
- 9/2003/0961: The variation of Condition 3 of 9/1998/0732 relating to the hours of use of the bar area. Approved 08/10/2003.
- 9/2003/1386: Use of office as health clinic: Approved 02/06/2004.
- 9/2004/1547: The change of use of lounge/bar area into specialist sports retail outlet: Approved 20/01/2005.

## **Responses to Consultations**

The County Highway Authority points out that it does not necessarily agree with every detail contained within the Transport Statement. For example, when assessing parking accumulations within an hour slot, arrivals may occur prior to departures making demand at certain times far higher than predicted. However, notwithstanding these comments, whilst the Highway Authority does have some concerns over the lack of off-street parking associated with the proposed development, in view of a number of factors including the location of the site relative to the centre of Melbourne and the existing use, it is considered that an objection on highway safety grounds would be difficult to sustain. Therefore there are no objections to the proposal from the highway point of view.

The Environmental Health Officer (Noise) had concerns with regard to noise and odour as the application seeks to introduce the use of outdoor areas to the front and rear of the building, which are adjacent to residential properties. As a result, cross sectional drawings of the site were submitted which showed the proposed sound barriers relative to properties to the west on Alma Street and neighbouring properties to the north and south of the site. Amended plans have now been submitted, which remove proposed seating from the first floor balcony and introduce a gated barrier, limiting its use to access only. Further detail has also been submitted in relation to the calculations provided within the applicant's noise impact assessment, in relation to the effectiveness of the proposed barriers. As such, subject to conditions the Environmental Health Officer had no objections to the application proposed.

The Environmental Health Officer (food hygiene) has no objections subject to an informative relating to the need to register as a food business a minimum of 28 days before the business opens and advice from the commercial team should be sought when fitting out the kitchen.

### **Responses to Publicity**

Melbourne Parish Council objects to the proposal on the grounds of increased traffic congestion, particularly caused by deliveries, lack of associated off-street parking, lack of consideration for people with disabilities, increased noise caused by refrigeration units and storage areas, outside drinking and dining, and the potential for overlooking into neighbours' bedrooms from the proposed balcony. If all of these concerns can be addressed through conditions the Parish Council would not object.

Melbourne Civic Society is pleased to see that the building is being re-used and would like to see the authentic restoration of the original railings and the retention of all period detailing, including the cast iron windows. However, it does have some concerns with regard to noise, parking, the excessive number of covers and the location of the toilet provision, particularly those for the disabled and male customers.

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

- a) Welcomed use of a heritage building which is beginning to look neglected;
- b) Substantial benefits and asset to the local village;
- c) The combination of bar and restaurant could be more successful in meeting local demand and providing a more contemporary space;
- d) Sympathetic scheme to the surrounding area;

A total of 22 letters/emails of objection have been received, raising the following concerns:

- a) Overlooking and loss of privacy, particularly from the first floor terrace;
- b) Noise, general disturbance and odour both during and subsequent to construction/conversion works;
- c) Lack of on-site parking, particularly for trade deliveries/collections, waste and recycling;



- d) Enough pubs/ restaurants in the village already;
- e) Increased congestion exacerbated by on-street parking;
- f) Loss of peace and tranquillity currently enjoyed in rear gardens;
- g) Inappropriate use in a quiet residential area;
- h) Local residents already have to cope with existing bars and restaurants in close proximity to the site;
- i) Transport Statement does not take account of where staff would park their vehicles and contains inaccurate assumptions and information and the on-street parking beat surveys are not a representative example of the parking requirements for the area. Daytime and evening periods have been missed. A new, more accurate and relevant Traffic Assessment should be undertaken and provision for customer parking in a venue with potentially 180 covers should not be zero;
- j) Impact on the Residents' Parking Scheme

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), S3 (Environmental Performance), S6 (Sustainable Access), E3 (Existing Employment Areas), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF6 (Community Facilities).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries), BNE10 (Heritage).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD
- Melbourne Conservation Area Character Statement

## **Planning Considerations**

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

- Principle of Development
- Highway Matters
- Noise and Neighbouring Amenities
- Heritage Matters

## **Planning Assessment**

### Principle of Development

The development would convert an empty building, most recently used as gymnasium to a bar/restaurant. This development would provide a community use, close to the main village centre, where a large mix of uses exists. It is acknowledged that where residential uses exist in close proximity to commercial activities, such as the proposed bar/restaurant, there remains the potential for a degree of conflict, especially where such activities extend into the evenings and weekends. In such mixed use areas, including village centres such as Melbourne, it is that mix of uses that provides them with their vitality and viability to succeed. The proposed use is considered to be compatible with the existing range of uses within the village centre. With the site located within a sustainable location and within a 'key service village' as defined by policy SDT1.

### Highway Matters

Confirmation has been received from the applicant that the car park previously used by the gymnasium will no longer be under their ownership, and hence why it has not been included within the application site for car parking. Therefore the proposal does not include any off street parking as part of the proposal.

Concerns have been raised within the submitted objections, relating to the lack of off street parking, and the impacts the proposal would have on parking within the surrounding area as a result of vehicle movements generated by the proposal. It is noted that the Highway Authority have considered the proposal and recommend that due to the site location, close to the centre of the key service village; which provides provision for off street parking. In addition to its existing use as a gymnasium which also generates a need for parking. They are not able to object to the proposal on highway safety grounds and as paragraph 108 of the NPPF states, development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. As such the proposal is considered to comply with the requirements of policies INF2 and S6. Any shortcomings regarding parking should also be considered against the potential benefits that the scheme would bring.

### Noise and Neighbouring Amenity

Policy SD1 states that the council will only support development that does not lead to adverse impacts on the environment or amenity of existing occupiers. The site is such that there are residential properties to the rear and to the south. The applicant has submitted a noise impact assessment in support of their application. The council's environmental health officer has determined that there are no objections relating to noise impacts on neighbouring properties. As a result of the noise data submitted, noise mitigation proposed by way of a 2.5m brick wall on the rear boundary and the alterations to the scheme to prevent use of the first floor balcony as a social space as first proposed. Conditions will also be used to ensure that the risk of plant noise from the proposed use will not be detrimental to the amenity of

neighbouring dwellings. It is noted that objections have been raised by residents in regards to the impacts on neighbouring amenity as a result of the proposal; suitably worded conditions can be imposed to mitigate any potential concerns in regards to noise generated and impacts on neighbouring amenity. As such it is considered that the proposed use would not harmfully impact on the neighbouring amenity of residents and therefore complies with Policy SD1.

### Heritage Matters

The building makes a positive contribution to the character of Melbourne Conservation Area, reflecting its industrial history, and is considered to be a non-designated heritage asset. Modifications and alterations are required to the building in order to accommodate the change of use from gymnasium to bar/restaurant. The Council's Conservation Officer has considered the proposed alterations to the building as a result of the application. While some of these alterations are undesirable, including the alteration to the front window in order to provide a fire escape door, the alterations are largely considered to preserve the significance of the building and the positive contribution it makes to the character of the conservation area as well as providing a future viable use for the vacant property. Further details would be required by condition to ensure that details such as boundary treatments are in keeping with the character of the building and the setting of the conservation area. Overall it is considered, subject to condition that the proposal accords with Local Plan Policies BNE2 and BNE10.

### Conclusion

In determining this application it is necessary to weigh up the likely consequences of the proposal. It is considered that the proposed change of use, to a currently disused facility would help to provide a new community facility in the village, within close proximity of the village centre. There are probably two main issues of contention: the lack of off-street parking provision and the potential noise impact. The site is in a sustainable location, situated on one of the main routes into the centre and close to buildings of other mixed commercial uses. A viable use of this valuable site in the conservation area must be found and the current site is incapable of supporting any parking provision. This would not change and other parking options in the village do exist albeit they are limited. In terms of noise impact, amendments to the scheme to incorporate mitigation have been tested by environmental health and on their advice should render the use acceptable. As such it is considered that the proposed change of use would not be detrimental to the amenity of residential properties that surround the site which would be ensured by planning conditions attached to the permission. The proposed alterations would be sympathetic to the character of the building and its setting and would secure its future contribution to the conservation area. On balance therefore the new use should prevail.

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

## **Recommendation**

**GRANT** permission subject to the following conditions

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with Drawing No.'s 09A and 10A, received on 24 October 2018 and Drawing No. 14A, received on 25 October 2018; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).  
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. The use of outdoor areas relating to the use hereby permitted shall not be open to customers outside the following times: 0900 and 2200.  
Reason: To ensure that the use does not prejudice the enjoyment by neighbouring occupiers of their properties.
4. No deliveries shall be taken at or despatched from the restaurant premises except between the hours of 0700 and 1900 Monday to Friday, 8am and 1pm Saturdays. There shall be no deliveries on Sundays or Public Holidays.  
Reason: In the interests of protecting the amenity of local residents.
5. The restaurant kitchen extraction system installed shall be that as located on the proposed plans and elevations. Where such a system requires replacement in full or in part, details of the alternative system shall first be submitted to and approved in writing by the Local Planning Authority.  
Reason: To protect the amenity of local residents.
6. No extraction equipment shall be installed until a scheme of odour control has been submitted and approved in writing by the Local Planning Authority. The scheme should be designed in accordance with the latest DEFRA guidance. The approved scheme shall be installed prior to the first use of the extraction equipment and subsequently maintained as such.  
Reason: In the interests of protecting the amenity of the area and adjoining occupiers.
7. Prior to their renovation/installation large scale drawings of the windows and doors to a minimum scale of 1:10 shall be submitted to and approved in writing by the Local Planning Authority. The works shall be constructed in accordance with the approved plans.  
Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

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

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

9. Prior to its installation large scale details and sections of the proposed balcony over the lower level to the rear shall be submitted to and approved in writing by the Local Planning Authority. The balcony shall be constructed in accordance with the approved drawings.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

10. The external spiral staircase shall be metal and painted black.

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

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

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

12. Prior to their installation large scale drawings of the external lighting to a minimum scale of 1:10 shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be constructed in accordance with the approved plans.

Reason: The details submitted are inadequate to determine whether the appearance of the building would be acceptable.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the first floor balcony shall not be enlarged or extended, and no buildings shall be erected on the site without the prior grant of planning permission pursuant to 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 proximity to existing features on or adjacent to the site, and the effect upon neighbouring properties and/or the street scene.

14. Any music played at the premises shall be background music only and shall be kept to a volume that is not audible outside the building and there shall be no usage of voice amplification equipment.

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

15. Plant noise limits should be set as per 7.4 of the supporting Noise Impact Assessment.

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

16. Other than for the use of toilets, the second floor will not be used by customers of the business, and for storage relating to the business only.

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

Informatives:

- a. The applicant will need to register as a food business a minimum of 28 days before the business opens, advice can be provided on the kitchen fitting and layout by contacting the commercial team on 01283 595947.

**Item**            **1.2**

**Ref. No.**        **9/2018/0712/BSM**

**Applicant:**  
**Mr Lee Ellis**  
**Cameron Homes**  
**c/o CT Planning**

**Agent:**  
**Mr William Brearley**  
**CT Planning**  
**Three Spires House**  
**Station Road**  
**Lichfield**  
**Staffordshire**  
**WS13 6HX**

**Proposal:**    **THE VARIATION OF CONDITIONS 3, 6 AND 29 OF PERMISSION REF. 9/2015/1063 (RELATING TO OUTLINE APPLICATION (ALL MATTERS TO BE RESERVED) FOR THE ERECTION OF UP TO 70 DWELLINGS WITH ASSOCIATED PUBLIC OPEN SPACE, SUSTAINABLE DRAINAGE AND LANDSCAPING) ON LAND AT SK2914 7590 ACRESFORD ROAD OVERSEAL SWADLINCOTE**

**Ward:**           **Seales**

**Valid Date**    **10/07/2018**

**Reason for committee determination**

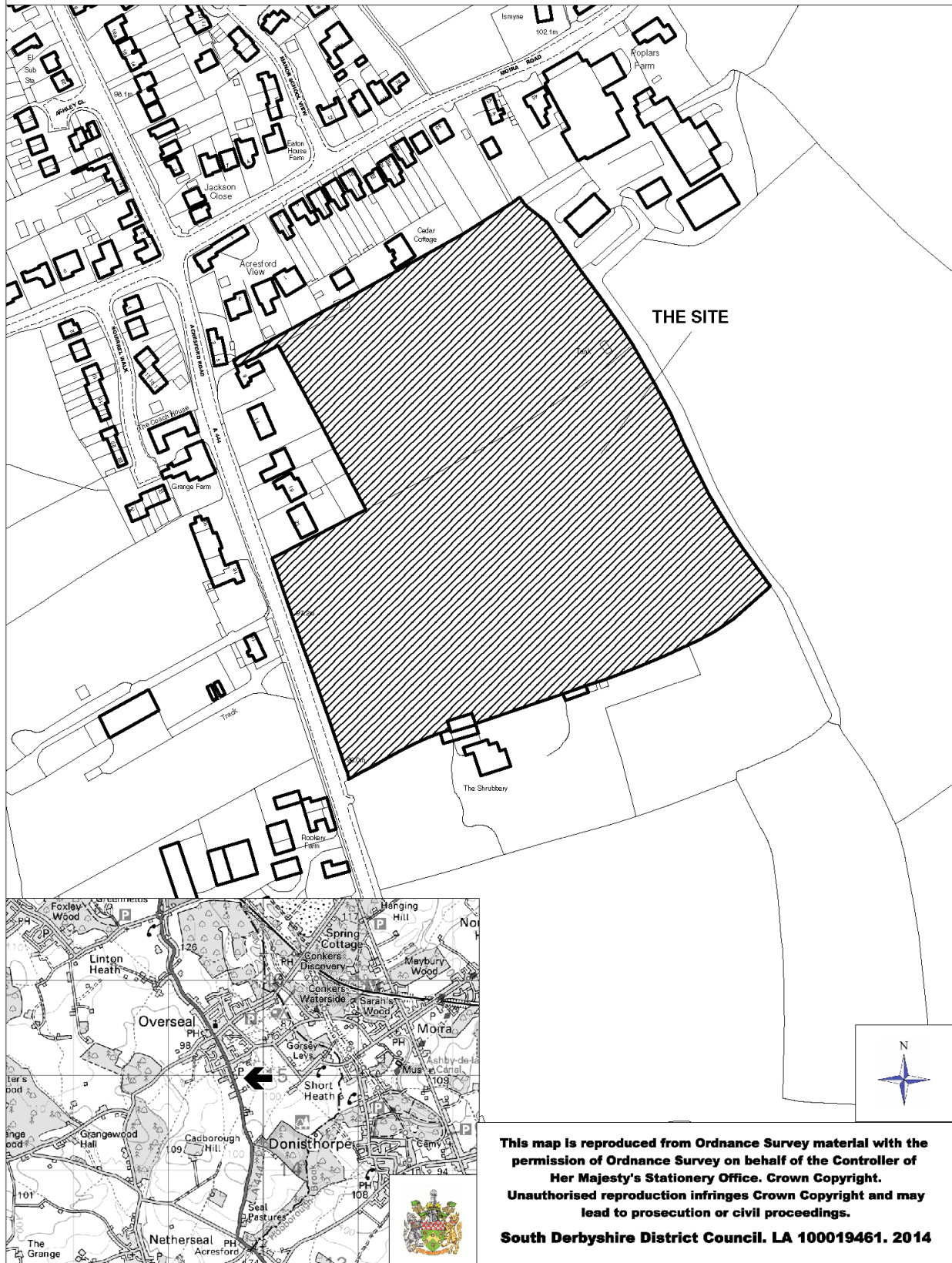
The item is presented to Committee as it is a major application subject to more than two objections.

**Site Description**

The site extends to some 4.7 hectares comprising two fields - one in arable use (northern) and one most recently put to turf production (southern). Both fields have mature hedgerows along most of the perimeter. Some scattered trees are present in the hedgerows and self-seeded in the field margins. Public footpaths run adjacent to/within the northern and eastern boundaries. Vehicular access into the northern field is via a private track running to Acresford Road from the north-west corner. Vehicular access into the southern field from Acresford Road is from a field gate in the south-west corner of the site and also from the field to the south-east.

Acresford Road (the A444) lies to the west, directly adjacent to the southern field whilst a ribbon of dwellings, mainly single storey, lie in-between it and the northern field. A further ribbon of predominantly two storey dwellings, fronting Moira Road, lie beyond the northern boundary. The Shrubbery, an isolated dwelling set within woodland, lies to the southern boundary with a 2m high brick wall along part of this edge; whilst further largely isolated dwellings such as Grange Farm, Overseal

9/2018/0712 - Land at SK2914 8297, Acresford Road, Overseal, Swadlincote  
DE12 6HX





House, 16 Acresford Road, Rookery Farm and 18 Acresford Road lie to the opposite side of the A444. Some of these are Grade II or II\* listed buildings. The site is relatively level but falls gradually away beyond the eastern boundary. The same happens to the land on the opposite side of Acresford Road, with a similar fall in levels beyond the Shrubbery to the south.

## **Proposal**

The principle of developing the site for up to 70 dwellings was established in March 2016 (see planning history below). This application seeks to vary conditions attached to that outline permission to primarily address ground conditions encountered upon further site investigations carried out since that decision. A further consequence of the site investigations is that the viability of the development has been revisited in light of the affordable housing and planning gain requirements, whilst the masterplan attached to the outline permission (to which the reserved matters must largely reflect) has been considerably altered. Ancillary changes to two other conditions are also proposed. The proposed changes are fully outlined in the Applicant's supporting information, set out below.

## **Applicant's supporting information**

A Supporting Statement outlining the reasons for the application is provided. The reason for removing condition 3(f) is due to an area marked on the indicative layout for provision of bungalows cannot be built on due to significant mining legacy issues across the site. It is advanced that the revised layout, which has open space to the front, provides an attractive, soft and open environment which is considered beneficial to the character and setting of listed buildings and the approach into Overseal. The removal of this part of condition 3 is not therefore considered to cause harm, nor detract from the high quality design sought under the outline. It is also noted that the requirement under condition 3 for the development to broadly reflect the indicative layout and the principles of the outline Design and Access Statement would not be met. These show the Public Open Space (POS) alongside the Shrubbery and continuing along the southern edge of the development. It is also noted that the existing section 106 (s106) agreement carries all obligations forward under an application to remove or vary conditions such that a further s106 agreement is not required.

An Addendum to the Supporting Statement was submitted during the course of the application to reflect observations made during the course of consultation on this proposal and the accompanying Reserved Matters application (see the next Item below). This explains the reasons for including a variation/removal to conditions 6 and 29 in the current application. Condition 6 relates to public footpath 24 and measures to prevent its use by vehicular traffic. Its current wording suggests preventing vehicular access without qualifying whether this means general public access. There is a need to maintain vehicular access for current owners/occupiers of the buildings and a single dwelling off this right of way. With the Reserved Matters application including bollards at the point the footways within the proposed development connect to the adjacent public footpaths, there would be appropriate means to prevent motorcycle access on to footpath 24; whilst the existing gate would remain and prevent general vehicular access whilst maintaining pedestrian access.

Condition 29 relates to the requirement for off-site National Forest planting. It is noted that the s106 agreement allows for on or off-site planting to achieve the 20% of the site area required. Condition 3(g) also allows for this same on-site/off-site option. It is therefore argued that to deliver off-site tree planting is both unreasonable and unnecessary when the 20% coverage can be achieved on the site, as demonstrated within the Reserved Matters submission and by way of an accompanying plan. It is advanced that further tree planting off-site would be over and above the policy requirement and no justification is provided for this over-provision.

A Phase 2 Geotechnical Investigation and Contamination Assessment Report is provided. This includes a Phase 1 (Desk Study) summary which finds that the overlying Bromsgrove Sandstone Formation and underlying Moira Breccia Formation are underlain by the Carboniferous Pennine Middle Coal Measures Formation at depth, which has reportedly been mined from the historical collieries present to the northeast of the site. The Phase 1 summary considers that there is a low potential risk of 'crown-hole' collapse, although should underground roadways, workshops or stables exist, the risk could be greater. In view of the site's geology, it is considered that the subsidence, fissures and breaklines and the linear feature observed to cross the site may be the result of historical mining and/ or reactivation of unrecorded faults. It is considered that, subject to the findings of intrusive investigation, it may be necessary to site buildings away from the linear ridge feature and/ or utilise reinforced raft foundations in the vicinity of this area. In terms of ground conditions encountered, no definitive evidence of displaced soil horizons/ ground movement was observed in any of the trial pits. Black-coloured arisings, inferred to be representative of coal seams, were encountered at borehole depths of between 28m and 39m.

Calculations suggest that even if the coal seams encountered beneath the site had been worked/ mined, contrary to site observations, there would be a low risk of crown-hole collapse. It is therefore considered that there is a low risk of further subsidence occurring in the northern field (with the exception of the area of depression in the west) and eastern half of the southern field. The recorded subsidence, fissures and breaklines are thought to be the result of stresses associated with groundwater rebound as a result of the cessation of mine workings and it is considered that the likelihood of further subsidence occurring in the future is relatively low, particularly given the results of this ground investigation which suggest groundwater levels are likely to be at/or around pre-mining levels. However, given the lack of similar case histories, and the suspected presence of fault structures beneath the western half of the southern field, it is recommended that all dwellings constructed in this area be located off the alignment of suspected fault structures and are suitably designed to accommodate any future ground movements. Hence, whilst conventional shallow foundations are suitable to support the proposed structures in the centre and east of the northern field, and eastern half of the southern field; flexible raft foundations would be required for any structures in the west of the southern field, and similar mitigation may be required for proposed dwellings in the west of the northern field, subject to further investigation.

Several 'no build zones' exist in the west of the southern field around the areas of recorded subsidence, breaklines and fissures (i.e. suspected faults). Further work is

required to determine the reason for a circular area of subsidence observed in the west of the northern field, whilst chrysotile asbestos has been encountered within the topsoil within the northern field which, although likely to be isolated, further testing is required.

A Supplementary Site Investigation Report picks up on the above Phase 2 report and analyses the circular area of subsidence observed in the northern field and the chrysotile asbestos encountered within the topsoil. Boreholes have found there to be around 32m of sandstones and conglomerates overlying the Middle Coal Measures. Therefore the risk of crown holes forming is 'low' and remedial measures such as drilling and grouting will not be required. The site investigation has demonstrated that the mining geology at depth is unlikely to be responsible for the slightly reduced topography. Nonetheless, due to overlain ground conditions and areas of recorded subsidence, breaklines and fissures, it is recommended that in order to cater for any minor future ground movements, a raft style of foundation is adopted. In terms of the potential for asbestos further testing has been carried out. Of the additional samples of topsoil/made ground tested, no asbestos fibres were recorded such that it is recommended that, for a remedial scheme, the topsoil/made ground in the vicinity of the borehole recording its presence, in the northern field, is excavated and removed from site.

## **Planning History**

- |             |   |
|-------------|---|
| 9/2018/0711 | Approval of reserved matters of outline permission ref. 9/2015/1063<br>– Pending.   |
| 9/2015/1063 | Outline application for the erection of up to 70 dwellings with associated public open space, sustainable drainage and landscaping<br>– Approved March 2016.  |
| 9/2015/0496 | Outline application for the erection of up to 60 dwellings with associated public open space, sustainable drainage and landscaping<br>– Refused October 2015 with an appeal lodged but later withdrawn. |

## **Responses to Consultations**

At the time of writing the report amended plans and information are subject to reconsultation. Any further responses received will be reported verbally at the meeting.

The Coal Authority notes the site does not fall with a high risk area for mining legacy and there is no requirement for a Coal Mining Risk Assessment to be submitted or for the Coal Authority to be consulted. It is advised that standing advice be attached as an informative note.

The County Highway Authority confirms the proposed variation of condition 3 does not have any highway implications and as such there is no objection.

The Strategic Housing Manager comments that there will be high demand for the affordable units so it is a shame only a reduced percentage is possible. Ideally, a mix

of 2, 3 & 4 bed family homes would be preferred, although subsequent involvement in viability discussions (see below) has conceded the 4-bed unit.

The Lead Local Flood Authority (LLFA) has no comments to make.

Natural England has no objection.

Derbyshire Wildlife Trust advises that there are no ecology issues arising from the removal of condition 3(f) although they would expect the requirement of condition 3(g), in respect of tree planting within the National Forest Area, to remain.

The Development Control Archaeologist notes there is no objection to the proposed variation of condition, with archaeological work completed on site (it finding little of significance) such that the condition need not be reattached.

The Police Designing Out Crime Officer raises no objections.

Peak and Northern Footpaths raise no objections.

### **Responses to Publicity**

As noted above, at the time of writing the report amended plans and information are open to comment. Any further responses received within the reconsultation period will be reported verbally at the meeting.

Overseal Parish Council requests that the design of the buildings and of the development as a whole reflects National Forest guidelines and local vernacular architecture, and uses locally sourced and sustainable materials as much as possible. They also seek consideration of the existing projects to which section 106 contributions are directed, noting that the changing rooms project is complete and the recreation ground drainage project is causing some contention given it would preclude the use for galas, etc. where vehicles drive onto the pitch. As alternatives, they suggest provision of netball facilities, preferably by enlarging the existing Multi Use Games Area (MUGA); provide footpaths, seats, etc. within the woodland adjoining the recreation ground and, as it adjoins the primary school, to develop educational opportunities for the pupils; wall insulation for the pavilion as the bowls club has folded and the building is increasingly being used for meetings, yoga classes, etc.; and/or improvement of public rights of way.

Four objections have been received, raising the following concerns/comments:

- a) Whilst the site investigation report outlines approximate locations of subsidence claims, 11 Acresford Road has not been highlighted despite repairs being necessary, and paid by the Coal Authority, between 1989 and 1996;
- b) the subsidence risk plan shows a 'no build zone' at the rear of Acresford Road properties but the developer's plan ignores this;
- c) concern for purchasers of the proposed properties over risk of subsidence;

- d) increase in traffic through the village with only one pedestrian crossing and most distant from it such that crossing the A444 is dangerous for the elderly and children;
- e) both the masterplan and design and access statement were designed to minimise the effect of the development on The Shrubby;
- f) enhancing the viability of the scheme should not be at the expense of the above point;
- g) replacement dwellings for the bungalows lost are two storey dwellings;
- h) some 65 dwellings could still be provided for on the original footprint;
- i) the land value should be reduced instead;
- j) pedestrian access to the village is over unmade public footpaths, one of which passes through a farmyard, another passing over a private drive with limited visibility at the access; and are unsafe and unsuitable for families with children, older people and people with disabilities;
- k) loss of privacy to occupiers of dwellings adjacent to existing footpaths;
- l) increased maintenance requirements for owners of the land upon which the footpaths pass; and
- m) the existing footway on Acresford Road should be joined to the proposed access into the site from this route.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S4 (Housing Strategy), H1 (Settlement Hierarchy), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations) and BNE10 (Heritage).

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide SPD
- Section 106 Agreements – A Guide for Developers
- River Mease SAC Development Contributions Scheme (DCS)

## **Habitat Regulations**

The Council is a 'competent authority' under the Habitats Regulations and, in determining applications for development, must only give permission where it can be demonstrated that any European wildlife site would not be adversely affected. The proposal, without mitigation, has the potential to contribute to adverse effects on the River Mease SAC in terms of poor water quality. However, the previous application was subjected to a screening exercise which concluded that no Appropriate Assessment was required subject to ensuring that the conditions requested by the County Flood Team and Natural England are included. There has been no material change in circumstances since that screening exercise such that it remains the case that Appropriate Assessment is not required.

## **Planning Considerations**

Since the grant of the existing outline permission, the site has been allocated under policy H23E in the LP2. It is also now drawn within the settlement confines for Overseal (policy SDT1). With the principle of development established and the outline permission extant, the main focus is on the effects of the requested variation to conditions. Matters relating to the impact on local services and facilities, ecology, flood risk and drainage have all been previously considered acceptable, subject to conditions and/or obligations. However, local representation has requested that some of the obligations be reviewed and adjusted to reflect intended infrastructure improvements. This is discussed further below.

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

- The findings of the ground investigation and effect on the masterplan;
- The effect of the ground conditions on viability;
- Amendments to conditions and the section 106 agreement.

## **Planning Assessment**

### The findings of the ground investigation and effect on the masterplan

At the time of the existing outline permission being considered, there were representations in respect of ground conditions, including documented and anecdotal evidence of a fault across the site, and fissures and subsidence near to the site. However, the site did not fall within a high risk area for Coal Mining legacy (as defined by Coal Authority mapping), and hence it was not for the Council to intervene. Nonetheless, the proposal was in outline and with a range of technical solutions which could be implemented to resolve features of coal mining legacy, as well as layout being a reserved matter; any issues could be isolated and avoided as the detail of the site was developed.

This application is accompanied by the full site investigation reports. This demonstrates that the site is heavily constrained by, what appear to be, multiple fault lines. There are further smaller anomalies which also provide constraint. The outcome is that the intended 'developable area' as indicated on the approved

masterplan under condition 3 does not reflect the actual developable area, and it is on this basis that the applicant seeks to revise the masterplan.

In broad terms, the original masterplan sought to secure a built form which ‘hugged’ the existing built form of Overseal whilst protecting views of listed buildings, across the site, from the public footpath on the western boundary. This led to a developable area comprised of the northern field and the northern ‘half’ of the southern field – providing for the POS and sustainable drainage systems (SuDS) to the south of the access road into the site. This also had the effect of separating The Shrubbery, a non-designated heritage asset, from the proposed built form. In addition, in order to enhance views of the listed buildings on the western side of Acresford Road, buildings between number 21 and the indicative access were to be bungalows, also harmonising the short ribbon of existing dwellings on this side of the A444.

The above findings mean that the area of proposed bungalows falls within a ‘no build zone’. However, condition 3 requires bungalows to be provided within this area:

*“3. The details submitted pursuant to the reserved matters... shall broadly be in accordance with the indicative layout plan.... and sections 6-10 of the Design and Access Statement (November 2015) and shall specifically include the following...:*

*f) the provision of bungalows or houses to a maximum of 1.5 storey height on plots arising within the area marked as such on the indicative layout plan...”*

It is evident that the applicant cannot satisfy this requirement given the findings of the site investigations. In addition, the failure to build at all within this area could also be taken as conflict with the opening limb of condition 3 – it not providing development within this corner of the site. At the same time, policy H23E requires ‘around 70 dwellings’ and not ‘up to’ such that a notable reduction in overall housing provision on the site could be held to be in conflict with the policy.

The applicant approached officers with these findings in advance of the current application to discuss the prospect of displacing this area of built form to the south-eastern corner of the site. It was recognised that it would be necessary to amend condition 3 accordingly, but also that an alternative layout would conflict with policy H23E in failing to provide POS and SuDS to the south of the access road – the POS now needing to be placed in the no build zone. Nonetheless, the separation to The Shrubbery would be largely retained by the SuDS whilst views through to listed buildings could be maintained by careful placement of the access road and built form around this.

Consideration must be given to the concerns under the first application to develop just the southern field. The main issue here which led to refusal of permission was the limited connection in built terms to the existing urban environment of Overseal – 22 Acresford Road being that connection. In addition, the provision of 60 dwellings on this southern field was felt to ‘obstruct’ existing glimpse views across the site towards Overseal House and other listed buildings framing Acresford Road. The revised scheme, as approved, indicated 35 dwellings instead on this field – nearly halving the ‘density’ of development here – mainly by way of creating an open and

unobstructed space between the 'new edge' of Overseal and The Shrubby. Built form on the western end of this area thus could be seen to undermine this intention.

Nonetheless, there must be recognition that by drawing away development from the A444, the appreciation of there being a new housing development on the main gateway into the village is very much reduced – the only evidence being a glimpse view through the proposed access and over hedgerows. In addition, there is scope to retain the glimpse views towards listed buildings from the footpath adjacent to the western boundary, as well as between proposed dwellings as long as suitable 'breathing space' is retained. The layout provided with the Reserved Matters submission demonstrates that just 8 dwellings would be placed contrary to the policy and condition requirements, whilst a corridor of POS would still be maintained to separate new dwellings from the rear gardens of The Shrubby. A main view along the access road and a secondary filtered view between dwellings would also be provided.

Taking all these factors into account, it is considered that retention of condition 3(f) would not be reasonable, taking into consideration the tests for imposing conditions – which must be exercised here to the same extent as originally exercised. It is however necessary to ensure some means of control, noting that whilst a concurrent Reserved Matters submission is before the Committee for consideration, a further submission could be possible. The proposed variation of the condition is thus set out below.

#### The effect of the ground conditions on viability

As noted in the site investigation reports, the ground conditions identified result in significant abnormal costs being necessary to deliver the development. These are mainly in the form of additional foundation costs, but services and other infrastructure would also need to be to a higher specification. Consequently, this has a considerable effect on the viability of the development.

The applicant has provided a viability assessment which indicates the development could only be delivered with a reduction in affordable housing provision from 30% to 10%, with a mix of 1, 2 and 3 bedroomed dwellings – two of these bungalows – for affordable rent purposes only (i.e. no shared ownership). This assessment has been subjected to scrutiny by the District Valuer who, whilst finding some savings for the developer due to an incorrect calculation in respect of s106 contributions, identified an under budgeting in terms of external works costs. This had an initial effect of reducing the 10% affordable housing provision further. However, the proposed mix and tenure has been subsequently reworked in line with the Strategic Housing Manager's advice of the current local need (noting that a number of 2-bed rented units are just about to be made available on Lullington Road), resulting in the applicant agreeing to a slight deficit in order to ensure that 10% affordable housing is still delivered on the site. This is a notable gesture of goodwill. It is recommended that the s106 agreement be varied to accommodate these changes.



## Amendments to conditions and the section 106 agreement

The applicant also seeks to remove condition 29 of the existing outline permission. This states:

*29. No dwelling shall be occupied until such time as the areas of land for off-site tree planting, shown on plan ref: 1431.9 Rev 0, have been planted in accordance with a detailed scheme which shall have previously been submitted to and approved in writing by the Local Planning Authority.*

The reason given for the condition is to deliver National Forest objectives and assimilate the development into the National Forest. This however does result in the potential for 'double counting' when read in conjunction with condition 3(g):

*3. The details submitted pursuant to the reserved matters... shall specifically include the following...:*

*g) new tree planting to reflect the site's location in the National Forest to minimum of 20% of the total site area, to be delivered on-site in broad accordance with the indicative layout plan, and/or off-site on land within the applicant's control (as shown on 1431.9 Rev 0)".*

The plan referred to in condition 3(g) shows pockets of planting on land south of The Shrubbery, around Park Farm. The applicant has provided a plan of land uses based on the Reserved Matters layout presented under the following item. This shows that 20.44% of the site area would be set aside to National Forest planting, with this figure not inclusive of POS and SuDS provision. When referring back to the outline permission, there is no evidence for a greater than normal provision of National Forest Planting such that condition 29 does not satisfy the 'necessary' test set out in the NPPF and PPG. Condition 3 would be re-worded appropriately to ensure the 20% provision is secured.

It is also proposed to rephrase Condition 6. This is presently worded in a manner which could compromise existing vehicular access rights to property off Footpath 24. It is evident from consideration of correspondence from the County Highway Authority under the previous application that the intention was to prevent intensification in the use of this access onto Acresford Road as a consequence of the development of the site. The proposed variation is therefore reasonable and has no highway safety implications.

It has been noted, under the concurrent Reserved Matters application, that whilst condition 28 requires a footway alongside the A444 prior to the first occupation any dwelling, this technically only extends as far as site frontage (i.e. up to number 21 Acresford Road). In order for maximum effectiveness, a footway up to the driveway at number 11 is necessary. The applicant has indicated a willingness to provide this, whilst it can also be made clear a footway along the frontage south of the proposed access is not required (this not being necessary to cater for pedestrian demand created by the development).

Finally, the response of the Parish Council is noted. The 4 projects advanced are outlined in their response above, and whilst the provision of netball facilities and

insulation works to the pavilion could be taken as outdoor sports and built facilities projects, both CIL compliant, the recreational facilities in the woodland adjoining the recreation ground and improvements to public rights of way is less clear cut. However, these are worthy recipient projects which are linked to the population increase as proposed here, and the applicant has raised no objections to funds being used 'flexibly' to support these projects too. The Cultural Services Manager has advised that reassigning the contributions would not jeopardise the delivery of other projects in the pipeline, nor have these contributions already been committed to projects which have been delivered 'early'. All amounts secured under a revised s106 agreement would remain unchanged from the previous agreement.

### Financial considerations

Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that any local financial considerations are a matter to which local planning authorities must have regard to in determining planning applications; as far as they are material for the application. The weight to be attached is a matter for the decision maker. The New Homes Bonus is a material consideration which must be considered amongst the (now revised) economic benefits of the development.

### Summary

The investigatory work on the site has revealed it is not possible to deliver the site without changes to the anticipated layout of it, and with changes to the level of affordable housing provision across the site. This is not an uncommon theme in sites around South Derbyshire which are constrained by coal mining legacy, and it is regrettable that the overall provision is below policy expectations. However, the applicant is prepared to sustain a financial deficit in order to bring this site forward, and to ensure the 10% provision is delivered alongside ensuring other planning gain is not 'watered down'. The proposed changes to condition 3 should therefore be supported in order to ensure the site continues to feature in the Council's 5 year housing trajectory. The changes to other planning conditions in terms of National Forest Planting and access are also of merit, these eliminating a 'double charging' effect and providing clarity. The scope to also adjust the locally focussed financial contributions is also welcome, recognising the goodwill of the applicant and that planning is an ever evolving 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:

- A.** the completion of a deed of variation to the existing s106 agreement in order to amend the affordable housing requirements and adjust the named projects for contributions towards built facilities and outdoor sports; and
- B.** the following conditions:

1. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as 'the Reserved Matters') on an application made in that regard:

- (a) access,
- (b) appearance,
- (c) landscaping,
- (d) layout, and
- (e) scale.

Reason: This permission is granted in outline under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 and section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. (a) Application for approval of the Reserved Matters listed at condition 1 shall be made to the Local Planning Authority no later than 22 March 2019; and  
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To conform with Sections 73 & 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3. The details submitted pursuant to the reserved matters listed at condition 1 shall broadly be in accordance with the indicative layout plan (ref: 0169/012 Rev A) and sections 6-10 of the Design and Access Statement (dated November 2015), both received under application ref. 9/2015/1063), with the exception that between 21 Acresford Road and The Shrubbery public open space shall front Acresford Road to the north of the proposed access and National Forest woodland planting and/or drainage ponds shall front Acresford Road to the south of the proposed access, and shall specifically include the following:

- a) the design of the internal layout to accord with the guidance contained in 'Manual for Streets' issued by the Department of Communities and Local Government (or equivalent guidance that may update or replace it);
- b) details of pedestrian links to the public footpath to the eastern and northern edges of the site together with a timetable for their implementation;
- c) the provision of an access to Acresford Road incorporating 10m radii;
- d) the provision within private land of bin stores at the end of private drives/courtyards;
- e) details of the lighting to private roads and courtyards;
- f) the provision of a designed view from public footpath 26 towards the listed buildings opposite the site frontage and 21 Acresford Road, unobstructed by dwellings or other vertical built form; and
- g) new tree planting to reflect the site's location in the National Forest to minimum of 20% of the total site area, to be delivered on-site.

Reason: In the interests of achieving sustainable development, having particular regard to the potential impact of the development on the character of the surrounding area, views from the surrounding countryside and heritage assets, and in order to secure an appropriate detailed design which accords with best design principles under Building for Life criteria and Secured by Design.

4. No removal of hedgerows, shrubs or scrub shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period; and details of measures to protect the nesting bird interest on the site have first been submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall then be implemented as approved.

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

5. The landscaping details required pursuant to condition 2 above shall include a Landscaping and Biodiversity Enhancement Plan (LBEP) that identifies the establishment of new areas of benefit to wildlife, and a timetable for implementation. These LBEP should include the creation of wildflower areas and wetland habitats around the SuDS and at the margins of hedgerows. Any loss of hedgerow should be fully compensated for by planting of new hedgerows within the site. The approved measures shall be implemented in accordance with the timetable.

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

6. The sole means of vehicular access to serve new dwellings created within the site shall be via the new estate street. Measures shall be taken to prevent vehicular access from Acresford Road along the private drive and route of Public Footpath 24 which runs between numbers 9 and 11 Acresford Road, other than for existing pedestrian and vehicular access to existing dwellings, land and buildings and such measures shall be included in the details submitted pursuant to condition 1.

Reason: In the interests of highway safety and for the safety and enjoyment of users of the public footpath.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the garage(s)/parking space(s) to be provided in connection with the development shall not be used other than for the parking of vehicles except with the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To ensure an appropriate level of parking provision is provided and thereafter maintained for the life of the development, in the interests of highway safety.

8. The proposed access driveways/parking spaces to the public highway shall be no steeper than 1 in 14 for the first 5m from the nearside highway boundary and 1 in 10 thereafter.

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

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

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

10. Throughout the period of groundworks and construction, vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

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

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

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

12. No development, including preparatory works, shall commence until a Construction Management Plan or Construction Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:

- a) Parking of vehicles of site operatives and visitors;
- b) Routes for construction traffic;
- c) Hours of operation and delivery windows for third party suppliers for the construction phase;
- d) Pedestrian and cyclist protection;
- e) Proposed temporary traffic restrictions;
- f) Arrangements for turning vehicles;
- g) All necessary measures to avoid potential impacts on the River Mease SAC along with suitable mitigation as required.

Before any other operations are commenced the scheme shall be fully implemented in accordance with the approved details and be retained/followed as such throughout the construction period.

Reason: In the interests of highway safety and to protect the River Mease SAC, recognising that even initial stages of development could cause unacceptable impacts on the public highway and SAC

13. No development, including preparatory works, shall commence until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The detailed design shall include measures for warning other highway users of construction traffic entering or emerging from the access. The access shall be retained in accordance with the approved scheme throughout the construction period free from any impediment to its designated use, and within 3 months of the first use of the new access created pursuant to condition 1 the temporary access shall be removed and the verge/crossover restored to the satisfaction of the Local Highway Authority unless it has been replaced by the access approved pursuant to condition 1.

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

14. No development, including preparatory works, shall commence until details of the finished floor levels of the buildings hereby approved, and of the proposed ground levels of the site relative to the finished floor levels and adjoining land levels, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall be supplemented with locations, cross-sections and appearance of any retaining features required to facilitate the proposed levels. The development shall be constructed in accordance with the approved details.

Reason: To protect the amenities of adjoining properties and the appearance of the area generally, recognising that site levels across the site as a whole are crucial to establishing infrastructure routeing/positions.

15. Prior to any works to construct a building or hard surface, setting of finished floor/site levels or installation of services/utilities, a detailed assessment to demonstrate that the proposed destination for surface water accords with the hierarchy in paragraph 80 of the planning practice guidance (or any revision or new guidance that may replace it) shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall demonstrate, with appropriate evidence, that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

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

Reason: To ensure that surface water from the development can be directed towards the most appropriate waterbody in terms of flood risk and practicality,

noting that certain works may compromise the ability to subsequently achieve this objective.

16. No construction of a building or hard surface, setting of site levels or installation of services/utilities shall take place until a detailed design of, and associated management and maintenance plan for, surface water drainage of 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, making allowance for climate change and urban creep, and where necessary include measures to capture overland flows between proposed and existing properties. The scheme shall also include drawings and details, including the colour and appearance of safety railings, of all inlet and outfall structures to attenuation ponds, as well as pollution prevention measures, details of highway surface water drainage provisions and incorporate an appropriate number of surface water treatment stages to protect the receiving waterbody from adverse impacts. The surface water drainage infrastructure shall be installed in conformity with the approved details prior to the first occupation/use of each respective building/road/hard surface served by the surface water drainage system or in accordance with a phasing plan first submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

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

17. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition 16. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

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

18. No construction of a building or hard surface, setting of site levels or installation of services/utilities shall take place until a scheme to dispose of foul drainage has been submitted to, and approved in writing by, the Local Planning Authority. Such a scheme shall include evidence that the treatment

works and public sewer(s) designated to receive flows has sufficient capacity to do so. The scheme shall be implemented as approved.

Reason: To safeguard against pollution of the natural environment, recognising that initial stages of development must secure appropriate levels and falls for the drainage system to properly function and that off-site infrastructure may require further investigation and/or upgrading.

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

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

20. Prior to the construction of a dwelling measures for the control and mitigation of noise emanating from the A444 and adjoining farmyard to the north-east shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be incorporated into the development prior to the first occupation of each respective dwelling with any measures thereafter maintained in situ/in working order.

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

21. Prior to the first occupation of each dwelling hereby permitted, the new street(s) between each respective plot/unit and the existing public highway shall be laid out in accordance with the plan(s) approved under condition 1, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageway and footway(s) in front of each respective plot/unit shall be completed with the final surface course within 12 months (or 3 months in the case of a shared surface road) from the first occupation of that plot/unit.

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

22. Each dwelling shall not be occupied until dedicated space has been provided within the site for the parking and manoeuvring of residents' and visitors' vehicles associated with that dwelling, laid out in accordance with the approved layout pursuant to condition 1 above. The facilities shall be retained throughout the life of the development free from any impediment to their designated use as such.

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

23. Private driveways/parking spaces to the proposed estate roads, the subject of condition 1, shall not be taken into use until 2m x 2m x 45° pedestrian intervisibility splays have been provided on either side of the accesses at the



back of the footway/margin, the splay area being retained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.

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

24. Prior to the first occupation of any dwelling hereby permitted, the new vehicular and pedestrian access to Acresford Road shall be constructed in accordance with designs first submitted to and approved in writing by the Local Planning Authority. The submitted designs shall ensure a continuous footway connecting the site access with the footway which terminates outside 11 Acresford Road.

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

25. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, a written scheme to identify and control that contamination shall be submitted to and approved in writing by the Local Planning Authority prior to any further works taking place on the site. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA (or equivalent guidance which may subsequently update or replace it), and appropriate remediation/mitigation proposals. The approved scheme shall be implemented in accordance with the approved remediation/mitigation proposals

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

26. The footpath links required pursuant to condition 3(b) above shall be provided in accordance with the approved details and timetable.

Reason: In the interests of facilitating safe and suitable access to the public open space by all users.

#### Informatives:

- a. This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990 (under application ref. 9/2015/1063 as varied under this permission).
- b. 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 householder.
- c. 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.

- d. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Environmental Services Department at County Hall, Matlock.
- e. Car parking provision should be made on the basis of 1.5, 2 or 3 parking spaces per 1, 2/3 or 4/4+ bedroom dwelling respectively. Each parking bay should measure 2.4m x 5.5m (larger in the case of spaces for use by disabled drivers and 3m wide in the case of spaces captive to a dwelling/wall/fence to at least one side) with adequate space behind each space for manoeuvring; whilst each space within garages should measure at least 3m x 6m.
- f. Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up, resurfacing and/or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council for Highway, Developer and Street Works. Works that involve road closures and/or are for duration of more than 11 days require a three months' notice. Developer's Works will generally require a three months' notice. Developers and Utilities (for associated services) should prepare programmes for all works that are required for the development by all parties such that these can be approved through the coordination, noticing and licensing processes. This will require utilities and developers to work to agreed programmes and booked slots for each part of the works. Developers considering all scales of development are advised to enter into dialogue with Derbyshire County Council's Highway Noticing Section at the earliest stage possible and this includes prior to final planning consents.
- g. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email - [es.devconprocess@derbyshire.gov.uk](mailto:es.devconprocess@derbyshire.gov.uk). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
- h. The application site is affected by two Public Rights of Way (Footpaths 24 & 26 Overseal, as shown on the Derbyshire Definitive Map). The routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock.
  - Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
  - If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County

Council. Please contact 01629 580000 for further information and an application form.

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

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

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

- i. The applicant is advised to consider the document 'Guidance on the assessment of dust from demolition and construction' from the Institute of Air Quality Management (IAQM) for advice on how dust assessments should be performed. The assessment of the impacts of construction on local air quality should be undertaken following a risk based approach, as outlined in the IAQM document 'Guidance on the Assessment of the Impacts of Construction on Air Quality and the Determination of their Significance'.
- j. The County Council Flood Risk Management team do not consider below ground storage tanks or oversized pipes to be classed as sustainable drainage features. The County Council encourages that site surface water drainage is designed to manage surface water as close to the surface as possible, prioritising infiltration as a means of surface water disposal and where possible applying the SuDS management train. The County Council would prefer the applicants to utilise existing landform to manage surface water in mini/sub-catchments.  
The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed. Any works in or nearby to an ordinary watercourse require consent under the Land Drainage Act (1991) from the County Council (e.g. an outfall that encroaches into the profile of the watercourse, etc) to make an application for any works please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).
- k. The watercourses, attenuation pond(s) and/or swale(s) hereby permitted or which would be incorporated into public areas on the site should be designed to accord with health and safety guidance as set out in the CIRIA SuDS Manual 2015 (C753) or guidance that may update or replace it, and to meet the requirements of the Construction (Design and Management) Regulations (CDM) 2015 through assessing all foreseeable risks during design, construction and maintenance of the pond, minimising them through an 'avoid, reduce and mitigate residual risks' approach.
- l. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

- m. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.
- n. 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**            **1.3**

**Ref. No.**        **9/2018/0711/RSD**

**Applicant:**  
**Mr Lee Ellis**  
**Cameron Homes**  
**c/o CT Planning**

**Agent:**  
**Mr William Brearley**  
**CT Planning**  
**Three Spires House**  
**Station Road**  
**Lichfield**  
**WS13 6HX**

**Proposal:**    **APPROVAL OF RESERVED MATTERS OF OUTLINE PERMISSION**  
                  **REF. 9/2015/1063 ON LAND AT SK2914 8297 ACRESFORD ROAD**  
                  **OVERSEAL SWADLINCOTE**

**Ward:**           **Seales**

**Valid Date**    **10/07/2018**

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

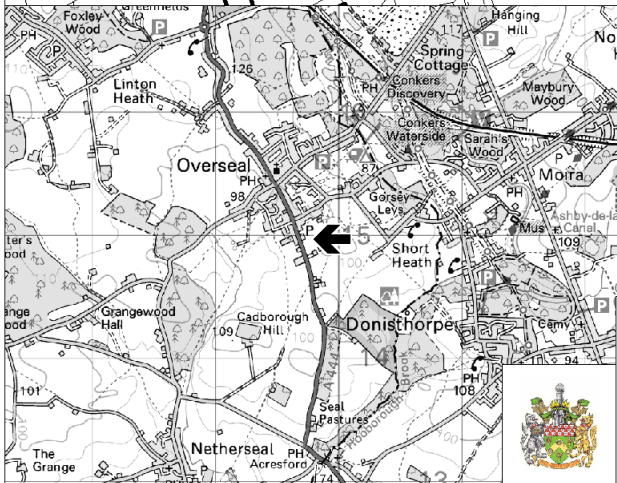
The item is presented to Committee at the discretion of the Planning Services Manager, noting the link to the previous Item.

#### **Site Description**

The site extends to some 4.7 hectares comprising two fields - one in arable use (northern) and one most recently put to turf production (southern). Both fields have mature hedgerows along most of the perimeter. Some scattered trees are present in the hedgerows and self-seeded in the field margins. Public footpaths run adjacent to/within the northern and eastern boundaries. Vehicular access into the northern field is via a private track running to Acresford Road from the north-west corner. Vehicular access into the southern field from Acresford Road is from a field gate in the south-west corner of the site and also from the field to the south-east.

Acresford Road (the A444) lies to the west, directly adjacent to the southern field whilst a ribbon of dwellings, mainly single storey, lie in-between it and the northern field. A further ribbon of predominantly two storey dwellings, fronting Moira Road, lie beyond the northern boundary. The Shrubbery, an isolated dwelling set within woodland, lies to the southern boundary with a 2m high brick wall along part of this edge; whilst further largely isolated dwellings such as Grange Farm, Overseal House, 16 Acresford Road, Rookery Farm and 18 Acresford Road lie to the opposite side of the A444. Some of these are Grade II or II\* listed buildings. The site is relatively level but falls gradually away beyond the eastern boundary. The same

The detailed site plan shows a large, irregularly shaped plot of land, shaded with diagonal lines, labeled "THE SITE". This site is bounded by a thick black line. To the north and west of the site are several residential buildings, some labeled with names like "Jackson House", "Oxley Cottage", and "The Shrubbery". Roads are shown as dashed lines, with labels such as "R6 1m", "R10 1m", and "R10 1m". A "Track" is also indicated. The site is situated in a rural or semi-rural area, with a "Track" running along its western boundary. The plan also shows "The Shrubbery" and "The Shrubbery".



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**South Derbyshire District Council. LA 100019461. 2014**

happens to the land on the opposite side of Acresford Road, with a similar fall in levels beyond the Shrubbery to the south.

## **Proposal**

It is proposed to erect 70 dwellings pursuant to outline permission for the site in a mix of 1, 2, 3, 4 and 5 bedroomed dwellings, provided as two storey dwellings and bungalows. The tenure mix is presented at the usual 30% for affordable housing but designed so that, subject to the resolution on the above Item, the tenure can be 'swapped' without requiring revisions to design. The vehicular access is proposed onto Acresford Road (the A444) in a central position along the boundary of the southern field. Further pedestrian links to the public footpaths adjacent to the northern and eastern boundaries are also proposed. The layout would provide for Public Open Space (POS) immediately to the north of the access road and Sustainable Drainage (SuDS) to the south, along with National Forest planting. This planting would wrap around the southern, eastern and northern boundaries. The southern buffer would ensure that built form remains separate to the boundary with The Shrubbery, as well as substantially set back from it. The access road would spur to a further estate road leading into the northern field, with further roads off this, whilst footpaths would be provided through the POS and alongside the existing hedgerow dividing the two fields so to provide a number of convenient pedestrian routes within the site.

## **Applicant's supporting information**

A Design Compliance Statement sets out that the development would have a density of 24.7 dwellings per hectare, based upon the net developable area of 2.8 hectares. A design led approach has been adopted to the planning of the site, with pre-application discussions and revisions to the layout noted, resulting in a high quality and distinctive development phase that develops local architectural detailing into a contemporary character style. Reference is made to the outline application Design and Access Statement and Planning Statement which notes the site's proximity to a range of local facilities and public transport, improving the long term sustainability of the development proposals. It is also noted the site is located to the south of the village of Overseal, which is identified as a 'Key Service Village' within the adopted Local Plan and the site is also designated for housing under policy H23E. It is considered the proposals progress the approved indicative layout into a coherent, legible layout design for 70 dwellings that would promote a sustainable, attractive and safe place to live, whilst respecting the ecological and architectural character of the surrounding area and creating a vibrant community. The proposed development achieves the full potential of the creation of a sustainable development, and continues to reflect the true spirit of the NPPF, maintaining an important sense of place where people would like to live through quality of the design and layout, which the applicant has aimed to provide.

An Outdoor Lighting Report is provided in line with the conditional requirements of the outline permission, setting out the types, location and luminance of lighting to proposed streets and public areas within the site.

A Phase 2 Geotechnical Investigation and Contamination Assessment Report is provided. This includes a Phase 1 (Desk Study) summary which finds that the overlying Bromsgrove Sandstone Formation and underlying Moira Breccia Formation are underlain by the Carboniferous Pennine Middle Coal Measures Formation at depth, which has reportedly been mined from the historical collieries present to the northeast of the site. The Phase 1 summary considers that there is a low potential risk of 'crown-hole' collapse, although should underground roadways, workshops or stables exist, the risk could be greater. In view of the site's geology, it is considered that the subsidence, fissures and breaklines and the linear feature observed to cross the site may be the result of historical mining and/ or reactivation of unrecorded faults. It is considered that, subject to the findings of intrusive investigation, it may be necessary to site buildings away from the linear ridge feature and/ or utilise reinforced raft foundations in the vicinity of this area. In terms of ground conditions encountered, no definitive evidence of displaced soil horizons/ ground movement was observed in any of the trial pits. Black-coloured arisings, inferred to be representative of coal seams, were encountered at borehole depths of between 28m and 39m.

Calculations suggest that even if the coal seams encountered beneath the site had been worked/ mined, contrary to site observations, there would be a low risk of crown-hole collapse. It is therefore considered that there is a low risk of further subsidence occurring in the northern field (with the exception of the area of depression in the west) and eastern half of the southern field. The recorded subsidence, fissures and breaklines are thought to be the result of stresses associated with groundwater rebound as a result of the cessation of mine workings and it is considered that the likelihood of further subsidence occurring in the future is relatively low, particularly given the results of this ground investigation which suggest groundwater levels are likely to be at/or around pre-mining levels. However, given the lack of similar case histories, and the suspected presence of fault structures beneath the western half of the southern field, it is recommended that all dwellings constructed in this area be located off the alignment of suspected fault structures and are suitably designed to accommodate any future ground movements. Hence, whilst conventional shallow foundations are suitable to support the proposed structures in the centre and east of the northern field, and eastern half of the southern field; flexible raft foundations would be required for any structures in the west of the southern field, and similar mitigation may be required for proposed dwellings in the west of the northern field, subject to further investigation.

Several 'no build zones' exist in the west of the southern field around the areas of recorded subsidence, breaklines and fissures (i.e. suspected faults). Further work is required to determine the reason for a circular area of subsidence observed in the west of the northern field, whilst chrysotile asbestos has been encountered within the topsoil within the northern field which, although likely to be isolated, further testing is required.

A Supplementary Site Investigation Report picks up on the above Phase 2 report and analyses the circular area of subsidence observed in the northern field and the chrysotile asbestos encountered within the topsoil. Boreholes have found there to be around 32m of sandstones and conglomerates overlying the Middle Coal Measures. Therefore the risk of crown holes forming is 'low' and remedial measures such as



drilling and grouting will not be required. The site investigation has demonstrated that the mining geology at depth is unlikely to be responsible for the slightly reduced topography. Nonetheless, due to overlain ground conditions and areas of recorded subsidence, breaklines and fissures, it is recommended that in order to cater for any minor future ground movements, a raft style of foundation is adopted. In terms of the potential for asbestos further testing has been carried out. Of the additional samples of topsoil/made ground tested, no asbestos fibres were recorded such that it is recommended that, for a remedial scheme, the topsoil/made ground in the vicinity of the borehole recording its presence, in the northern field, is excavated and removed from site.

## **Planning History**

- |             |  |
|-------------|--|
| 9/2018/0712 | Variation/removal of conditions 3, 6 and 29 of outline permission ref. 9/2015/1063 – Pending.  |
| 9/2015/1063 | Outline application for the erection of up to 70 dwellings with associated public open space, sustainable drainage and landscaping – Approved March 2016.  |
| 9/2015/0496 | Outline application for the erection of up to 60 dwellings with associated public open space, sustainable drainage and landscaping – Refused October 2015 with an appeal lodged but later withdrawn. |

## **Responses to Consultations**

At the time of writing the report amended plans are subject to reconsultation. Any further responses received will be reported verbally at the meeting.

The County Highway Authority has no objection to the proposed access and layout, with conditions requested in respect of securing the main access and visibility splays, provision of a site compound and the position of gates.

The Police Designing Out Crime Officer initially raised some concern that the layout presented promotes a central public footpath which would generally be out of view, along the rear or side of garden boundaries to a number of plots. It was considered that there would be overlooked, lit and more convenient alternatives in either direction, so safer in principle. It was recommended this was removed from the proposals. It was also noted there were some well treated key and corner plots, but others not so well treated, whilst detail of fencing and gates to rear gardens was lacking – it instead assumed that all would be 1.8m close boarded fencing, with each plot having its own individual secure garden gate, and specifically that shared access provision for plots secures the route at an early point. Following amendments, the main matter regarding the central footpath remains, although better overlooked than before. It is still, in their view, not needed for convenient and safe circulation, with central sections not in direct view and unlit. However, on the assumption that there are overriding matters to retain the link, the route should be added to the lit areas and a buffer provided for the adjacent plots which don't have the benefit of the retained hedge.

Peak and Northern Footpaths notes the proposal seems to be well thought out with respect to public walking access and existing public rights of way.

The National Forest Company (NFC) notes that the scheme appears to be proposing to accommodate all of the required planting on-site, but there is still a requirement for off-site planting to be undertaken by outline condition 29 and clarity over this point is sought. In addition, whilst the Landscaping and Biodiversity Enhancement Plan shows a good amount of open space to the site frontage, the design of this needs further thought – there being little to encourage public access particularly to the south of the access road, whilst the fenced-off square Locally Equipped Area for Play (LEAP) being far from the houses is unsuitable. Play should be encouraged throughout the wider open space and set amongst landscaping. It was also noted that the tree stock size should be increased to create more of an impact, with the lime trees at the entrance increased to semi-mature trees and the avenue field maples also increased. Further commentary on the location and suitability of tree species around the site is given, whilst further details of on-plot planting should be requested.

## **Responses to Publicity**

As noted above, at the time of writing the report amended plans and information are open to comment. Any further responses received within the reconsultation period will be reported verbally at the meeting.

Overseal Parish Council notes that the proposals should include more bungalows and is concerned about the designs of the buildings and of the development as a whole, noting National Forest guidelines. The Parish Council would like to see that the design reflects local vernacular architecture and uses locally sourced and sustainable materials as much as possible.

1 objection has been received, raising the following concerns/comments:

- a) Overseal is a small village and a new housing estate of 70 homes would overwhelm it;
- b) the site is part of the National Forest and greenbelt;
- c) extra traffic and pollution on the already congested A444;
- d) recorded accidents where the access is proposed;
- e) the site is used by residents and tourists for recreation and the development would compromise these;
- f) impact on the River Mease which is currently failing environmental targets;
- g) primary school is oversubscribed and aging;
- h) doctor's surgery is at capacity;
- i) loss of privacy to bungalows on Acresford Road;
- j) the land should be checked for archaeological/treasure finds;
- k) pedestrian access to the village is over unmade public footpaths, one of which passes through a farmyard, another passing over a private drive with limited visibility at the access; and are unsafe and unsuitable for families with children, older people and people with disabilities;
- l) loss of privacy to occupiers of dwellings adjacent to existing footpaths;

- m) increased maintenance requirements for owners of the land upon which the footpaths pass; and
- n) the existing footway on Acresford Road should be joined to the proposed access into the site from this route.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), H20 (Housing Balance), H21 (Affordable Housing), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF6 (Community Facilities), INF7 (Green Infrastructure), INF8 (The National Forest) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations), 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 principle of development of this site is established under the outline permission, with the site also allocated under policy H23E in the LP2 and drawn within the settlement confines for Overseal (policy SDT1). Matters relating to the impact on local services and facilities, highway capacity, ecology, flood risk and drainage have all been previously considered acceptable, subject to conditions and/or obligations.

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

- The proposed vehicular and pedestrian accesses;
- The layout and landscaping of the site; and
- The scale and appearance of the dwellings.

## **Planning Assessment**

### The proposed vehicular and pedestrian accesses

The access would be sited as shown on the indicative masterplan, centrally along the western boundary of the site with the A444. The applicant has confirmed an

intention to provide a footway along the western side of Acresford Road, connecting this access with the existing footway outside number 11. A further link to the footpath through the POS would also be provided in the north-western corner of the southern field, providing an alternative and more direct route for residents and walkers. South of the proposed access, the existing verge would be retained – protecting the rural character of this gateway part of the village. Adequate visibility can be achieved, as established at the outline stage, and the County Highway Authority raises no objection subject to the provision of this access as shown and maintenance of visibility splays.

Further pedestrian access would be afforded along the northern and eastern edges of the site, connecting to footpaths 24 and 26 respectively and providing natural connections from proposed estate roads to these leisure routes. Peak and Northern Footpaths welcome these opportunities whilst measures to prevent vehicular access can be detailed under condition.

### The layout and landscaping of the site

The layout of the site differs from the approved illustrative masterplan which accompanied the outline application. The reasons for this are explained in the above Item such that deviation from that masterplan is considered necessary. Notwithstanding this change, the proposed layout still retains the key principles which were sought under the outline proposals, and arguably now present a betterment in so far as maintaining the green gateway into the village – the proposed built form being set well back from the Acresford Road frontage with the access leading the eye through a wide green space made up of POS, SuDS and National Forest planting. The spacing to The Shrubbery is also maintained with the built form proximate to a small wooded block at its rear as opposed to the main house or its gardens. A smaller buffer of POS is still maintained along this boundary however.

The positioning of the dwellings and access road in the southern field also maintains a view across the site, and from within it, towards the listed buildings on Acresford Road. The Conservation Officer considers this retained view positive, as is the open space towards the south of the site which leaves more of an open aspect. Whilst lighting is proposed along the entrance roadway, this is limited in number and there is already evidence of street lighting within the immediate vicinity of the listed buildings. The approach to landscaping of the POS and National Forest planting areas is also positive, with the open character of land to the south of The Shrubbery echoed by a feature Oak and other smaller specimens in the POS. Whilst the position of the LEAP is not presently shown, this having been removed for the time being given the need to provide a more ‘organic’ or linear form of provision through the POS and so to protect the view towards the listed buildings; this can be deferred through a condition.

Boundary treatments facing onto the public realm would be of high quality, with brick boundary walls to rear gardens, metal estate fencing to the principal vista when entering the site and timber post and rail to delineate footpath 24 along the northern boundary. The central footpath alongside the existing hedgerow dividing the two fields would be framed by that hedgerow on the southern side, and a margin of on-plot landscaping before brick boundary walls between active elevations of properties

on the northern side. The hedgerow would be maintained at a relatively low height to enable properties to the south to also overlook this route. Whilst the comments of the Designing Out Crime Officer are noted, the hedgerow is of biodiversity value and needs to be placed in a public location to enable its proper maintenance and enhancement over time – a value which is often lost when such features are enclosed between rear gardens and/or conveyed to individual properties. The need to light this route is however noted and this can be conditioned.

It is noted that the western boundary of the northern field, with the existing properties on Acresford Road, would comprise the rear gardens to proposed dwellings. This differs slightly from the masterplan which indicated a landscaping buffer. This has been queried with the applicant who advises this would present a corridor of planting which would be difficult to access and maintain, and it would be preferable to place the planting within plots and ensure its maintenance through condition (or covenant). Ultimately, a Tree Preservation Order could be made on this belt if it were justified once the scheme has been implemented, but given on-plot landscaping proposals are not provided at this stage, it is already necessary to explore this matter further such that a condition is proposed.

The layout of the proposed dwellings achieves well surveilled and strong frontages to routes through the site, and to key views into it. Corner properties are treated so to have dual aspects, whilst the orientation of properties ensures occupiers of the development would benefit from suitable levels of privacy. The layout is influenced by the findings of the site investigations but it is not compromised by it – a natural ‘flow’ in terms of the setting out of plots being achieved. Generally, the density is lower in the southern field reflecting the need to soften the urban form as it leads towards the countryside, whereas the density increases towards the central part of the northern field and to the north-east corner. Existing properties surrounding the site would also benefit from suitable levels of privacy with the distances set out in the SPD achieved in all cases – including Cedar Cottage to the north of footpath 24. Suitable parking provision for each property would be provided in line with the SPD.

#### The scale and appearance of the dwellings

The majority of dwellings would be two-storey in form, with some forward projecting gables of traditional width and appearance. A strong ‘arc’ of properties across the entrance vista is also proposed, set behind approach tree planting and estate fencing. A similarly strong framing of the proposed estate streets is also achieved whilst opportunity has been taken to secure a greening of these streets wherever possible, with street trees and grassed service margins over paved alternatives.

Materials would be from a traditional palette of red and red-brown bricks with predominantly slate grey rooftiles to traditional proportions. Traditional eaves and verge detailing would also feature, although conditions are necessary to secure the finer details and protect this character going forward. Private and shared driveways and parking bays would be finished in a mixture of block paving to enhance the quality of the finish.

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 hereby permitted shall be carried out in accordance with the following plans and drawings:

- Layouts: the site layout plan ref. 34H and the materials layout plan ref. 33J;
- Landscaping: the Landscape and Biodiversity Plan ref. 8241-L-01 Rev H and 8241-L-02 Rev H;
- Housetypes: 1B-532 R (Dwg No. 17A), 2B-654 R (Dwg No. 18A), 2B-725 SO Variant A (Dwg No. 19A), 2B-725 SO Variant B (Dwg No. 38A), 3B-868 SO (Dwg No. 21A), 3B-910 R (Dwg No. 23B), H-3-1004 Compton (Dwg No. 25A), H-3-868 Jasmine (Dwg No. 22A), H-3-950 Briar (Dwg No. 24A), H-4-1238 Blackthorn (Variant A) (Dwg No. 39), H-4-1238 Blackthorn (Variant B) (Dwg No. 26A), H-4-1352 Rosehip (Dwg No. 27A), H-4-1395 Pearwood (Plots 7 and 52) (Dwg No. 36), H-4-1395 Pearwood (Dwg No. 28A), H-4-1498 Belle (Dwg No. 29A), H-4-1559 Goddard (Dwg No. 30), H-4-1622 Blackwell (Plot 57) (Dwg No. 31A), H-4-1622 Blackwell (Plot 57) (Dwg No. 37A) and H-4-1810 Camberwell (Dwg No. 32 Rev A);

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.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no further boundary treatments shall be erected forward of any walls, fences or other means of enclosure which are exposed to a highway, footpath, shared courtyard or driveway or public open space/forest planting.

Reason: In the interests of overall design, in order to maintain the character of green and public spaces as secured under the plans hereby approved.

3. Notwithstanding the approved plans, prior to their incorporation into the buildings hereby permitted details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- a. colour of fascia boards and mortar for verges;
- b. eaves, verges, string/dentil course and window/door reveal details;
- c. porch canopies (which shall utilise traditional materials for tiled appearance porches); and

d. utility cupboard colours (both wall and ground mounted).

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

Reason: In the visual interest of the buildings and local distinctiveness, and so to ensure this character is retained throughout the lifetime of the development.

4. There shall be no gates or other barriers within 5m of the nearside highway boundary (proposed highway boundary) at any of the private driveways or vehicular accesses within the site. Any gates beyond 5m from the highway boundary (proposed highway boundary) shall open inwards only.

Reason: In the interests of safety on the public highway.

5. Prior to any works to construct a building or road within the site commencing, the new vehicular and pedestrian access to Acresford Road shall be constructed. The junction shall be laid out in accordance with plans first submitted to and approved in writing by the Local Planning Authority, constructed to base level, drained, lit, provided with white lining and signage and visibility sightlines of 103m in both directions measured to the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason: To ensure safe and suitable access for all users at an early stage of the development, in the interests of highway safety.

6. Prior to the first public use of footpath links within the site, details of the means to prevent vehicular use of these routes shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall then be implemented prior to first public use of the respective route(s) and thereafter maintained as such.

Reason: In the interests of pedestrian safety and to deter anti-social behaviour.

7. Prior to the first public use of footpath links within the site, revised details of the means to light the highways within the site shall be submitted and approved in writing by the Local Planning Authority. The revised details shall include lighting to the proposed footpath which runs alongside the existing hedgerow within the site. The approved lighting scheme shall then be implemented prior to first public use of the respective route and thereafter maintained as such.

Reason: In the interests of pedestrian safety and to deter anti-social behaviour.

8. Notwithstanding the approved plans, prior to the landscaping of public open spaces or the construction of a footpath through such areas, a revised Landscape and Biodiversity Plan (LBP) along with drawings and

specifications of the Locally Equipped Area for Play (LEAP) shall be submitted to and approved in writing by the Local Planning Authority. The revised LBP shall include the location and specification of dog waste bins and public benches. The approved details shall be implemented in accordance with the timescales as set out in the section 106 agreement relating to the development.

Reason: In order to be satisfied that the location and scope of play equipment is appropriate to its position on the site and so that the LBP reflects this location and scope, as well as wider public needs.

9. Notwithstanding the approved plans, prior to the first occupation of a dwelling details of on-plot landscaping along with a timetable for its implementation shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall ensure a landscaped tree buffer within the rear of plots 14-21 along with means to delineate this buffer from the main area of gardens to these plots and to ensure their long term retention between ownership of these plots. The approved landscaping scheme shall be implemented in accordance with the details approved.

Reason: In the interest of the visual setting of the development and the surrounding area, and to protect the amenities of existing properties adjoining the site.

Informatives:

- a. Highway surface water shall be disposed of via a positive, gravity fed system (i.e: not pumped) discharging to an approved point of outfall (e.g: existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.
- b. 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.
- c. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.
- d. Pursuant to Section 50 (Schedule 3) of the New Roads and Streetworks Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Director of Economy, Transport and



Environment at County Hall, Matlock (tel: 01629 533190 and ask for the New Roads and Streetworks Section).

- e. The developer is advised that in order to satisfy the requirements of conditions 7, 8 and 9, lighting along the central footpath should be designed to light the route whilst minimising impacts of biodiversity (such that low level bollard lighting might be preferable), the northern margin of this footpath should be used to plant species which soften and/or climb the adjoining boundary walls, and the LEAP should be designed in a linear form to avoid views of the listed building and reflect the National Forest character.
- f. 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.
- g. The developer is strongly encouraged, as part of the delivery of properties on the site, to provide full fibre broadband connections (i.e. from streetside cabinet to the property). Further details of initiatives to support the provision of full fibre connections as part of broadband installation at the site can be obtained from Digital Derbyshire on [broadband@derbyshire.gov.uk](mailto:broadband@derbyshire.gov.uk) or 01629 538243.
- h. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

**Item**            **1.4**

**Ref. No.**        **9/2018/0887/FM**

**Applicant:**  
**Mr Andrew Moseley**  
**Daniel Hayes Farmhouse**  
**Pistern Hill**  
**Hartshorne**  
**Swadlincote**  
**DE11 7AX**

**Agent:**  
**Mr David Holford-Wright**  
**Roderick James Architects LLP**  
**15 New Street**  
**Salisbury**  
**SP1 2PH**

**Proposal:**    **CONVERSION OF EXISTING TIMBER FRAME BARN TO A  
DWELLING AT NUTWOOD UNNAMED ROAD LEADING TO ST  
BRIDES FARM STANTON BY BRIDGE DERBY**

**Ward:**           **Melbourne**

**Valid Date**    **17/08/2018**

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

The item is presented to Committee as the proposal does not strictly comply with the conversion policy set out in the Local Plan.

#### **Site Description**

The site and existing barn are set within a woodland clearing in the countryside. The site currently contains an existing barn with lean to covered storage / workshop. An existing access track exists through the woodland linking to Shepherds Lane to the north east.

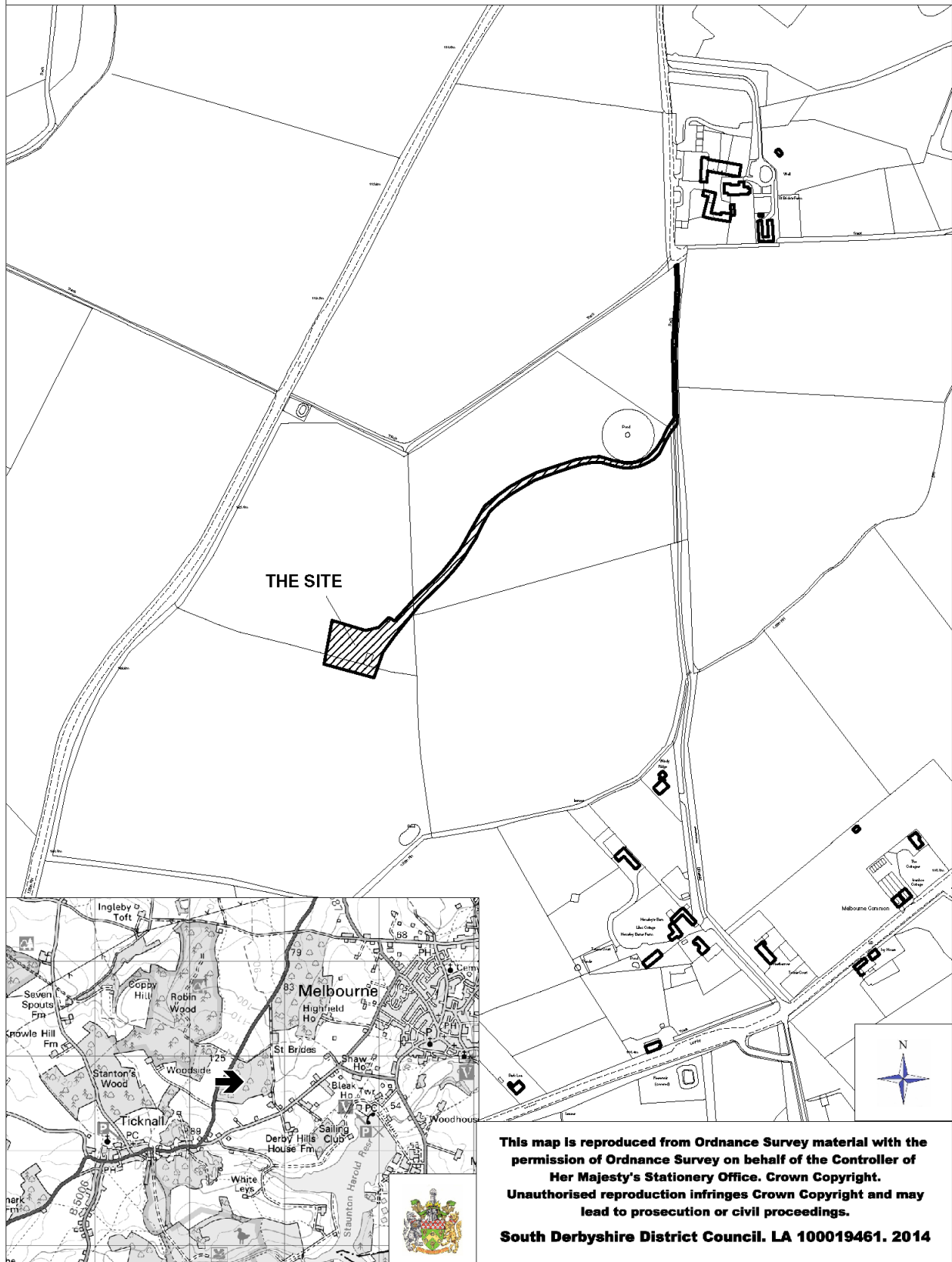
#### **Proposal**

Permission is sought to convert an existing timber framed agricultural / forestry building into a two bedroomed dwelling. A pond with reed beds is proposed to the rear of the building to be used as a foul water treatment plant, recycling waste. An embankment adjacent to the existing woodland planted with native forest clearing flowering plants and grasses is also proposed.

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

The Design and Access Statement states that the barn was constructed in 2008 and used in connection with a sheep rearing farming business. The barn is unused and the surrounding land has been amalgamated into a larger holding with the main base in Smisby. The planning history and pre-application advice is summarised. Detailed sections of the built out and roof increase are provided within the document. The

**9/2018/0887 - St Brides Farmhouse, Unnamed Road leading to St Brides Farm, Stanton by Bridge, Derby DE73 7NF**



works required and design approach are described and planning policies summarised.

The Structural Survey considers the building is of good quality construction, good timber, properly braced and in good condition. It considers that the structure could take the load of the proposed first floor. A new ground floor would require support from a new concrete slab.

## **Planning History**

9/2017/1046 - Prior approval for change of use of existing barn to a dwellinghouse (use class c3) along with associated operational development, Withdrawn 12/3/18

9/2014/0807      Prior notification for the creation of forestry roads – Prior Approval granted September 2014

9/2014/0741      Prior notification for the creation of forestry roads – Prior Approval granted September 2014

9/2014/0504      Prior approval for the change of use of a barn to a dwellinghouse and associated operational development – Refused July 2014 and dismissed at appeal July 2015

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

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

## **Responses to Consultations**

The Environment Agency has no comments on the basis that the applicant proposes a non-mains method for the disposal of foul drainage arising from the development. Whilst they have no objections to this arrangement from a planning perspective, the applicant may need to apply for an Environmental Permit and an informative is recommended.

The Highways Authority states that as the proposal is the same in highway terms to the application 9/2017/1046, the same comments apply to this proposal. The Inspector in the appeal for application 9/2014/0741 considered a safe and suitable access could be achieved and they do not therefore consider a highways objection would be sustained.

The Local Lead Flood Authority has no comments and refers to their standing advice.

The Environmental Health Officer has no comments

## **Responses to Publicity**

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

- a) The building has no connection for St Brides Farmhouse and the unnamed road is called Shepherds Lane. These details should be omitted.
- b) There is no reference to a tie on the property which is a forestry/agricultural building.
- c) Shepherd's Lane is unsuitable for vehicles.
- d) It is a second home for the family which is resident within 2 miles of the site.
- e) There are bats and barn owls in the area but no ecological survey has been submitted.
- f) There are concerns regarding existing damage to the access track and removal of trees together with possible future construction vehicles causing damage.
- g) The access track becomes impassable during wet periods and the only access would be from the southern end of Shepherds Lane which is not covered by this application.
- h) The access track is in a poor state of repair and should be upgraded.
- i) If the animal farm is approved 9/2018/0405 traffic would increase further.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1: S2, H1, SD1, BNE1, BNE3, INF2
- 2017 Local Plan Part 2: SDT1, H28, BNE7

## **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;
- Access; and
- Trees and Ecology;

## **Planning Assessment**

### Principle of Development

The site is located within the countryside and as such LP1 Policy H1 states that only development of limited infill and conversions of existing buildings will be acceptable within rural areas. The principle of conversion is therefore acceptable. LP2 Policy H28 deals specifically with residential conversions and states that they will be

permitted provided the building is of a permanent and substantial construction, suitable for conversion without extensive alteration, rebuilding and/or extension and constitutes the re-use of a suitable redundant or disused building. All conversion should result in an enhancement of the building's immediate setting.

A structural report has been submitted with the application considers the existing building to be suitable for the conversion proposed. The proposal to form a new first floor within the existing open area of the barn and to enclose it with a new timber framed wall is considered possible from a loading perspective. A new ground floor would need to be supported on a new concrete slab covering the footprint of the existing open area. This report has therefore evidenced sufficiently that the building is of permanent and substantial construction.

The conversion proposed includes four elements that require assessment to establish the extent they are acceptable in relation to the part of the H28 policy in relation to 'extensive alteration, rebuilding and/or extension'.

Firstly, the floor plans submitted indicate that in order to comply with Building Regulations a built out of 170mm from the exiting outer-face of timber frame is required. On the basis that the proposed built-out would not extend beyond the existing piers, it is considered acceptable.

Secondary, a roof increase of 150mm is proposed to accommodate additional insulation needed to meet Building Regulations. This is considered acceptable.

Thirdly, a new ground floor is required at the level of the existing open bays (440mm below the top of structural piers that support the timber posts) which would involve some surface scrape. This too is considered acceptable.

Thirdly, in terms of extensions, an existing lean-to extension to the rear would be re-built as a new seamed roof is required, amounting to an extension rather than a conversion. A small (0.6m<sup>2</sup>) extension to this lean-to is proposed in order to accommodate the stairs to the first floor. This extension is not considered to be extensive and is thus acceptable.

All these elements together were not considered to be in complete compliance with the Policy H28, however, they are considered acceptable, resulting in a conversion of a suitable redundant or disused building that is not in the round considered to be 'extensive' alteration, rebuilding and extension.

### Access

The access to the proposed dwelling was discussed within the appeal decision for prior approval 9/2014/0741 and it stated that access A in the southern corner of the triangular field would be the preferred access for the site as it would involve using a smaller section of Shepherds Lane. This access has been accepted for Forestry and Agricultural use with the Inspector stating it provided adequate access in accordance with the NPPF.

On this basis the Highway Authority raises no objection, despite the access being less than ideal. Given the number of vehicular movements the use would attract, it is also not considered to pose a significant risk to other users of Shepherds Lane, despite the concerns raised. With this in mind, it is considered a safe and suitable access exists, in line with policy INF2 and paragraph 108 of the NPPF.

### Trees and Ecology

The site is located within a clearing within a wood. The proposal would not result in the loss of any trees as the land to the rear is open. The pond with reed beds would create a sustainable foul water treatment plant together with an embankment planted with native forest clearing plants that would improve biodiversity. Whilst, it is acknowledged that the curtilage of the proposed property is somewhat large, the majority is taken up by the pond and embankment which have the identified benefits. The proposal is also located within a wood and as such would not have a significant visual impact on the surrounding landscape. Removal of permitted development rights would prevent any further extensions and buildings within this area.

The building is such that it was considered that there was unlikely to have potential for roosting of bats or birds and as such an ecology survey was not considered necessary. The proposal is thus considered to accord with LPP1 Policies BNE3 and BNE7.

The site falls within Flood Zone 1 and is not known to be subject to surface water flooding. Surface water volumes from the development would not materially change under a dwellinghouse use. The proposal is in accordance with policy SD2 and paragraph 163 of the NPPF.

The proposed reed beds would be part of the foul water treatment plant that would recycle foul waste before redistributing into the reed beds with a field soakaway for dispersing pond overflow and storm water. The Environment Agency has no objection to this approach.

To conclude, whilst the proposal is not in complete compliance with the conversion policy H28, it would result in the conversion of an existing building that is considered to be within the limits of acceptability. Suitable access and parking is proposed. The proposal would not result in a significant impact on the surrounding woodland and includes benefits in terms of sustainable drainage and biodiversity.

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

### **Recommendation**

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

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

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

2. The development hereby permitted shall be carried out in accordance with drawing ref's MOSELEY/1/SLP Rev A received on the 17th August 2018 and MOSELEY/1/PL01 Rev B, MOSELEY/1/BP Rev B, MOSELEY/1/PL07 Rev A, MOSELEY/1/PL08 Rev A, MOSELEY/1/PL06 Rev C, MOSELEY/1/PL05 Rev C, MOSELEY/1/PL09, MOSELEY/1/PL10 and MOSELEY/1/PL11 received on the 24th October 2018, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. The development hereby approved shall relate solely to the conversion of the existing buildings. The existing timber building shall be retained and altered and extended replacing the lean-to in so far as shown on the approved plans.

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

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

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

5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwelling(s) to which they serve is/are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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



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

Reason: To maintain control in the interest of the character and amenity of the area, having regard to the setting.

7. The dwelling shall be constructed and fitted out so that the estimated consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day, consistent with the Optional Standard as set out in G2 of Part G of the Building Regulations (2015). The developer must inform the building control body that this optional requirement applies.

Reason: To ensure that future water resource needs, wastewater treatment and drainage infrastructure are managed effectively, so to satisfy the requirements of policy SD3 of the Local Plan.

Informatives:

- a. The LLFA requires that site surface water drainage is designed in line with DEFRA's Non statutory technical standards for SuDS, including restricting developed discharge of surface water to greenfield runoff rates, making suitable allowances for climate change (in line with the latest guidance from the Environment Agency) and urban creep (allowance of 10%), managing surface water as close to the surface as possible and prioritising infiltration as a means of surface water disposal. There should be no increase in the current greenfield runoff rate and the LLFA require that this should be measured in l/s/ha for all proposed development sites. It should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed. The LLFA also strongly encourage that the developer should take into account designing drainage systems for exceedence working with the natural topography of the site, utilising natural mini sub-catchments.

**Item**            **1.5**

**Ref. No.**        **9/2018/0715/FH**

**Applicant:**  
**Mr & Mrs James & Hilary Coyle**  
**94 London Road**  
**Shardlow**  
**Derby**  
**DE72 2GP**

**Agent:**  
**Mark Pringle**  
**Making Plans Architecture**  
**Ivy Lodge**  
**5 Twyford Road**  
**Willington**  
**Derby**  
**DE65 6DE**

**Proposal:**    **THE ERECTION OF REPLACEMENT ENTRANCE GATES AT 94 LONDON ROAD SHARDLOW DERBY**

**Ward:**         **Aston**

**Valid Date**    **26/09/2018**

**Reason for committee determination**

The item is presented to Committee as the applicant is a member of the Council.

**Site Description**

The application property is a Grade II listed detached farmhouse built in 1726 with early and late 19<sup>th</sup> Century alterations. It is located within the key service village and conservation area of Shardlow. The host property faces London Road and is set back behind a stone wall that aligns with the edge of the pavement. The existing vehicular gates, which are the subject of the current application, are set back 7.6m from the edge of the existing pavement and as such there are minimal views when travelling in either direction along the street.

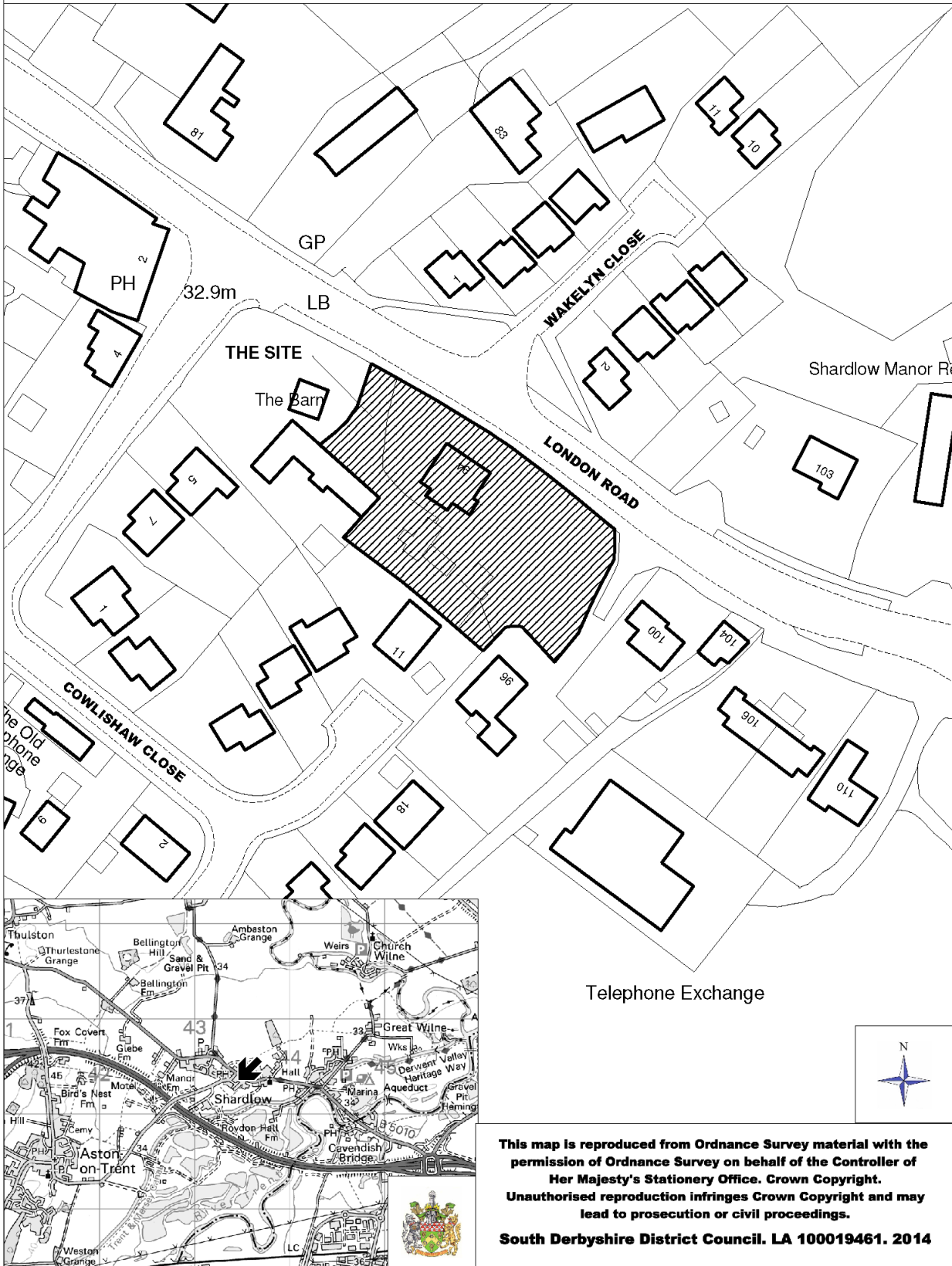
**Proposal**

The proposal is for the replacement of the existing timber entrance gates that provide vehicular access to and from the site onto London Road.

**Applicant's supporting information**

The existing gates cover the full width of the drive and consequently are very wide and heavy, so much so that they are beginning to drop and are difficult to open. The applicant would like to install narrower gates to avoid the same situation occurring again.

**9/2018/0715 - 94 London Road, Shardlow, Derby DE72 2GP**



The existing gates are motorised with the motors being underground which mean they are frequently flooded and are consequently damaged. One side is now damaged beyond repair. It is proposed to have the motors behind the timber panels on the garden side and above ground to avoid the flooding issue.

The gates would be constructed from Iroko timber and finished in a natural oil to show the wood. They would be of a simpler design and slightly shorter in height, to match the 2.4m height of the adjacent brick wall.

The supporting posts would be 120 x 120mm steel concealed behind the timber panels and would not be attached to the wall but instead bedded in concrete sunk within the drive and finished on top in gravel to match the drive.

The gates would remain in the same place which is set back from the road by over 7m allowing vehicles to turn in off the road whilst waiting for the gates to open.

No other parts of the house will be affected by this replacement.

### **Planning History**

There is an extensive planning history for the site and the following is the most relevant to the current proposal:

9/2001/0982/F – The installation of a pair of timber pedestrian access gates and a pair of automated driveway gates and side panel – approved with conditions on 4<sup>th</sup> December 2001.

### **Responses to Consultations**

The Conservation Officer has no objection to the replacement of the existing gates however, the proposed steel posts should be changed for timber. While these would be located behind the proposed gates and would not necessarily be visible from the public realm, they would still be visible from within the site and the setting of the listed building. It has been advised throughout that a timber finish is the most appropriate to respond to the site. Subject to this amendment, the replacement gates are considered to preserve the setting of the listed building and would be acceptable.

Amended plans were received on 24<sup>th</sup> October 2018 showing that the steel post would be clad in Iroko timber to match the new gates. The Conservation Officer has advised that this would be acceptable and there is sufficient detail on the amended plan to alleviate the need for conditions.

### **Responses to Publicity**

None have been received at the time of writing this report. The consultation period is due to expire on 02/11/18 and any objections/comments received will be reported verbally at committee.

## **Development Plan Policies**

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity & Environmental Quality), Policy SD2 (Flood Risk – B), Policy BNE1 (Design Excellence – A1 e) Local character and pride, h) Neighbouring uses and amenity and g) Visual attractiveness), Policy BNE2 (Heritage Assets – A(i) Conservation Areas, A(iii) Listed Buildings), Policy INF2 (A(i)(a))
- 2017 Local Plan Part 2 (LP2): H27 (Residential extensions and other householder development), BNE10 (Heritage)

## **National Guidance**

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

## **Local Guidance**

- South Derbyshire Design Guide (SPD): November 2017 – Appendices A & G
- Shardlow Conservation Area Character Statement (CACS) – Adopted 2014

## **Planning Considerations**

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

- The impact on the setting of the Grade II listed Shardlow House;
- The impact on the character and appearance of the Shardlow conservation area;
- The impact on the living conditions of the adjoining properties and the general character and appearance of the area; and
- The impact on highway safety.

## **Planning Assessment**

### The impact on the setting of the Grade II listed Shardlow House

The existing timber vehicular gates are of no historic or architectural merit having gained planning approval in 2001 and their replacement would therefore be considered acceptable. The proposed gates would be simpler in form and would match the height of the adjacent wall which would preserve the setting of the principle listed building.

The proposal, as amended on 24/10/18, would therefore conform to the requirements of the NPPF and with Policy BNE2 of the LP1 and Policy BNE10 of the LP 2 in that the significance of the heritage asset (listed building) would not be harmed and the historic environment would be conserved.

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

There would not be a significant change to the appearance of the proposed gates, which are set back from the highway edge and the visual impact on the character and appearance of the conservation area and the street scene would be negligible.

The proposal, as amended on 24/10/18, would therefore conform to the requirements of the NPPF and with Policy BNE2 of the 2016 Adopted Local Plan Part 1 and Policy BNE10 of the 2017 Adopted Local Plan Part 2 in that the significance of the heritage asset (conservation area) would not be harmed and the historic environment would be conserved.

### The impact on the living conditions of the adjoining properties and the general character and appearance of the area

It should be noted that the proposed development would normally be considered permitted development however this right has been removed by virtue of condition A.1(d) of Class A of Part 2 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.

As such, there would be no impact on the surrounding neighbours and the impact on the general character of the area would be negligible.

### Other Policy Considerations

There would be no increased impact on highway safety as the proposed replacement gates would be in the same position as the existing ones. There is currently 7.6m clearance from the edge of the pavement to the gates location which enables safe and convenient access into and out of the site. The proposal would therefore conform to Policy INF2 of the LP1.

The proposal would conform to Policy SD1 of the LP1 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 PPG and with Policy S2 of the LP1 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. The development hereby permitted shall be carried out in accordance with drawing ref. J2293-12 Rev A, received on 24th October 2018, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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