

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

SECTION 1: Planning Applications

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

1. PLANNING APPLICATIONS

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

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

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

Item **1.1**

Ref. No. **9/2019/0419**

Valid Date **07/05/2019**

Applicant:
Bellway Homes (East Midlands)

Agent:
Mrs Georgina Doyle
Pegasus Planning Group
4 The Courtyard
Church Street
Lockington
DE74 2SL

Proposal: **APPROVAL OF RESERVED MATTERS FOR LAYOUT, SCALE, APPEARANCE AND LANDSCAPING OF OUTLINE PERMISSION REF. 9/2017/1293 ON LAND AT SK2430 7995 DERBY ROAD HILTON DERBY**

Ward: **HILTON**

Reason for committee determination

The item is presented to Committee at the request of Councillor Billings, as local concern has been expressed about a particular issue. It is also a major application subject to more than two objections.

Site Description

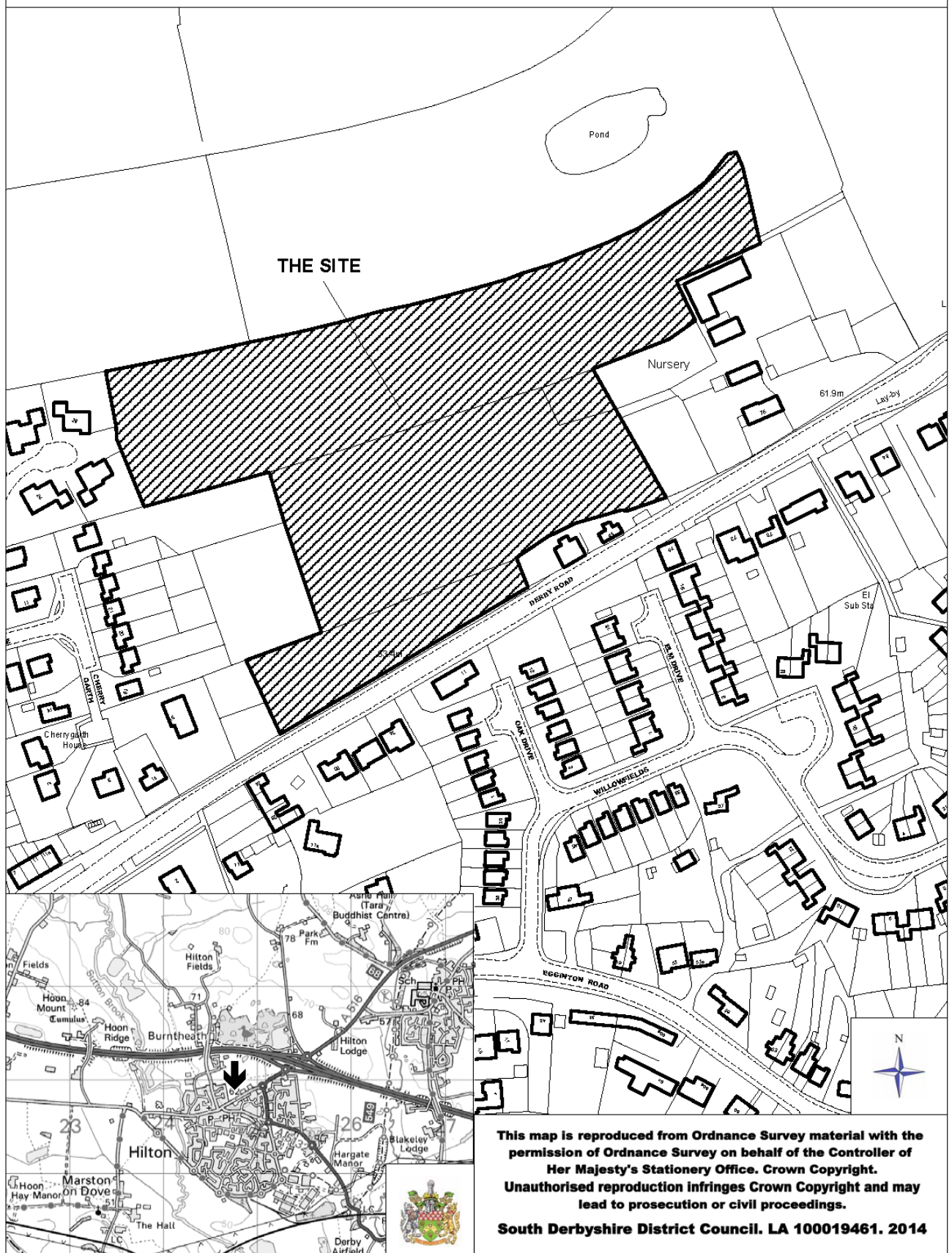
The site is situated at the northern edge of Hilton and extends to approximately 2.68 hectares. The land is subdivided into paddocks bounded by hedgerow. The site runs parallel to Derby Road, with this boundary enclosed by mature vegetation. The site steps around the rear of two properties (numbers 61 and 63) which also front Derby Road and around the Talbot Turf supplies site to the north-east, whilst the Little Stars Day Nursery is adjacent to the sites south western boundary. Predominantly however, to the south, east and west of the site is residential development of a varied character, whilst to the north there is agricultural land extending towards the A50 and the Hilton Industrial Estate.

A Public Right of Way (PRoW), Hilton Footpath 11, begins in the north-eastern corner of the site and travels towards the junction of the A5132 Derby Road and the A50. This PRoW however terminates at the site boundary. There is a TPO on a number of hedgerow trees around the perimeter of the site and just beyond it. The site is not subject to any other statutory or non-statutory designations.

Proposal

This application is seeking reserved matters approval for the appearance, landscaping, layout and scale of planning permission ref. 9/2017/1293, for 45 dwellings. The scheme proposes a mix of 3, 4 and 5 bedroomed detached properties, including 4 bungalows. Vehicular access, sited roughly halfway along the Derby Road boundary has been previously approved. To the west of the site access would be a row of outwardly facing properties, whilst immediately north would be an area of open space incorporating a balance pond, with dwellings orientated to have views over this feature. The adopted road would fork to the east and west, with properties fronting this either side of the carriageway. Three private drives would extend from the adopted road, one continuing to the north western corner of the site, serving four outwardly facing properties, one to the north eastern extent of the site serving two dwellings, positioned to oversee the area of open space and footpath within the northern corner of the site and the final one to serve five dwellings, which would face towards the balance pond. The development proposes to retain the majority of perimeter hedgerows and

9/2019/0419 - Land at SK 2430 7995, Derby Road, Hilton, Derby DE65 5FP



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trees on the site, but the internal hedgerow, which dissects the site horizontally, would be removed. The dwellings have been characterised by traditional details such as tile creasing cills and brick heads combined with fascia and soffits eaves details and the window and door styles are a cottage style to pick up on vernacular references.

Applicant's supporting information

The Design Compliance Statement provides a brief explanation of the minor deviations and enhancements to the outline scheme which, it is stated will result in a development that is not substantially different in scale and nature from the scheme identified on the original illustrative Masterplan. The document continues that a full site analysis and study of the surrounding context has previously been included in the Design and Access Statement submitted with the Outline. The document includes sections on appearance, movement, access and connectivity, bicycle and car parking, ecology, arboriculture and flood risk and drainage.

The Outline Design and Access Statement (DAS) has been resubmitted in support of this application. This analyses the site constraints and opportunities and outlines the broad development principles. In arriving at a design solution for the site, it is explained how the physical, social and economic context has been influential. The DAS further confirms the applicant's commitment to the delivery of a high quality development which is sensitive to the local context and that the development seeks to make the most efficient use of land that is appropriate to the nature and setting of the site, whilst the layout and design of the scheme would be such that it supports crime prevention and community safety, with development overlooking public spaces and streets.

Planning History

9/2017/1293 Outline application (all matters except for access to be reserved) for the residential development of up to 45 dwellings together with open space and landscaping. Approved 21/12/18

Responses to Consultations

The County Highway Authority originally commented that the layout was acceptable in highway terms, but requested additional details of refuse vehicle tracking. This detail has been provided and no further comments have been raised.

The Strategic Housing Officer has confirmed that a committed sum for affordable housing has already been agreed for this site and on this basis has no objection.

The Police Designing Out Crime Officer has commented that the proposed definition of private curtilage for plot 45 is not adequate and should be defined by a buffer, possibly a hedge or mid height fence and that a ground floor window or door should be added to side elevations adjacent to parking areas. The plans have subsequently been amended to address these comments.

Responses to Publicity

Hilton Parish Council has objected on the following grounds:

- a. Noise – it is stated that the most northerly edge of the development would be 500 – 600 m from the A50. It is noted that a noise assessment submitted in support of a nearby development site identified that noise readings were well in excess of the minimum level for amenity areas of 55dB. It is stated that adjacent to this development readings have been taken in excess of 60dB. A noise assessment should be undertaken to ensure that the development fully complies with the noise regulations for external and internal areas.

- b. The highways report which is the underpinning document for the site access plan does not contain speed survey data. It assumes that the 85th percentile speed is below 41mph. A traffic survey undertaken on behalf of Hilton PC demonstrated that the 85th percentile speed exceeded 41mph. This would suggest that the assertion about the 65m safe visibility distance is unsafe.
- c. The pedestrian crossing shown on the original plan was opposite 13 Derby Road. This is too close to the bus stop zone and conflicts with the highway regulations. This application does not resolve this. Additionally the entry point to the crossing from the east side is a blind spot and is a dangerous position to cross the road – this is especially the case given the known speeding problems. Whilst a crossing point is essential, this must be sited in a safe location.
- d. The proposal would conflict with various proposed policies in the emerging Neighbourhood Plan, including that there would be an inadequate number of bungalows, there would be inadequate suitable parking provision, the parking layout may make the development unsafe for bin lorries and emergency vehicles. Concerns over the locations for bin storage, it should be mandatory that full fibre broadband is installed.

Four letters of representation have been received, raising the following issues:

- a) The application is not specific enough in terms of boundary treatment and retaining hedgerows.
- b) The tree retention plan fails to show all TPO protected trees.
- c) The application does not provide any evidence that that the proposed location of the pond will not increase the surface water flooding on nearby sites.
- d) The proposed bungalow at plot 19 is too close to the shared boundary.
- e) The land level falls adjacent to plot 19 and owing to this the proposed dwelling will completely dominant the existing property.
- f) The dwellings proposed will cause a loss of outlook.
- g) The planning of the dwellings has not been sympathetic to surrounding properties.
- h) There appears to be lots of green spaces around the development, but there is no green buffer between certain dwellings.
- i) The proposal would result in overshadowing and loss of privacy.
- j) Some of the plots need to be re-sited to ensure they are in line with the outline planning consent.
- k) It is understood that there is a planning condition that the 2 bungalows would be away from the boundaries of existing properties.
- l) There is concern that the private driveway forms part of the land being sold to Bellway and that associated access rights will also be transferred as part of the sale.
- m) Concerns over the maintenance of the private drive and the potential for increased dust during the summer months.
- n) Concerns over the environmental impact associated with the increase in the volumes of traffic.
- o) Could a dust mitigation strategy be submitted for approval to cover preparatory works?
- p) Concerns over potential conflicts between users of the private access drive and vehicles and that the 5mph speed limit will not be complied with.
- q) A request that there be no site buildings or materials storage next to the boundary with residential properties.
- r) When the top soil is stripped, there needs to be consideration of surface water runoff implications and consideration needs to be given to the control of run-off and details should be submitted and approved.
- s) Details of temporary fencing are required.
- t) Security concerns, what type of permanent fencing has been proposed?
- u) Welbrook medical practice will not be able to cope with new patients.
- v) John Port School is oversubscribed.
- w) There is not sufficient infrastructure for the development.
- x) There is more than enough housing in Hilton.

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), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF7 (Green Infrastructure) and INF9 (Open Space, Sport and Recreation).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H23 (Non-Strategic Housing Allocations) and BNE7 (Trees, Woodland and Hedgerows)

Emerging Policies

Hilton Parish Council made an application for designation of the area comprising the Parishes of Hilton, Marston on Dove and Hoon as a Neighbourhood Area for the purpose of preparing a Neighbourhood Development Plan (NDP). The area was designated on 6th March 2019.

National Guidance

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

Local Guidance

Design Guide Supplementary Planning Document (SPD)

Planning Considerations

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

- Layout
- Scale and Appearance,
- Landscaping ; and
- Other Issues

Planning Assessment

Layout

Policy BNE1 expects new development to be well designed, visually attractive and appropriate having regard to existing characteristics. The principles underpinning this policy are expanded upon within the South Derbyshire Design SPD. The NPPF highlights that good design is a key aspect of sustainable development and that new development should respond to local character and be visually attractive.

Policy BNE4 also sets out that the character, local distinctiveness and quality of South Derbyshire's landscape will be protected and enhanced through the careful design and sensitive implementation of new development.

The proposed layout has been developed in consideration of the site constraints, with reference made to the siting of surrounding dwellings, the varying topography and the presence of vegetation, including protected trees. Adequate separation distances would be retained between the proposed and exiting dwellings, ensuring no materially harmful overbearing impacts or impacts in terms of overshadowing or privacy.

A green buffer would be retained around the majority of the perimeter of the site, thus reducing potential impacts of built development on the protected trees and established hedgerow whilst also providing a soft

buffer between the development and the open farmland to the north. The location of the attenuation pond has been specifically selected on the basis of the sites levels and hydrology. The layout would promote connectivity to the wider area through the proposed footpath link, which would meander through the open space within the north eastern corner of the site (before linking to public footpath No. 11) and through the green route, which would run parallel to the northern boundary of the site.

The individual dwellings would be set on spacious plots, with adequate separation distances retained and would follow a uniform building line. The layout would incorporate the principles of perimeter block development, whereby dwellings would address the street, thus providing active frontages and opportunities for natural surveillance and their private amenity space would be inward facing, to ensure security. To the perimeters of each parcel, dwellings would be orientated to ensure views over the adjacent areas of public amenity land and routes, and where properties occupy corner plots, they would be 'duel' fronted to ensure surveillance in both directions. Whilst the layout fails to provide a defined street hierarchy, house types would be evenly distributed throughout and legibility would be achieved through the principles of repetition and symmetry, in regards to the siting of specific house types, and through a change in materials for focal plots. Parking provision would be to the side of dwellings, preventing such from becoming a dominant feature of the streetscene and would be compatible with the guidance as set out in the design SPD in terms of its quantum and dimension. The layout would generally be in accordance with that shown on the indicative plan submitted with the outline however the proposed layout shows a slight change to the position of the bungalows. The two bungalows within the north western corner of the site have been turned through 45 degrees and their rear elevations would now face towards a parcel of amenity land to the south. This layout is considered preferable to that shown illustratively, where properties would have had direct views towards the rear elevations of existing dwellings. Furthermore, the proposed outlook for the bungalows towards open countryside would also be preferable for the future residents of these properties. The layout illustrates a scheme of relatively low density, being at around 19 dwellings per hectare. Given that the surrounding residential development is of low density, this approach would be in keeping with the existing character.

Overall the proposed layout would result in a legible, well connected and inviting development that would be complimentary to, and in keeping with the areas existing characteristics. In this regard the proposal would be consistent with the intentions of policies BNE1 and the Design Guide SPD and the overarching principles of the NPPF.

Scale and Appearance

Policy BNE1 requires development to be well designed, with more specific guidance on how this is to be achieved provided within the Design SPD.

The development would be predominantly two-storey in scale, with the exception of the four bungalows. This approach is reflective of the general height and scale of buildings within the surrounding context, and the existing site features. The bungalows would be located at sensitive boundaries to reduce potential overbearing impacts and would provide end stops to streets, thus not to interrupt the otherwise consistent ridge line.

In terms of their individual design, the dwellings take on a predominantly traditional appearance as a result of their specific architectural features and proposed materials.

The dwellings would appear well balanced and would have a symmetrical appearance resulting in an aesthetically pleasing form of development. Further detail have been secured including chimneys (on 12 plots) and rendered panels on key plots; decorative brick detailing, including brick string courses, a variety of header and cill finishes, ground floor bay windows and porches (of varying style) finished in high quality materials, all of which would add interest to the roofscape, aid legibility and provide focal points, and more generally a higher standard of design. Fenestration would be set within a reveal and would be of narrower proportion at first floor, as common within traditional forms of architecture. Where gardens face onto the

street they would be enclosed by curved brick walls either aligned with, or set back from the building line, to ensure such features would remain subservient and to allow space for soft landscaping, which would ensure a positive and strong framing of the street.

A pallet of two bricks has been proposed. These are traditional in their texture and colour and are considered to compliment and reinforce the character of the development whilst also being in keeping with the wider area.

In terms of scale and appearance the proposal is considered to accord with Policies BNE1 and the requirements of the outline consent, the aspirations of the Design Guide SPD and the principles of the NPPF.

Landscaping

Policy BNE1 seeks, amongst other objectives to ensure that new developments create places with locally inspired character that respond to their context and have regard to valued landscapes, townscape, and heritage characteristics. Landscape character and local distinctiveness considerations are further set out in policy BNE4, and Policy INF9 which seek to ensure both sufficient, and high quality green space and recreation facilities.

Condition 3 of the Outline application also contained various requirements for the reserved matters submission in terms of landscaping. These included the retention of a landscaped buffer along the northern edge of the site, the provision of a landscaping/tree led area of public open space within the north eastern corner of the site and that, as far as practical, existing trees and hedgerows be incorporated into public spaces and green infrastructure as opposite to being included within residential boundaries.

The landscaping details provided generally adhere to these requirements. The green corridor along the northern boundary of the site would be retained and enhanced, through the provision of additional planting. Within this area are a number of protected trees and the proposed layout has been developed to ensure that built development would not encroach within their root protection areas. Furthermore, this belt would not be conveyed to individual plots, and thus its retention would be ensured. The public open space would be comprehensively landscaped with native plants, reinforcing the areas green character, whilst also providing a natural amenity and ecological area. The landscaping plan does indicate that some native hedgerows would be removed to facilitate the proposal, this has however been restricted to internal hedgerows and so would have a lesser impact in terms of amenity value. Furthermore some of this loss would be compensated for through the additional planting provided elsewhere on the development. The landscape details also show the removal of vegetation along the sites western and southern boundaries. In these locations the vegetation would not be removed in its entirety, but would be cut back to reduce encroachment onto the adjacent plots.

The landscaping proposals are set out on a number of specific plans which form part of the submission. These plans have also been subject to amendment to secure additional planting. Additional tree planting has been proposed throughout the site, and to the perimeters of the development.

Where individual plots are adjacent to the highway, the intervening land would be subject to various landscape solutions; these would compromise of ornamental shrub planting, the planting of specimen trees, or grassed areas enclosed by hedgerow. Key plots however would be more heavily landscaped, combining a combination of landscaping solutions.

The proposed landscaping would serve to reinforce the areas 'green' character, whilst also softening the appearance of the built development.

Overall the proposed landscaping is considered to be an appropriate response to developing the site taking into account the existing natural features and the surrounding area and would ensure an attractive development is provided. In this regard the development is therefore considered to comply with the

requirements of policies BNE4 and INF9 of the Local Plan, the Councils Design SPD and the overarching principles of the NPPF.

Other Issues

Drainage

A Flood Risk Assessment (FRA) and Drainage strategy, and a sewer Capacity Assessment was provided in support of the Outline application. These reports ultimately concluded that the development would be acceptable in terms of flood risk and drainage issues. The LLFA considered the content of the referenced documents and was in agreement with their recommendations and conclusions. On this basis, conditions were suggested to ensure that the identified recommendations were secured and that the development would be drained in a sustainable manner, as advocated. The proposed layout has been developed to adhere with the identified drainage requirements and a suitably designed attenuation pond has been provided in the same location as suggested by the Outline application. The applicant is currently in the process of compiling the relevant documents to enable the applicable conditions on the Outline application to be discharged and has also provided a technical note from the appointed drainage engineer which confirms that the site drainage has been designed to provide sufficient capacity in accordance with conditions 18 and 19 of the Outline consent.

The following issues raised within representations have been previously considered as part of the Outline application (and have been addressed through planning obligations and conditions). These matters cannot therefore be readdressed through the reserved matters submission(s): site drainage, issues relating to dust during construction, environmental impacts associated with the increase in traffic volumes, details of temporary fencing, inadequacies in health care provision, inadequacies in education provision, inadequacies in the provision of general infrastructure, the overprovision of houses within Hilton.

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 drawings and plans listed in the Drawing Schedule received by the Local Planning Authority on the 3th July 2019 unless otherwise required by a 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. Rainwater gutters and all soil and downpipes shall have a black or dark grey finish.
Reason: In the interests of the appearance of the building(s), and the character of the area.
3. 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.
4. 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 and bay canopies (which shall utilise traditional materials for tiled appearance porches/bays); and
- d. utility cupboard colours (both wall and ground mounted).

Reason: 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.

5. No dwelling shall be occupied until the garages (as the case may be), parking and manoeuvring space has been provided within the curtilage of that property, or within a shared courtyard serving that property, in accordance with the approved plans. 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 garaging/parking/turning 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.

Informatives:

1. 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) 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 or by calling (01283) 228706.
2. 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 or 01629 538243.
3. The developer is encouraged to install a sprinkler system to reduce the risk of danger from fire to future occupants and property.
4. The developer is encouraged to install recharge points for electric vehicles to comply with the following criteria:
 - Residential: 1 charging per unit (dwellinghouse with dedicated parking) or 1 charging point

per 10 spaces (or part thereof) where individual units have shared or courtyard parking;

- Commercial/Retail: 1 charging point for every 10 parking spaces;
- Industrial: 1 charging point for every 10 parking spaces;

To prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development. Residential charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points should be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2 (or equivalent standard that may replace it). Measures should be taken to prevent subsequent occupiers of the premises from removing the charging points.

5. 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.

Item **1.2**

Ref. No. **9/2019/0583**

Valid Date **24/05/2019**

Applicant:

Mr Ben Golding
G. D. Golding Skip Hire

Agent:

Mr Neil Arbon
DPDS Consulting
3 Gleneagles House
Vernon Gate
Derby
DE1 1UP

Proposal: **THE ERECTION OF A LIGHT INDUSTRIAL AND STORAGE/DISTRIBUTION UNIT (USE CLASSES B1(C) AND B8) ON LAND AT SK2828 2357 THE CASTLE WAY WILLINGTON DERBY**

Ward: **WILLINGTON & FINDERN**

Reason for committee determination

This item is presented to Committee as the development could be contrary to Local Plan policy and other factors need to be considered.

Site Description

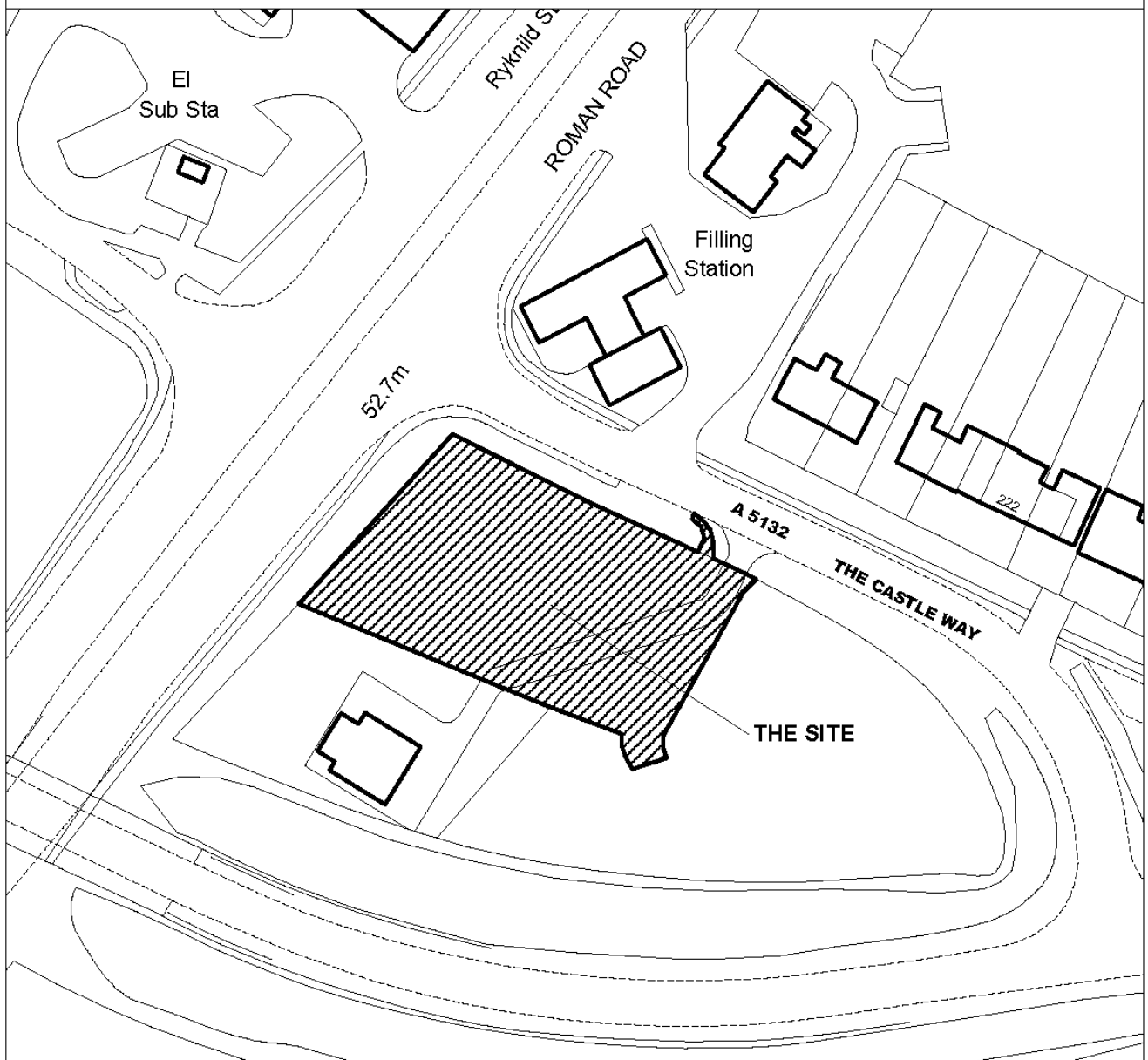
The site comprises a parcel of land of roughly 0.2ha forming part of a larger site contained within roads forming part of a grade separated junction to the A38 trunk road. The site in its entirety has been granted planning permission for skip storage and the development has been partially implemented, although the use is not fully operational. The A38 is a two-lane dual carriageway which runs directly alongside the western site boundary. The larger sites southern boundary abuts the raised section of the A5132 which crosses the trunk road. Access to the site is from the north, directly from The Castle Way which links to the on and off slip roads to the southbound carriageway of the A38. A mature belt of boundary landscaping encloses the wider site. Within the south eastern corner of the site is a pumping station, which would remain.

There is a counterpart site within a similar road arrangement on the opposite side of the A38, which contains a car sales operation. There are trunk road service facilities at both the off slips immediately north of this junction. The services on the east side have an exit onto The Castle Way. East from these there is frontage housing along the north-side of The Castle Way, which faces the site. These 1930s semi-detached houses pre-date the more recent changes to the road system. The large amount of traffic using the A38, and this junction, creates a relatively high volume of background noise within the area.

Proposal

The application proposes a single commercial unit subdivided into four units which would accommodate B1(c) (industrial process) and B8 (storage and distribution) uses. The building would be steel portal framed, with the flexibility for units to be combined. The overall footprint of the building would be 22m x 30m, with each proposed unit having a width of 7.5m. The total gross floor area would be 660 sq. m and the overall height of the building to the ridge would be 7.7m. Each unit would have a dedicated pedestrian access and separate vehicular/loading access through roller shutter doors to the front. The existing (and upgraded) vehicular access from The Castle Way would serve the proposal. The new access layout achieves visibility splays of 2.4m by 73m to the east and 2.4m by 52m to the west. The access gates are to be retained but are

9/2019/0583 - Land at SK2828 2357 The Castle Way, Willington, Derby DE65 6BW



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proposed to be open throughout operational days, to avoid restricting access. 12 parking spaces are proposed, plus a single disabled parking bay with spaces allocated to each unit.

It was originally proposed to improve pedestrian accessibility into the site, through the construction of a pedestrian footpath. However following an objection from the Highway Authority, this element has been omitted from the scheme. The landscaping scheme, which is currently being implemented on the site as part of the previously approved change of use of the land for skip storage is to be fully implemented and retained.

Applicant's supporting information

The Planning Statement provides an overview of the proposed development, the site and surrounding area, the planning history and the legislative and policy context before providing an assessment of the planning considerations and the planning balance and conclusion. The statement sets out that the proposal is for a speculative commercial development and that given the location of the site to the strategic highway network, the development would be attractive to a number of businesses. An assessment of the developments performance against the three dimensions of sustainable development is included. In relation to the economic dimension it is stated that the proposal could accommodate the sustainable expansion of existing local business or the start-up of new SMEs, in a suitable location closely connected to the public highway that would benefit the local economy and contribute towards the creation of between 9 and 13 jobs. In terms of the social dimension it is explained that the retained and enhanced boundary hedgerows would safeguard the amenity of the local community and that the economic benefits would have 'knock on' social benefits and that through creating and securing local jobs, the vibrancy and health of communities would be improved, and the quality of life of local families, secured. In terms of the environmental objective it is acknowledged that the site is not subject to any sensitive landscape designation and whilst it is 'countryside' it is surrounded by the highway network and lies within close proximity of other development and man-made features, which together result in the site depicting an urban character. On the basis of the sites proximity to the public highway, its lack of connectivity with agricultural land and the surrounding urban character, it is considered that the quality of the immediate landscape is significantly reduced. Finally it is confirmed that no waste or pollutants would be produced as a result of the development and that the natural environment would be protected.

The Transport Statement considers the following aspects: traffic impact, access layout, parking provision, accessibility and highway safety. The document identifies that the recently constructed access and visibility splays have been upgraded on the basis of the traffic speed surveys. In terms of trip generation, it is considered that the proposal is likely to create approximately 33 vehicle movements per weekday and that these trips would quickly disburse into the local highway network. A review of accessibility is provided, which identifies that the level of pedestrian, cyclist and public transport infrastructure and services available are moderate to low, but would be accessible within acceptable distances to the site. A review of the latest 5 years' worth of recorded road traffic accident data is also included, which identifies that there are no trends or patterns that would signalise that the proposed development would exacerbate any existing accident issues.

Planning History

9/179/62 – Erection of a bungalow and garage – Refused 19/04/1979 and dismissed on appeal 7/12/1979

9/1080/978 – Erection of a stable and tack room – Approved 19/12/1980

9/787/326 – Siting of a mobile home – Refused 24/09/1987

9/0390/1360 – Erection of a single storey building to provide a water supply booster station – Approved 11/05/1990

9/2013/0093 - The change of use of land to use as residential caravan site for 4 gypsy families, each with two caravans including no more than one static mobile home, together with laying of hardstanding, landscaped bunds and the erection of two amenity buildings – refused 08/05/2013 and dismissed at appeal on 30/06/2014

9/2015/0670 - Change of use to residential gypsy caravan site for 3 pitches along with erection of amenity buildings and acoustic fencing and creation of bunds and hardstanding - Refused 11/11/2015

9/2016/0479 - Change of use of vacant land to an area of hard standing for skip storage (Use Class B8) – Approved 30/11/16. A Planning Appeal was subsequently submitted to remove a condition limiting the development to temporary period of 24 months (APP/F1040/W/17/3167369). The appeal was subsequently allowed on 4 May 2017 and the condition therefore removed.

Responses to Consultations

Highways England originally suggested that the application be held in abeyance for a three month period to allow additional information to be provided. The further information requested included details regarding the potential physical implications of the proposal on the integrity of the highway and specifically that this should include any proposed boundary treatment works and a drainage plan for the development. The applicant has committed to providing this information, and following further discussions, Highways England has withdrawn its original objection and provided a conditional response.

The County Highway Authority originally objected to the proposal on the basis that a pedestrian crossing had been shown in the plans, which would encourage pedestrians to cross the road in an unsafe location. It was requested that this detail be removed. The plans have been amended to reflect this request.

Responses to Publicity

Willington Parish Council object to the application on grounds of the resultant increased traffic, causing highway concerns, particularly related to the access and egress of the site and also on grounds of increased noise.

One letter of representation has been received raising the following issues:

- a. What does Class B1(c) and B8 mean?
- b. Concerns in relation to the application consultation process.
- c. This was agricultural land and part of the Green Belt until plans were passed for the skip storage – but this consent was subject to conditions to prevent harm to residential amenity.
- d. The proposal would result in a loss of privacy.
- e. The local highway network is dangerous and the proposal fails to take this into account. The area is an accident waiting to happen.
- f. The proposal would result in noise pollution.
- g. Why do pedestrians need specific consideration on this busy stretch of road?
- h. The skip storage business has not been implemented as parts of the consent remain outstanding.
- i. The only boundary treatment erected is a security fence.
- j. What does trade effluent mean?
- k. Why is the end user unknown?
- l. Is the intention to either sell/rent the building should planning be accepted?
- m. The proposed use is not acceptable within this residential area.
- n. It is unacceptable that the employment and hours of opening are unknown.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), S6 (Sustainable Access), E2 (Other Industrial and Business Development), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF7 (Green Infrastructure)
- 2017 Local Plan Part 2 (LP2): BNE5 (Development in Rural Areas)

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

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

- Principle of Development
- Character, Appearance and Design
- Highway Safety
- Residential Amenity; and
- Other Issues

Planning Assessment

Principle of Development

At a strategic level policy S1 seeks to retain, promote and regenerate employment development on sites in urban areas and other locations which already are, or could be in the future, well served by infrastructure, including public transport and policy S5 identifies that provision across a range of sites; including allocations will be made for a minimum of 53ha net additional land for industrial and business development. More specifically policy E2 states that development for B1 and B8 uses will be permitted where the sites lies within or on the edge of the Swadlincote Urban Area, Derby, Burton upon Trent, or a Key or Local Service Village, where the proposal is for the expansion of an existing business, or would be for the redevelopment of established industrial or business land or premises. Policy E7 identifies that development proposals which diversify and expand the range of sustainable employment activities on land outside settlement boundaries will be supported, provided that they support the social and economic needs of the rural communities along with adhering to five criteria. Finally, policy BNE5 is supportive of development which is comparable with policy E7.

The application site is technically designated as countryside by virtue of it being situated outside the settlement boundary of Willington; however the site benefits from excellent access as a result of its proximity to the strategic highway network and is within an area of suburban character, formed by the range of uses/development within its vicinity. In terms of the development in principle, there would be a slight conflict with policy E2 (i), on grounds that the site is not on the edge of an Urban Settlement, or Key or Local Service Village (being too far from the settlement boundary). Notwithstanding this however, as a result of the site's connectivity, the urban areas would be easily accessible. The development would also not be compliant with E2 (ii), for whilst the application has been made by an existing business, as identified within the supporting documentation, the proposal would not cater for the expansion of such. Finally, although there is consent for a skip storage use on the site, this business could not be considered established and

neither does the application propose redevelopment of this use. Therefore the proposal would not conform with criterion (iii). Overall however, the general thrust of policy is supportive towards the principle of employment generating development in a wide range of locations and the proposal would contribute towards the identified need for industrial and business development.

Whilst the application is speculative, to address criterion (i) of Policy E7 a partial business case has been provided within the planning statement. This identifies that the applicants are a local company based in Burton on Trent who provide skip hire, waste disposal and recycling services to private and commercial customers. The case acknowledges that no end user has been identified, but that the building has inbuilt flexibility, with the possibility of the applicants accommodating it to further diversify their business, increase revenue and boost local employment. The site's position relative to the strategic highway network is also identified as a positive aspect of the proposal. In summary, it is suggested that the proposal could accommodate the sustainable expansion of an existing local business or the start-up of new SME in a suitable location closely connected to the highway, and that the applicants are willing to invest in order to benefit the economy and contribute towards the creation of between 9 -13 jobs local jobs (Employment Density Guide 2015- HCA). An overview of the social benefits are also identified including the creation of local jobs, which it is suggested will support strong, vibrant and healthy communities and secure a good quality of life.

On balance, as set out above, although there is some policy conflict, the level of harm in this case is considered minimal and on the basis of the site's position relative to the strategic highway network and the associated economic benefits, the development would, in principle be considered acceptable and the identified harm would thus be outweighed by those benefits.

Character, Appearance and Design

Policy BNE4 seeks to protect and enhance landscape character and local distinctiveness, Policy E7 (v) requires the development of new buildings to minimise visual intrusion and impacts on character. Policy BNE5 identifies that development acceptable in principle must not unduly impact on landscape character and quality and policy BNE1 expects new development to be well designed and embrace the principles of sustainable development.

Within the immediate vicinity of the site to the south west is a water pumping station and to the east is an area of hard surfacing, which serves the skip storage use. This development is situated on the larger parcel of land, which is also host to the application site. This land is dissected from the wider area by the strategic highway network, which surrounds its perimeter. Directly to the north, north east and northwest of this parcel are pockets of development comprising a range of uses. The existing development has resulted in the local area having an urbanised character. Further beyond, the area is rural and more open in character. The application proposes a portal framed building with shallow pitched roof situated within the north western corner of the site. This would have a maximum height of approximately 7.7m and its main openings would be restricted to its south eastern elevation. The building would have a functional and monotonous appearance. The areas character, and the form and design of the existing modern buildings have been heavily influenced by the highway infrastructure, which dominates and so have a functional appearance. As such, despite its uninspiring design, it could not be argued that the proposed building would result in a level of harm to the established character that would warrant refusal of the application on these grounds. In terms of appearance, although there may be some views of the building from the highway, such views would be limited and fleeting in nature. In addition, views would be further restricted by the enhanced landscaping currently being implemented under the skip storage consent.

Overall the building and proposed use of the site would be in keeping with this areas specific character and by virtue of the siting and design of the building and the presence of the mature boundary hedgerow and there would be no materially harmful impacts in terms of appearance. Whilst the design of the building would be simplistic and lacking in detail, it would be functional and would not appear incongruous within its setting and so would be compliant with the applicable policies.

Highway Safety

Policy E7 (iii) seeks to ensure that the local highway network is capable of accommodating traffic generated by the proposal and Policy IF2 requires that travel generated should have no undue detrimental impact on local amenity, highway safety, the efficiency of transport infrastructure or the efficiency and availability of public transport, that appropriate provision is made for safe and convenient access and that car travel generated by the development is minimised relative to the needs of the development.

The development would be served by the existing access which has recently been upgraded, as previously detailed within this report. The site layout illustrates 12 parking spaces, 1 disabled space and 3 visitor space and the layout is formed by a priority arrangement. The accompanying Transport Statement concludes that “the existing access arrangements, coupled with minor alterations to the access gates, and provision of pedestrian infrastructure are suitable to serve the proposed development”.

The Highway Authority originally raised concerns on grounds that the proposed footway and tactile paving would be likely to create a highway safety issue whereby pedestrians would believe it to be safe to cross the road; which would not be the case in this location. To address this concern, amended plans have been provided which omit these features. On this basis the Highway Authority raises no objection to the proposal. In terms of impacts on the strategic highway network, Highways England has confirmed that it does not consider that the development would result in any material traffic impact on the strategic network, but suggested that further details were required regarding the potential physical implications of the proposal on the integrity of the highway, with such information including proposed boundary treatment works and a drainage plan for the development. In response, whilst the agent has clarified that a document is being prepared to address the concerns raised, this will not be ready for submission for a number of weeks. On account of this there has been further dialogue with Highways England which has confirmed that it will withdraw its objection subject to the imposition of a pre-commencement condition requiring the submission of a drainage scheme to illustrate that there would be no adverse impacts on Highway England assets. A condition to this effect would therefore be imposed. In terms of boundary landscaping, all landscaping works would be internal and would not encroach onto the Highway England asset.

On the basis of the amended plans and the recommended condition, it is considered that the proposal would not result in any adverse impacts in terms of highway safety and so would be compliant with policy E7.

Residential Amenity

Policy BE1 seeks to ensure that new development does not have an undue adverse effect on the privacy and amenity of existing nearby occupiers.

The closest residential properties are those to the north east of the site, on the opposite side of The Castle Way. On the basis of the use applied for, and given the design and siting of the proposed building, there would be no materially harmful impacts caused in terms of privacy or overshadowing. The most likely impacts would relate to noise and disturbance. In terms of the local environment, background highway noise is a dominant factor and whilst the proposed uses may result in some additional noise, on account of the specific uses applied for and having regard to the intervening separation distances between the development and the existing dwellings, any associated noise would be minimal and would be unlikely to be audible against the existing background noise. In addition it is proposed that working hours are controlled by condition. The proposal is therefore considered compliant with Policy BE1.

Other Issues

Although the skip storage application has secured additional boundary landscaping which covers the entirety of the site, as this development forms a new, standalone proposal, to ensure the landscaping is delivered on this parcel, a condition should be imposed to secure such.

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 Drg Nos: 101 Rev B, C9881.PL.200, C9881.PL.120 Rev D unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Prior to their incorporation in to the building hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.
Reason: In the visual interest of the building(s) and the surrounding area.
4. Prior to the occupation of the unit a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the unit 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. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the buildings 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 phase 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.
6. No laying of services, creation of hard surfaces or erection of a building shall commence until a scheme for the drainage of surface water from the site has been submitted to and approved in writing by the Local Planning Authority in consultation with Highways England. The scheme shall be carried out in conformity with the approved details prior to the first use of the building served by the surface water drainage system.
Reason: In the interests minimising the likelihood of flooding incidents and damage to the environment, property or life.
7. Prior to the occupation of the building hereby permitted the parking and manoeuvring area shall be laid out in accordance with the approved plans and 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, such space shall be maintained throughout the life of the development free of any impediment to its designated use as such.
Reason: To ensure adequate parking and turning provision, in the interests of highway safety.

8. No items/materials/containers shall be stored at a height greater than 2 metres above current ground level.
Reason: In the interests of the visual amenities of the area and the openness of the land.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the building shall be used only for B1(c) and B8 use and for no other purpose whatsoever.
Reason: Only the approved use has been considered in establishing whether the proposal would have acceptable impacts in this location, and other uses would require further detailed consideration by the Local Planning Authority.
10. Any B8 operated from the building hereby approved shall not take place other than between 7.00am and 10pm Mondays to Fridays, and between 8.00am and 1pm on Saturdays, Sundays, public holidays and bank holidays.
Reason: To safeguard the amenities of nearby occupiers.

Informatives:

1. The applicant should note that in accordance with paragraph 50 of Circular 02/2013, no water run-off that may arise due to any change of use will be accepted into the highway drainage systems, and there shall be no new connections into those systems from third party development and drainage systems. Any change of use to the existing connections to the Highways drainage will be classed as a new connection and therefore will be refused in the first instance as stated within the aforementioned Circular.
2. 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) 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 or by calling (01283) 228706.
3. 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 or 01629 538243.

4. The developer is encouraged to install a sprinkler system to reduce the risk of danger from fire to future occupants and property.

5. The developer is encouraged to install recharge points for electric vehicles to comply with the following criteria:

- Residential: 1 charging per unit (dwellinghouse with dedicated parking) or 1 charging point per 10 spaces (or part thereof) where individual units have shared or courtyard parking;
- Commercial/Retail: 1 charging point for every 10 parking spaces;
- Industrial: 1 charging point for every 10 parking spaces;

To prepare for increased demand in future years, appropriate cable provision should be included in scheme design and development. Residential charging points should be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. Non-residential charging points should be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2 (or equivalent standard that may replace it). Measures should be taken to prevent subsequent occupiers of the premises from removing the charging points.

Item **1.3**

Ref. No. **9/2019/0260**

Valid Date **12/03/2019**

Applicant:
M Kranson

Agent:
Robert Turner
Turner & Co Consulting Ltd
First Floor Charity House
Duke Street
Tutbury
Burton Upon Trent
DE13 9NE

Proposal: **CHANGE OF USE FROM OFFICE (USE CLASS B1) TO SPORTS THERAPY (USE CLASS D1) AT EAST MIDLANDS CHAMBER GEORGE HOLMES BUSINESS CENTRE GEORGE HOLMES WAY SWADLINCOTE**

Ward: **SWADLINCOTE**

Reason for committee determination

The item is presented to Committee as the application does not comply with Local Plan policy E3 but the Committee needs to take into account other material considerations.

Site Description

The application site is located within the George Homes Business Centre, off Hearthcote Road and accessed from George Holmes Way. This area located in-between William Nadin Way and Hearthcote Road, one of the largest employment areas within the Swadlincote urban area.

The unit to which this application relates is two-storey and appears to have been constructed as an office unit to support the workshop units at the time the Business Centre was developed. The building was most recently occupied by the Derbyshire and Nottinghamshire Chamber of Commerce.

Proposal

The application proposes the change of use of this office unit (Use Class B1) in to sports therapy centre (Use Class D1). No external alterations are proposed to the building, with internal partitions proposed to facilitate the provision of a number of treatment rooms.

The proposed use would provide sports massage, reflexology hydrotherapy, nutritional therapy and various other associated therapies, massages and rehabilitation treatments.

Applicant's supporting information

A Planning Supporting Letter has been provided which poses two questions: Does the proposed change of use involve the introduction of a main town centre use as defined by the NPPF?; and Is there a material loss of an employment unit which would be harmful? A health and fitness centre is defined by the NPPF as a main town centre use – but the proposed sports therapy centre is not considered to be in any way similar to a health and fitness centre but is a medical use. As such the proposed use does not require a sequential test to support the principle of development.

**9/2019/0260 - East Midlands Chamber, George Holmes Business Centre,
George Holmes Way, Swadlincote DE11 9DF**



Policy E3 is set out in the letter and notes that the policy does not encourage B1(a) office uses in existing employment areas – but recites B1(b) and (c) as appropriate in employment areas. On this basis the existing use is already out of step with the aims of the policy. In addition, the letter notes that the existing building could under Schedule 2 Part 3 Class O of the GPDO 2015 (as amended) be converted from its current office use to a dwelling under the prior notification procedure and must be regarded as a rational fall-back position which is a material consideration.

A Letter from a Property Consultant outlines that they were instructed to find a new tenant for the premises in October 2018. Knowing the local market they highlight the difficulties in finding office tenants for such buildings noting the problems they have recently had in finding a tenant for a nearby office building considered to be in a better location (Oaktree Business Park) that remained vacant and unused for 12 months. The location of the site close to nearby industrial uses, and the availability of other preferable accommodation at locations such as Bretby Park are considered to be the reasons for the lack of interest in such a unit. The agent has received no enquiries regarding the building other than from the applicant and in their opinion a full marketing campaign would not have produced an office tenant for the building.

Planning History

9/0398/0987: Erection of 20 workshop units being phase 2 of the managed workspace at George Holmes Business Park - approved 30/04/1998.

Responses to Consultations

The Highway Authority has no objection to the proposed development. Whilst noting that no details of parking for the site has been provided, considering the approved use of the premises approval of the proposal would not have any significant impact on existing highway conditions.

The Senior Environmental Health Officer has no comments on the proposal.

Responses to Publicity

No representations have been received.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), E3 (Existing Employment Areas), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), and RTL1 (Retail Hierarchy).

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD.

Planning Considerations

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

- The principle of development; and
- Highway safety.

Planning Assessment

The principle of development

The application proposes the change of use of an existing business premises located within one of the largest of Swadlincote's employment areas. As such the requirements of Local Plan policy E3 are most relevant in assessing the principle of development. Noting that the Council accepts the argument put forward as part of the application that the proposed sports therapy use does not constitute a 'main town centre use' as defined within the NPPF, and as such the sequential test for retail and leisure uses does not apply (the need for such uses to be located within town or local centres unless no suitable sites are available).

Policy E3 states that:

Redevelopment or changes of use of existing industrial and business land and premises for uses other than B1(b), B1(c), B2 or B8 of the Use Classes Order will only be permitted where:

- i) the existing use is significantly harmful to the amenity of neighbouring land uses in terms of noise, vibration, visual qualities, air quality or traffic generation, and this cannot be satisfactorily overcome by other means; or*
- ii) it can be demonstrated that there is no demand for the use of the site or premises for Use Class B1, B2 and B8 purposes and that the development proposals would not unduly inhibit existing or planned neighbouring land uses.*

The proposal is for the change of use of an existing business premises and the use proposed does not fall within the uses allowed for by the policy. The requirements of parts i) and ii) of the policy are therefore engaged. The existing use of the building as an office within an employment area is not considered to be harmful to the amenity of neighbouring land for any of the reasons specified. So this leaves the requirements of part ii) of the policy, i.e. demonstrating that there is no demand for the use of the premises for B1, B2, and B8 purposes accepting that these uses would be unlikely to unduly inhibit existing or planned neighbouring land or uses.

The internal conflict within the policy and its external conflict with the NPPF is interesting here. Noting that the requirements of parts i) and ii) are engaged if the use proposed is not listed within the first part of the policy, but in order to demonstrate that a use outside of these uses is appropriate it needs to be demonstrated that a wider range of uses is not appropriate. This includes all of Use Class B1, which includes offices – a main town centre use (and the current use of the building) which should be located within the town or local centres rather than employment areas in accordance with the requirements of the NPPF. Notwithstanding this, in order to demonstrate that there is no long-term demand for such uses the applicant is required to proactively market the site for a minimum of 12 months, and provide a fully reasoned judgement from a professional estate agent as to whether such a site would be likely to be viable in the longer term, either in its present state or as a redevelopment site for alternative industrial or business uses.

The supporting letters do go some way to satisfying the requirements of the policy but they are lacking as a full 12 month proactive marketing campaign has not been undertaken, and no evidence has been provided to demonstrate that alternative appropriate uses (as required by policy E3) to the buildings permitted office use would be viable in the long-term such that the proposed change of use does not comply with the requirements of policy E3.

However, the proposed change of use is not one without its merits and would not see the building change out of a business use; i.e. people would be employed at the site and business rates would be payable. The use is considered compatible with the employment area which itself attracts visiting members of the public, and as a medical use there is no direct planning policy requirement for such uses to be located in a specific location within the urban area (or other appropriate settlements). So whilst on the strict interpretation and implementation of policy E3 the proposal does not comply, there would be no demonstrable harm resulting from the proposed use and as such that the application should be supported.

The argument advanced that the potential change of use of the premises under prior notification from its current office use to a dwelling are noted. However, due to the site's location within an area where any prospective occupiers would be likely to be impacted upon by noise from the nearby commercial premises and the likely need for this to be considered under the prior approval process (i.e. consideration of these impacts), the fall-back position advanced is given little weight without any such notification or prior approval.

Highways

Although no parking information is provided in support of the application, and no parking area proposed within the application site, it must be noted that there is a parking area for use by the estate directly adjacent to the building. Taking this in to account and the likely similarities between the existing and proposed use in terms of parking requirements and vehicle movements the proposal is would be unlikely to result in any significant impact on existing highway or parking conditions. The proposal is therefore considered to comply with the requirements of policy INF2.

Conclusion

Overall, the applicant has failed to demonstrate that there is no demand for the use of the premises for B1, B2 or B8 purposes and therefore the development is not compliant with policy E3. However, when considering the evidence provided and the fact that an employment use would prevail, it is considered that in this instance there are sufficient reasons to allow the development as proposed such that the benefits of the development outweigh the proposal's technical conflict with the development plan policy.

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

Recommendation

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 numbers DNC050319 P001 and P003, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the building shall be used only for the provision of Sports Therapy and for no other purpose in Class D1 of the schedule to that Order.

Reason: Only the approved use has been considered in establishing whether the proposal would have acceptable impacts in this location, and other uses would require further detailed consideration by the Local Planning Authority.

Item **1.4**

Ref. No. **9/2019/0358**

Valid Date **03/04/2019**

Applicant:
Mr & Mrs Lacey

Agent:
Aaron Morris
bi Design Architecture Ltd
79 High Street
Repton
Derby
DE65 6GF

Proposal: **THE ERECTION OF A REPLACEMENT DWELLING WITH DETACHED GARAGE AND ASSOCIATED WORKS AT 2 TOWER FARM SWARKESTONE ROAD WESTON ON TRENT DERBY**

Ward: **ASTON**

Reason for committee determination

This item is presented to Committee as the proposed development does not accord with the Councils Development Plan.

Site Description

The site is located outside of the village of Western on Trent with an existing access off Swarkestone Road. The site is fairly flat but its open nature is not fully appreciated from outside of the site as it is heavily screened by existing trees and vegetation to the front and sides of the site.

Proposal

Consent is sought for the demolition of the existing single storey dwelling and various outbuildings and the erection of a two storey replacement dwelling with a garage and associated works. The existing access is to be retained to serve the proposed dwelling.

Applicant's supporting information

Design and Access Statement and Further Justification

The principal of providing a replacement dwelling on the site would be acceptable as there will be no change of use. The replacement dwelling will achieve excellent energy performance standards, far and above the current dwelling. The proposal seeks to rejuvenate a site which is currently occupied by unsightly structures and unpleasing sprawl. The proposed dwelling is in keeping with the character and general scale of its surroundings.

The proposed dwelling has been designed to be a contemporary take on a traditional dwelling. As such, the plate widths are kept to a traditional value. This would ensure that the building exhibits some vernacular, it also means that the massing of the dwelling is kept down to a minimum. Using different plate widths also means that it has been possible to create a dwelling with subordinate sections.

The proposal conforms to the relevant planning policies which seek to promote good design to ensure the preservation and enhancement of the area. The proposal represents an opportunity for a high quality, low

9/2019/0358 - Tower Farm, 2 Swarkestone Road, Weston on Trent, Derby
DE72 2BU



environmental impact dwelling rather than a refurbishment/ extension to a poor quality and under insulated building. The proposal complies with the material planning considerations.

Ecology Report

No species of bats were recorded or observed within the site, it is the conclusion of this report, that the proposed redevelopment of the site would have no adverse effect on the favourable conservation status of any bat or protected species including barn owls.

The presence of bats within the immediate area is noted and it is considered these bats do not use the site for any purpose and there will be no loss of potential roosting sites, foraging sites or foraging corridors as a result of the proposed redevelopment. There would be no further surveys that would be required and no Mitigation strategies would be considered as being required.

Planning History

There is no relevant planning history.

Responses to Consultations

The Councils Environmental Health Officer has raised no objections to the application.

The County Highway Authority has raised no objections to the proposed development as an existing access would be utilised and this is considered to be acceptable. A condition should be attached that the parking and manoeuvring space shall be laid out prior to the first occupation of the dwelling and maintained for the lifetime of the development.

The Development Control Archaeologist initially had concerns that some of the existing buildings within the development footprint may relate to a WWII military camp which was known to have occupied this site in the 1940s. However, the applicant has subsequently provided additional map and photographic evidence which confirms that the buildings that are on the site now were erected post 1970. For this reason there have been no objections raised by the Development Control Archaeologist.

Following a site visit made by Derbyshire Wildlife Trust, it was noted that the buildings and structures on the site would not be considered suitable for the roosting of bats and overall, there would be unlikely to be any protected species issues arising from the application. Therefore, subject to the inclusion of conditions to protect and promote ecology at the site, there have been no objections raised by Derbyshire Wildlife Trust.

There have been no comments received from Severn Trent Water.

Responses to Publicity

There have been no representations received.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).

- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H24 (Replacement Dwellings in Rural Areas), BNE5 (Development in Rural Areas), BNE7 (Trees, Woodland and Hedgerows) and BNE10 (Heritage).

National Guidance

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

Local Guidance

- South Derbyshire Design Guide SPD

Planning Considerations

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

- Principle of Development;
- Siting of the proposed dwelling;
- Visual Impact and size and scale; and
- Impact on Amenity.

Planning Assessment

Principle of Development

The site is located outside of the designated settlement boundary for the village of Western on Trent and is located within the open countryside. Whilst isolated dwellings in the countryside are not usually permitted, there is scope under policy H24 of the Local Plan to demolish an existing dwelling in the countryside and erect a replacement dwelling in its place. This policy allows for the improvement of a dwelling for future occupation whilst making sure that there would be no increase in the number of dwellings in the countryside, or that the nature of the historic residential use at the site would not change.

There is an existing single storey residential property present at the site with outbuildings. The loss of this dwelling and the replacement with another, albeit larger dwelling would not result in an increase in the use of the land or alter the nature of the existing use at the site and in these respects; the proposed development would result in no material change. On the basis of this and in accordance with policy H24 of the Local Plan, the broad principle of the development is considered suitable.

Siting of the proposed dwelling

The proposed dwelling would be set further back into the site than the existing dwelling. Whilst it is acknowledged that this would not strictly accord with policy H24 of the Local Plan in that the proposed dwelling would not have substantially the same siting as the existing dwelling; it has been demonstrated by the applicant that the revised position of the proposed dwelling would not have a harmful visual impact.

The proposed dwelling would be positioned on the same footprint as an existing outbuilding. This outbuilding currently has a larger footprint than the existing dwelling. By positioning the proposed dwelling in the same place as the larger outbuilding as opposed to the dwelling, it is considered that this would create a lesser visual impact and less change within the site than proposing to move the bulk of the built form to a more open area of the site. By taking this approach, this would seek to reduce the overall visual impact of the proposed replacement dwelling. Therefore, the benefits that could be achieved by the alternative position of the proposed dwelling would be consistent with the principles of policy BNE1 and BNE4 of the Local Plan and would outweigh the deviation from the wording of the policy.

Visual Impact and size and scale

The proposed dwelling would be two storeys in height, in comparison to the existing dwelling which is single storey. The proposed dwelling would be similar in terms of the footprint and scale of the existing dwelling when extended within its full permitted development rights.

Whilst it is acknowledged that the proposed dwelling would be larger than the existing dwelling and would be positioned in a different location within the site than the existing dwelling, it is acknowledged that the requirements of siting and size in policy H24 are to ensure that the proposed replacement dwelling would not have a harmful impact in the countryside through additional visual intrusion. The proposed replacement dwelling would result in the demolition of existing outbuildings which give the site a sprawled appearance. The proposed dwelling would seek to amalgamate this sprawl to create a single two storey dwelling and attached garage. It is considered that the demolition of the existing outbuildings at the site and the revised position of the dwelling contribute to a significant visual benefit at the site that would outweigh the requirements of policy H24 of the Local Plan.

Impact on Amenity

The proposed dwelling would fall within the minimum separation distances as contained within the Councils Design Guide and owing to the remote nature of the site, there would be no harmful impact on the amenity of neighbouring residents. Whilst the existing dwelling has not been lived in for some years, this could be occupied at any point in the future; therefore, the nature of the use of the site would not be altered by the proposed application. On the basis of this, the proposed works would fully comply with policy SD1 of the Local Plan.

Conclusion

The proposed replacement dwelling would reduce the level of sprawled outbuildings within the site and would amalgamate this to create a single dwelling and garage. It would be considered that the proposal would have a positive visual impact that would outweigh the deviation from policy H24 of the Local Plan.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with plan(s)/drawing(s) ref. 03 and 04, received on 2nd April 2019; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).
Reason: For the avoidance of doubt and in the interests of sustainable development.
3. No development, including preparatory works, shall commence until a bat and bird enhancement strategy has been submitted to and approved in writing by the Local Planning Authority. Such details should be based on the recommendations on page 22 of the ecology report (Ecological Impact Assessment prepared by Wildlife Consultants Limited dated 18th March 2019) and shall include

detailed specification and plans of permanent long-term enhancements to provide a net increase in bird nesting and bat roosting opportunities. The approved permanent measures shall be implemented in full as construction proceeds and prior to first occupation of the development and thereafter maintained as such.

Reason: To protect existing biodiversity at the site and to ensure that the construction works do not damage existing wildlife that is present at the site.

4. 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 BS 5837:2012 and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.

Reason: To protect biodiversity and the native hedgerow from damage during the site preparation and construction work.

5. Prior to the laying out of drainage or ground levels, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

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

6. Prior to their incorporation into the dwelling, precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

7. Prior to the first occupation of the new dwelling, the car parking and manoeuvring space shall be laid out in accordance with the application drawings and maintained throughout the life of the development free of any impediment to its designated use.

Reason: In the interest of highway safety.

8. Prior to the occupation of the proposed dwelling, to which this permission relates, the existing dwelling as shown on drawings references, 03 and 04 shall be demolished and cleared from the site. The proposed dwelling may not be occupied until this work has been completed.

Reason: To ensure that no more than one dwelling could be occupied at the site.

9. The proposed dwelling shall not be occupied until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and hard surfacing, which shall include indications of proposed planting as well as any existing trees and hedgerows on the site (including those which would have their root or canopy structure affected) that were retained as part of condition 4, and details of any hard surfacing to be incorporated. The landscaping details shall be incorporated in accordance with the approved scheme prior to the first occupation of the proposed dwelling.

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

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

Informatives:

1. That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact Natural England: 0300 060 3900.

Item **1.5**

Ref. No. **9/2019/0431**

Valid Date **15/04/2019**

Applicant:
Mr Michael Harris

Agent:
Mr Michael Harris
15 Vicarage Walk
Rosliston
Swadlincote
DE12 8LB

Proposal: **THE ERECTION OF A FIRST FLOOR EXTENSION AT 15 VICARAGE WALK ROSLISTON SWADLINCOTE**

Ward: **LINTON**

Reason for committee determination

This item is presented to Committee as the applicant is related to an employee of the Council.

Site Description

The application property is a two storey detached dwelling, finished mostly in brick with a timber and render design to a front facing first floor gable. The property has two integral garage spaces and lies on a residential cul de sac. The rear garden is enclosed by 2m fencing and the land levels at and around the site are relatively even. The frontage land has a grassed area, two driveway parking spaces and is not enclosed by any boundary structure.

Proposal

The application seeks consent to extend the dwelling at first floor above an existing single storey side element. The proposal would have the same ridge and eaves height as the host dwelling and would continue across the existing canopy to the ground floor front elevation. The proposal includes the reconfiguration of the first floor with the addition of a first floor living room and a second ensuite bathroom. The proposed extension would have a first floor front facing window serving a living room and a first floor rear facing window serving a bedroom.

Applicant's supporting information

None.

Planning History

None.

Responses to Consultations

None.

HOLDON CROFT

THE SITE

Rosliston C of E Primary School

VICARAGE WALK

Shelter

Church View House

Glebe House

Two Trees

THE GLEBE

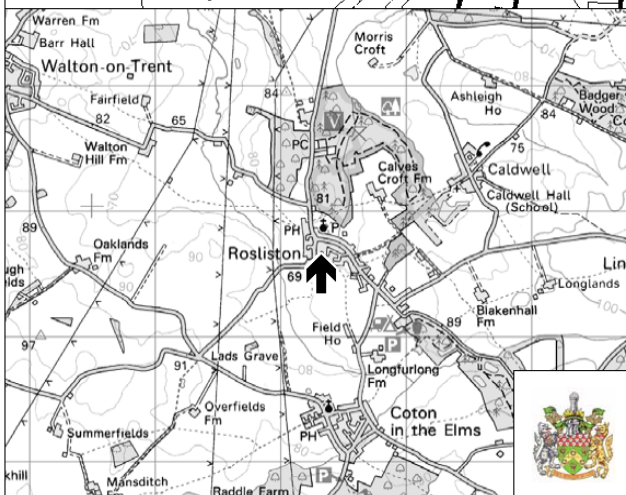
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76.8m

77.7m

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Warren Fm
Barr Hall
Walton-on-Trent
Fairfield
Morris Croft
Ashleigh Ho
Badgers Wood Co



South Derbyshire District Council. LA 100019461. 2014

Responses to Publicity

None.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), 2017 Local Plan Part 2: H27 (Residential Extensions and Other Householder Development)

National Guidance

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

Local Guidance

- 2017 Design Guide Supplementary Planning Document (Design SPD)

Planning Considerations

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

- The effect on the amenities of neighbouring properties
- The appearance of the proposal.

Planning Assessment

Effect on Neighbours

The proposed rear and front facing first floor windows would look towards frontage land of a neighbouring property and the rear garden of the site and as such are not overlooking or overbearing of any neighbouring property. The proposal would not affect the amenities of neighbouring properties by overlooking or overbearing upon them in any regard.

The appearance of the proposal

The application proposes to use the same external materials as currently present on the existing property. The design of the proposed extension is acceptable in terms of its integration into the main house and the wider context of the site.

The parking arrangement is not affected by the proposal.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. The development hereby permitted shall be carried out in accordance with plan number 02/A & 01/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.

Informatives:

1. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at: www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.

Item **1.6**

Ref. No. **9/2019/0547**

Valid Date **29/05/2019**

Applicant:
Monument Two Ltd

Agent:
Monument Two Ltd
50 Friargate
Derby
DE1 1DF

Proposal: **APPLICATION TO MODIFY THE SECOND SCHEDULE 'AFFORDABLE HOUSING' OF THE SECTION 106 AGREEMENT FOR THE SITE DATED THE 7TH SEPTEMBER 2007 RELATED TO PERMISSION REF. 9/2006/0885 AT THE FORMER CALDER ALUMINIUM WORKS REPTON ROAD WILLINGTON DERBY**

Ward: **WILLINGTON & FINDERN**

Reason for committee determination

This item is presented to Committee as the outline planning permission to which this Section 106 Agreement relates was approved by this Committee.

Site Description

The site comprises approximately 1.99 hectares of previously disused industrial land formerly occupied by industrial buildings and storage areas associated with Calder Aluminium. Outline planning permission was granted in 2007 with subsequent reserved matters approval granted in 2010. Permission was originally granted for 42 dwellings but this has subsequently been amended and the latest reserved matters approval for the site totals 39 dwellings. The site is currently under construction and partially completed.

Proposal

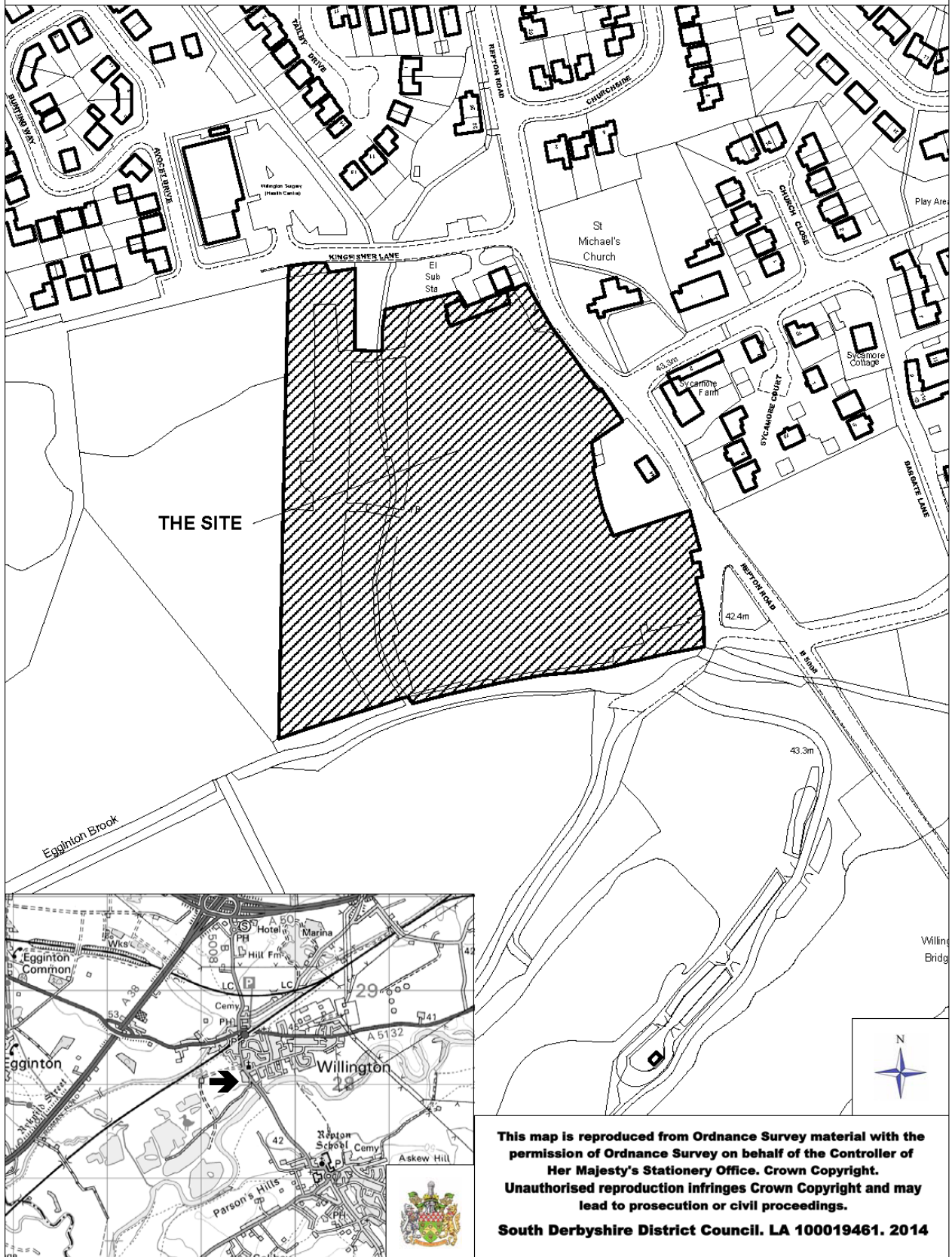
This application has been submitted under Section 106 A in accordance with the Town and Country Planning (Modification and Discharge of Planning Obligations), to modify the requirements of the Section 106 Agreement (S106) dated 7 September 2007.

The proposal is to modify the requirements of the second schedule of the agreement relating to the provision of affordable housing. The S106 requires the provision of 10% affordable dwellings on the site. This application is seeking to replace the requirement for the affordable dwellings to be provided on site with the payment of a financial contribution in lieu of this.

Applicant's supporting information

A Supporting Letter has been provided which sets out the justification for the application. The applicant has set out that 11 Affordable Housing Providers (AHP) have been contacted in October 2018 and April 2019 offering the units to them. No offers have been received from any of the AHPs for the units, this is due to the low number of units on the site (4) and the size of the units themselves. As a result of this the current application has been submitted to vary the requirements of the Section 106 Agreement.

9/2019/0547 - Former Calder Aluminium Works, Repton Road, Willington, Derby DE65 6BX



Planning History

9/2018/0008: The variation of condition 2 of planning permission ref: 9/2010/0125 for substitution of house types for plots 14 and 32-39 inclusive. Approved 19/09/18.

9/2017/0879: Variation of Condition 2 of planning permission 9/2010/0125 for the substitution of house type on plot 15. Approved 20/10/17.

9/2010/0125: Approval of reserved matters application 9/2006/0885 for residential development. Approved 24/8/10.

9/2006/0885: Outline application (all matters to be reserved except for means of access) for the erection of a residential development. Approved 7/9/07.

Responses to Publicity

One response has been received to the application questioning why the houses are being sold if they are supposed to be for Housing Association tenants. The notification period for the application does not expire until the 19 July 2019.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): H20 (Housing Balance), H21 (Affordable Housing), and INF1 (Infrastructure and Developer Contributions)

National Guidance

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

Local Guidance

- Affordable Housing SPD
- Planning Obligations – A Guide For Developers

Planning Considerations

The main issue central to the determination of this application is the affordable housing provision.

Planning Assessment

Affordable housing provision

As detailed above, the current S106 agreement contains a reduced affordable housing requirement of 10% for reasons of viability at the time of the original application. Following the commencement of development on site, in accordance with the 2010 reserved matters approval (and subsequent revisions to the scheme) the applicant has made a number of enquiries with Affordable Housing Providers (AHP) in order to take the proposed affordable dwellings which have proven unsuccessful.

Following discussions with the Strategic Housing Manager the reasons for the dwellings being unattractive to AHPs are accepted; i.e. the number of units being only 4, and that the unit sizes are below that which would be expected and are now required for affordable units. This has resulted in the request that the dwellings

(partially completed) be allowed to be sold as market dwellings and that a financial contribution be paid in lieu of the on-site provision.

Although it is always disappointing when the impact of development on local area infrastructure cannot be mitigated in the way originally envisaged, the solution offered is reasonable given the lack of interest from AHPs for these dwellings.

Other matters

The proposed revisions to the agreement have highlighted two additional anomalies with the agreement as currently worded. The first being the lack of an indexation requirement, whilst a definition of index is included within the definitions this does not appear as a charge in any schedule of the agreement. The revised agreement should therefore include an indexation requirement for payments.

The second required the open space contribution to be paid to the Council on the occupation of the 85th dwelling. As the development is for 39 dwellings (originally approved as 42) this element was always incorrect, it is proposed to seek a variation to this to require the payment on occupation of the 20th dwelling.

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

Recommendation

- A. Subject to no material planning objections being received by the 19 July 2019, grant delegated authority to the Head of Planning and Strategic Housing to negotiate the amount of affordable housing contribution the equivalent to 4 dwellings.
- B. Subject to A, **GRANT** approval for the proposed amendment to the agreement to accept a financial contribution in lieu of providing affordable dwellings on site, include an indexation requirement, and amend the public open space trigger to require the balance of the Open Space Contribution to be paid on the occupation of the 20th dwelling.

Item **1.7**

Ref. No. **CD9/2019/0010**

Valid Date **07/06/2019**

Applicant:

Mr Dave Massingham
Derbyshire County Council

Agent:

Mr Gary Thompson
Derbyshire County Council
DCC Darley Dale Depot
Station Road
Darley Dale
Near Matlock
DE4 2EQ

Proposal: **CONSTRUCTION OF AN ALL-PURPOSE SINGLE CARRIAGEWAY ROAD WITH VERGES, CYCLEWAYS AND FOOTWAYS ALONG WITH THREE NEW ROUNDABOUTS AND ASSOCIATED INFRASTRUCTURE AND THE PARTIAL DEMOLITION OF WOODHOUSE BUSINESS CENTRE (WOODVILLE REGENERATION ROUTE PHASE 2) (DERBYSHIRE COUNTY COUNCIL REF. CD9/0519/20) AFFECTING DERBY ROAD, SWADLINCOTE ROAD, WOODHOUSE STREET AND KILN WAY AND ACROSS LAND AT THE FORMER DYSON SITE OCCUPATION LANE WOODVILLE SWADLINCOTE**

Ward: **WOODVILLE**

Reason for committee determination

This consultation is presented to Committee at the discretion of the Head of Planning and Strategic Housing.

Site Description

The site comprises some 10.2 hectares and spans a large expanse of open land and existing highway to the south-east of Swadlincote town centre and south of Woodville. Land use along the route comprises predominantly grassland to the southern and central sections, existing public highway (Kiln Way and Woodhouse Street), commercial and light industrial properties to the central and northern section (including the Kiln Way industrial estate and Woodhouse Business Centre), and informal open space for the northern roundabout. The wider area includes the Swadlincote Woodlands and ski-centre to the north and residential properties developed as part of the Woodville Woodlands scheme to the south, to where Phase 1 of the Woodville Regeneration route runs (from the Hepworth Road junction with the A511 Ashby Road).

The site generally slopes down from the north east to the south west with elevations between 120m and 130m above Ordnance Datum (AOD). The site intersects two small drainage ditches, one flowing in a south westerly direction along the southern boundary of the existing Kiln Way industrial estate and the other flowing west towards a small pond. There are a number of public rights of way (PRoWs) which run towards and within the site, although partly impassable at the present time. The site does not contain any national or local ecological designations, designated heritage assets or landscape designations, nor is it in close proximity to such designations. The River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) are located approximately 6.5 km to the south. The site lies within the National Forest.

Proposal

The Link Road would run from Derby Road, north of Woodhouse Street, to Occupation Lane to the south-east, through the Woodville Regeneration Area. The northernmost point of the new link road comprises a

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South Derbyshire District Council. LA 100019461. 2014

new roundabout and works to the existing Derby Road/Swadlincote Road. The roundabout would be situated on a currently grassed and treed area, with Derby Road and Swadlincote Road forming two arms of the circulatory, whilst the link road would provide the third. Woodhouse Street would meet the new link road as a priority T-junction, a short distance from the roundabout with a right turn restriction imposed. The vestiges of Derby Road, Swadlincote Road and Woodhouse Street would be retained to provide access to existing properties, but not form part of the through routes to the area.

The new link road then follows the route of the existing Kiln Way, past existing industrial premises. A low retaining wall would be required to one side along this stretch, along with amended accesses to existing premises. Part of the Woodhouse Business Centre would be lost as part of this development, although the remaining building would be made good and retained in its current use. The link road would then pass out onto the vacant grassland which is allocated for employment purposes, providing for culverts over existing drainage ditches, two roundabouts to serve the allocated land both sides and the resulting connection to the existing Occupation Lane roundabout.

The entire route would provide for a continuous footway to the southern side and a continuous cycleway to the northern side. A 1m verge would exist along most of its length, although omitted where ownership constraints prohibit its inclusion (mainly around the existing industrial estate), whilst a further 2m verge to the rear of the footway/cycleway would be provided. National Forest tree planting would be provided along these verges, as well as on surplus land around the Derby Road/Swadlincote Road roundabout.

Applicant's supporting information

The Planning Statement notes the development is a key scheme of highway infrastructure, seeking to facilitate development of the Woodville Regeneration Area, bringing with it significant benefits in terms of employment, economic development, regeneration of a vacant site and provision of additional housing. The scheme would also alleviate some of the existing traffic congestion issues at Clock Roundabout and provide a new cycle and pedestrian route to the heart of the National Forest, Swadlincote Woodlands and towards Swadlincote town centre. The scheme is considered to have excellent sustainability credentials in accordance with the objectives of the NPPF, and is integral to many aims of the Local Plan Part 1, including playing a role in supporting planning policies on infrastructure (policy INF4), employment and regeneration (policies S5, E1 and E6), housing (the housing element of policy E6), provision of new walking/cycling routes (policy S6) and the National Forest (policies BNE1, BNE4 and INF8). The principle of the scheme is also strongly supported by the Derbyshire Local Transport Plan, the South Derbyshire Economic Development Strategy, the D2N2 Local Enterprise Partnership Strategic Economic Plan and the South Derbyshire Cycle Strategy. The scheme is considered to be fully in line with development plan policies and strongly supported by a number of policy documents that are important material considerations.

A Transport Assessment sets out that although any future residential and employment development facilitated by the link road would need to be supported by specific planning applications, an estimate has been made of the likely trip generation and this has been 'loaded' onto the highway network in order to test the proposed link road design. Traffic surveys have been undertaken by the County Council within this study area, and these have been used to calculate the highway capacity at key junctions. This has shown that the Clock Island roundabout is the key junction, at which there is currently no spare network capacity. The proposed link road would provide an alternative route through Swadlincote to that offered by Clock Island, and thereby reduce movements through this junction, although it would still likely receive some effects from traffic associated with development adjacent to the link road. This effect can be minimised, however, by opening up the full route via Hepworth Road for through traffic routeing east-west. Notwithstanding this, future development adjacent to the link road would benefit from being in close proximity to bus services, and walking and cycling links, and further detail regarding the accessibility strategy for that development would need to be developed within the Transport Assessments supporting those planning applications. Overall, the proposed link road and its adjacent development is considered to be compliant with the majority of the policy elements identified in the NPPF, and the overall scheme is contained within the latest version of

the Local Transport Plan and Local Plan. As such, there should be no highway-related reason to refuse the proposed development.

A Highways Design Statement sets out technical detail relating to the design of the road, such as its width, kerb radii at junctions and roundabout sizes, etc. It also confirms that, starting with the existing roundabout at Occupation Lane and in keeping with the character of the existing Hepworth Road, the proposed speed limit for the southern section would be 40 mph. The limit would remain at 40mph through the two roundabouts on the Dyson site and in the vicinity of the second culvert crossing, just past the second roundabout, the limit would change to 30 mph to match the limits currently in place for surrounding roads.

An Ecological Survey has been completed to identify and assess the ecological constraints and opportunities associated with the proposed link road. The survey has confirmed that, consistent with previous baseline information, the majority of habitats are of low ecological importance. Notable habitats within the site comprise a hedgerow, pond and running water. The habitats also provide suitable potential habitat for notable fauna, including amphibians, badgers, bats, birds and reptiles.

Best practice, including the implementation of stand-offs and safe working practices, are considered sufficient to protect habitats that are retained as part of the development. The losses of any notable habitats should be replaced as part of the green infrastructure (e.g. replacement hedgerow planting). The appropriate timing of works, pre-construction survey and ecological supervision are recommended to ensure legal compliance and best practice with regard to protected/notable fauna. With regard to great crested newts (GCNs) in particular, it is recommended that the need for further assessment should be reviewed when the existing baseline information exceeds 3 years in age. Opportunities for the enhancement of biodiversity may be achieved as an integral part of the proposed green infrastructure, for example, by creating native woodland, wetland and grassland habitats that are representative of local habitat types.

Following an initial response from the Wildlife Trust, an Ecological Addendum was provided under the previous application which clarified that:

- invasive species records are outside the site boundary, and the proposed road itself would be some distance from these records, such that no further surveys are considered necessary;
- whilst some ponds identified in earlier surveys are now dry, or remain inaccessible, it is recognised that some survey work is now older than 3 years, and hence it is proposed to undertake GCN eDNA testing of the ponds on site in line with Natural England guidance to provide an up to date assessment and confirm the presence or absence of this species - undertaken from mid-April 2018. Given multiple surveys for GCNs have been undertaken on the site and surrounding areas in preceding years and it is considered that there has been no significant change in the suitability of aquatic or terrestrial habitat within the site; it would be appropriate to consider dealing with these surveys under planning condition to update existing survey information rather than determine afresh the presence or absence of this species;
- the Ecological Survey notes the presence of breeding birds on site and proposes mitigation measures to protect these species during construction, noting that the red line boundary for the scheme is a wide area and significantly in excess of the area of the road itself due to the inclusion of areas for drainage purposes, such that habitat lost as is relatively limited. It should also be noted that the land is currently grazed by cattle, which would clearly impact the use of the habitats for ground nesting birds. It is therefore considered that sufficient suitable habitats would be retained and no specific mitigation other than precautionary measures to protect these species during construction is necessary;
- it is acknowledged that the proposed road may facilitate further development proposals to cover the wider area, but these are not part of the site and would be subject to a separate planning application (with associated ecological surveys). The adjacent development parcels are also allocated in the Local Plan and have therefore already been assessed as suitable for future development;
- whilst a previous survey (in 2007) confirmed the presence of grass snake on the margins of a pond, a reptile survey was completed for the northern half of the site in 2015 and no reptiles were recorded. Whilst the southern half of the site has not been subject to an up to date survey, suitability for grass

snake on the site is localised to unmanaged vegetation around the pond and the boundary ditch to the north. Habitat loss would result in very minimal loss of any areas suitable for reptiles and if deemed necessary, in addition to the previously proposed mitigation measures during site works, enhancement of habitats on site could include detailed and specific measures to benefit grass snakes;

- as requested by the Wildlife Trust, an assessment of habitat and biodiversity loss resulting from the proposals has been undertaken which shows that biodiversity loss is focused upon areas of semi-improved grassland, plantation woodland and a small area of scrub; together with circa 13m of hedgerow and sections of dry and wet ditches where these would be culverted. The assessment metric provides an overall biodiversity value and quantity for areas of habitats lost, and these would be used to guide a scheme of habitat enhancement to ensure the overall impacts of the scheme do not result in a net loss of biodiversity; and
- to achieve a net gain for wildlife it is proposed that a Habitat Enhancement Plan (HEP) is produced (and secured under condition) so to enhance existing and retained habitats, as well as create new habitats. The focus will be improving landscape plans to benefit biodiversity through design and appropriate planting of new ditches, new attenuation ponds and margins, net gains in hedgerow, and enhancement of existing ditches and areas surrounding the pond.

Since then an eDNA Analysis of ponds has returned negative results and it is concluded therefore that GCNs are absent from 3 of the 5 ponds. Pond 4 was previously recorded as no longer present. Pond 5 was confirmed as no longer present during this latest survey. No samples were undertaken from the two ditches on site, with ditch 1 containing shallow flowing water and fish, and sticklebacks were observed. Ditch 2 was predominantly dry with small pooling of shallow water at the western end. Overall, it is considered that GCNs are absent from the waterbodies on or adjacent to site.

The Flood Risk Assessment (FRA) & Drainage Strategy finds that the flood risk to the proposed development from tidal, fluvial, sewer, groundwater and artificial sources is assessed as either low or very low. The risk posed by surface water flooding has been assessed overall as being medium and originates from two drainage ditches which intersect the proposed route (medium/high risk) which would have to be culverted; and an area along Woodhouse Street close to the junction with Derby Road (high risk), where the proposed northern roundabout and main roads have been designed to avoid this high risk area. The proposal would introduce an additional 1.58ha of impermeable surface and therefore, if unmitigated, there is potential for an increase in surface water flood risk. Mitigation is proposed in the form of the Sustainable Drainage (SuDS) strategy, which proposes to manage and attenuate surface water runoff from this additional impermeable area, together with 0.47ha of existing impermeable areas either being replaced or upgraded along the route; as well as restrict surface water runoff to greenfield rates and promote the water quality of surface water discharged. The strategy is as follows:

- the section from Occupation Lane to the first roundabout) would drain to the surface water sewer along Occupation Lane, discharging to off-site attenuation pipes and then a ditch;
- the section from the first roundabout to mid-way through the industrial estate would drain towards the River Mease catchment and will require three stages in the SuDS management train (i.e. petrol interceptors, swales and pond/wetland) prior to discharge to existing drainage ditch on site;
- the section from mid-way through the industrial estate to Derby Road would drain towards the Darklands Brook Catchment require two stages in the SuDS management train (i.e. petrol interceptors and a dry detention basin).

The proposed basins have been sized to provide storage of runoff and flow attenuation for events up to and including the 1 in 100 year plus 40% climate change event. The outfall from the proposed SuDS features would be restricted to the mean annual maximum flow rate, and as the design progresses the location and design of SuDS features will need to be developed further.

A Cultural Heritage Assessment outlines the archaeological, built heritage and historic landscape baseline for the proposed link road and the surrounding study area. It is noted there is negligible potential for the survival of archaeological remains dated to the prehistoric, Roman, early medieval and medieval periods as the area was sparsely populated, occupied or exploited during these periods. Due to significant exploitation of the

area for minerals and coal from the post-medieval period onwards, there is high potential for archaeological remains dated to the post-medieval and modern periods. These include evidence for the two Granville Collieries, a brick yard, a railway and a tramway on the line of the new link road. During the post-medieval period the study area developed as a result of intense industrial activity. The site was used for the extraction of raw materials for use in these industrial activities including clay, sandstone and coal. The land to the south of the Woodland Branch Railway was opencast mined for coal in the 1970s and then subject to landfill, removing the potential for any buried archaeological remains in this part of the site. A total of 17 listed buildings and a conservation area have been identified, but the construction and operation of the new road would not impact the setting of these buildings or their significance. It is thus recommended that a programme of archaeological trial trenching is undertaken in the areas which have not been used for opencast mining and landfill, focussing on the areas around the Woodhouse Street diversion, the Derby Road realignment and where the route of the new road crosses the Woodland Branch Railway. A Written Statement of Investigation (WSI) for an Archaeological Evaluation has also been produced to outline the intended scope and methodology for on-site investigation.

A Noise Assessment confirms that in the opening year of 2020, 78% of residential buildings in the 600m calculation area are predicted to experience a negligible (less than 1dB) increase in traffic noise levels and 20% a minor (1.0 to 2.9dB) increase. 1% are predicted to experience a moderate (3.0 to 4.9dB) increase, and 1 property a major (more than 5 dB) increase. 14 properties (<1%) are predicted to experience no change or a negligible (up to 1dB) decrease in traffic noise levels. The buildings predicted to experience moderate and major increases are located in three clusters. On the south side of the A514 where the rear facades face the scheme there are 16 buildings predicted to experience a moderate increase, and 1 a major increase. On Vicarage Road there are two buildings predicted to experience a moderate increase. Around Occupation Lane, Hepworth Road and Rivioli Drive, close to the southern connection to the scheme, there are 13 buildings predicted to experience a moderate increase. At the properties on the A514, and on Vicarage Road, the absolute traffic noise levels are in the low to mid 50dB range, and around Occupation Lane in the low 60dB range.

In the long term (up to 2035) 98% of residential buildings are predicted to experience a negligible increase in daytime traffic noise levels, with 60 properties (2%) experiencing a minor increase, and 4 properties (<1%) a moderate increase. 2 properties (<1%) experienced no change, or decrease in noise levels. At night all but 2 properties are predicted to experience a negligible or minor increase in noise levels, with 2 properties experiencing no change or a negligible decrease. The identified non-residential sensitive receptors are all predicted to experience a negligible or minor increase in traffic noise levels in the opening year and negligible change in the long term. A preliminary consideration of residential buildings with the potential to qualify for noise insulation under the Noise Insulation Regulations has identified 12 properties, 11 of which have facades facing the modified sections of the A514. The remaining property is located on the corner of Occupation Lane and Hepworth road, facing the southern connection to the Scheme.

In the baseline year, both with and without the scheme, the First Fence premises are subject to the highest impacts. A typical façade with double glazed windows provides around 30dB reduction in traffic noise levels from outside to inside, and on that basis the internal level in the baseline year with the scheme in place would be around 36dB $L_{Aeq,16hour}$. It is therefore considered that the changes in road traffic noise levels would not be likely to result in unsuitable working conditions within the identified industrial/office buildings.

At the northern end of the scheme, the wider development does not extend far enough north to provide any significant screening to the properties on the A514. 2m high barriers to the northern end of the scheme would reduce the numbers of residential properties with major predicted increases to zero and those with moderate predicted increases to 7. Increasing the height of the barrier would reduce this latter number to 5. The screening would not, however, have any effect on the number of buildings potentially qualifying under the Noise Insulation Regulations, as the qualifying facades are on the front, facing the modified section of the A514.

The presence of the wider development between properties on Vicarage Road and the link road would more than likely provide sufficient screening to bring the impact down to minor or negligible, and therefore no mitigation has been considered for these properties. For the properties on Occupation Lane, Hepworth Road and Rivioli Drive, a 2m high barrier would reduce the number of residential properties predicted to experience moderate increases in noise levels to 8, and increasing the barrier height to 3m would further reduce this to 7. In this area there is 1 residential property which could potentially qualify under the Noise Insulation Regulations, and the barrier would again not change this. Without the exact layout for the wider development being available it is not possible to comment on whether or not a similar level of screening would be provided by the buildings within development itself. Once the detailed layout is available, however, it would be possible to include this within the model to determine whether a barrier would still provide additional road traffic noise reduction. A 2m high barrier in front of First Fence, at the northern end of the scheme, is predicted to have the effect of reducing the noise levels at the ground floor level, but would provide negligible screening to the windows at first floor level. Increasing the barrier height to 3m is predicted to provide a difference of around 3 to 7dB.

A Landscape and Visual Impact Assessment (LVIA) finds that the site is characterised by elements that reflect both existing and historic industrial activities. The northern section follows an access road to commercial business and manufacturing premises, along with an area of woodland on a former colliery site; whilst the southern section crosses the site of the Milk Hill opencast mine, which was restored to grassland following the end of operations in the 1970s. This transitional character of varied layers of historic land use is reflected in the wider area, which is heavily influenced by the 19th century industrial growth of the South Derbyshire Coalfield, resulting in a mosaic of housing and manufacturing sites – some disused and include distinctive bottle kilns – alongside immature landscapes of restoration, including woodland. Much of this woodland has been planted through the National Forest project. Some of these landscape elements reflect the key characteristics of the Coalfield Village Farmlands Landscape Character Type (LCT), as described in the Landscape Character of Derbyshire.

Effects would arise mainly through the introduction of a road and associated infrastructure, including new planting, within an area of open grassland on a former opencast site, removal of a small area of trees that formed part of the wider 1990s Swadlincote Woodland National Forest scheme, and upgrading of an existing access road through an industrial estate. Effects on landscape character within the site are considered to be minor, due mainly to the limited value and therefore sensitivity derived from the eroded character, and the wider influence of existing built form, infrastructure and land use change. Effects on the LCT are felt to be negligible, due mainly to the varied and transitory character of the study area, which does not display many of the more sensitive, rural elements that characterise the wider LCT. As well as relieving traffic on existing roads, the link road is intended to facilitate development on allocated regeneration sites within the former opencast site. This future development would represent a continuum of the evolving baseline.

Appreciable visibility of the scheme is limited to around 300m of the site, mainly within the southern, more open area. Visual effects would mainly arise through the introduction of the road and associated infrastructure, including new planting. Visual effects should be considered against the baseline presence of often prominent industrial buildings, the poor condition of some elements of the landscape and the presence of heavy traffic along Derby Road. Based on the appraisal of the representative viewpoints, it is considered that the link road would result in visual effects that range from moderate importance at most, where trees are lost and junctions upgraded on Derby Road; minor importance from public footpaths to the east; to negligible importance, where the road would represent only a minor feature in elevated views from the east. No views are expected from Swadlincote Woodlands Park.

Mitigation would include the assumption that trees should be removed only where necessary, alongside the provision of new tree, shrub and species-rich grassland planting, and improved pedestrian and cycle routes. These elements are intended to reduce visual effects, provide amenity/visual value and increase green infrastructure/habitat connectivity, in accordance with National Forest aspirations that are outlined in Local Plan policies. Although scope for planting is limited by the restricted site boundary, the planting strategy would be further developed in order to discharge planning conditions, with the aim of ensuring biodiversity

net gain and ensuring integration with ecological and public open spaces to be included within the wider regeneration and site promotion process. In conclusion, there are no important landscape or visual effects that would result in unacceptable changes in landscape character or visual amenity as a result of the proposed development.

A Preliminary Geotechnical Interpretative Report (PGIR) notes that made ground or fill material is present across the majority of the site and comprises two distinct materials. In the north, this is topsoil and soft to firm mottled clay with gravel of brick and concrete (referred to as Made Ground). In southern sections of the site, it is a firm brown/grey sandy/gravelly clay and as a sandy clayey gravel with variable gravel of shale, brick, coal, sandstone, mudstone, siltstone, clinker with occasional slag (referred to as Mine Waste). Weathered coal measures strata were recorded across the northern and central sections and in the far south of the site. Coal measures bedrock was encountered directly below the Made Ground in the centre of the site and below the weathered Coal Measures strata in the rest of the site. The coal seams encountered were a maximum of 0.8m thick, and no voids or broken material were noted. 14 samples of Mine Waste and 9 samples of Made Ground were tested for a suite of chemicals, with concentrations below threshold values for the proposed end use. Asbestos was noted in one of the trial pits indicating that there is some hazardous material at the site. Further tests should be carried out to confirm the chemical composition of the near surface materials and in particular to delineate the area of asbestos contamination. It is possible that other pockets of hazardous materials are present and therefore a grid of testing across the working area is recommended. Gas monitoring is strongly recommended along the route to assess the probability of hazardous gases collecting in confined spaces, such as culverts and drainage chambers, and a detailed human health and risk assessment should be carried out.

A Coal Mining Risk Assessment (CMRA) states that the site is in the likely zone of influence from workings of 11 coal seams (last worked in 1951) at 70m to 450m deep. In addition, the CMRA states that the Site is within a surface area that could be affected by underground mining in 1 seam of fireclay at shallow depth, and last worked in 1872. There are also 4 mine entries within or within 20m of the boundary of the site, all of which may have been partially or totally removed by previous opencast mining operations. However, none of the mine entries were located closer than 38m of the link road's proposed footprint. The site is also within a boundary of an opencast mine from which coal has been removed. A review of the mine abandonment plans and identified opencast workings within the south-eastern half of the site confirms that it was worked from October 1965 to March 1978 and confirms depths of extraction, meaning that the likely estimated depth of made ground is likely to be of the order of 35-40m. There could be plausible risk associated with underground coal mining at shallow depths and from surface/open cast workings. There are also risks associated with recorded mine entries, which are known to be present within the site and within 20m of its boundary. However, investigation in 2007 found no evidence for shallow coal mining workings in the boreholes taken, although it concluded that further investigation was required. Should construction be undertaken outside of the footprint of the proposed link road and within a likely zone of influence of the potential mineshafts, then they should be investigated to confirm their location and condition. The made ground is also unlikely to provide suitable foundation for a highway structure.

A Phase II Investigation Report builds on the PGIR and confirms made ground in the northern area to be 1.8 to 8.0m thick whilst in the southern area it ranges from 1.0 to 20.0m thick. Weathered coal measures typically underlie made ground and are 0.5 to 5.0m thick. This material is primarily composed of clay. Groundwater was struck in 12 out of a total of 27 boreholes, between 0.25 and 4.3m depth. All the water strikes were within the made ground and it is possible that these water levels are perched within this material. Minor concentrations of contaminants were recorded in soils, however these did not exceed human health values and are therefore not considered to be a risk. Higher concentrations of metals and inorganics were also reported throughout the locations, but again these fell below the human health values. Due to no surface water bodies being located nearby, and the aquifer classification of the underlying strata, such exceedances are not considered to be of significant risk to controlled waters. The ground gas risk assessment recorded no risk associated with methane, carbon monoxide and hydrogen sulphide gases, but there is risk associated with oxygen and carbon dioxide concentrations, therefore where entry into

excavations is unavoidable, it should still comply with confined space legislation and be assessed prior to site workers entering.

It is recommended that a full assessment of material suitability for re-use be undertaken once the exact locations of cut material are finalised. It is also recommended that further detailed assessment of the subgrade be undertaken in conjunction with the pavement designer. Detailed analysis of slope stability for critical sections is recommended as part of the design process, whilst due to the variability of the ground at the site, it is recommended that specific ground models be formulated for each structure, so that they can be analysed on an individual basis.

Additional calculations should also be undertaken to assess the effect of settlement from additional loading, particularly in respect of the existing made ground.

A Consultation Report confirms that two public consultation events were held, one event on Saturday 18th March 2017 and the other on Tuesday 21st March 2017. A copy of the scheme plans (overview, close-up northern and close-up southern) were displayed as well as a FAQ sheet, with staff present to answer any questions which may have arisen. Comment forms were produced to allow the public to express their thoughts about the scheme, whether positive or negative as well as to suggest improvements. Members of the public were also able to comment after the event via post or email. Approximately 75 people attended the first event and 50 people attended the second event, with 57 comments forms received in total. These are summarised in the Consultation Report.

Planning History

The majority of the site is vacant land where there have been historic uses, but no relevant planning history. More recently, informal discussions and a pre-application event have been held on development of the Woodville Regeneration area, but the wider site has not been the subject of a planning application as yet.

There have been residential and industrial planning applications on Derby Road, Kiln Way and Swadlincote Road near the site, but none that are likely to affect the project. The land south of Occupation Lane surrounding the initial sections of Moira Road and Hepworth Road is the former Hepworth Pipeworks site, now known as Woodville Woodlands. This was granted outline planning permission in 2004 (ref. 9/2001/0050) and included the construction of the roundabout on Occupation Lane that connects to the proposed link road.

Members will however recall granting permission in early 2018, subject to conditions, for the same scheme as now presented (ref. 9/2017/1222). This application has been made so that the County Council are able to pursue Compulsory Purchase powers to deliver the project should it become necessary.

Responses to Consultations

As the Council is a consultee to this County application, no new consultation has been carried out by this authority. What follows is a summary of responses to the previous application made to this authority:

The Economic Development Manager noted under the previous application that the Regeneration Route will unlock a significant amount of available brownfield land within the Woodville Regeneration Area, which is crucial to the future prosperity of Swadlincote - providing much needed space for businesses and homes. It is observed that Swadlincote has seen high levels of job creation and new housing development in recent years leading to a land supply in the town which is rapidly running out and constraining further economic development. As such, the completion of the Regeneration Route and unlocking of the Woodville Regeneration Area is an economic development priority. The importance of the Regeneration Route is highlighted in the South Derbyshire Economic Development Strategy, the Derbyshire Economic Strategy Statement (Derbyshire Economic Partnership) and the D2N2 Local Enterprise Partnership's Strategic Economic Plan, as well as a range of planning and transportation strategies. The Regeneration Route would form a vital component of

the strategic arterial route to the east, reducing journey times for accessing Swadlincote and also for east-west journeys between the A42/M42 and A38/A50 trunk roads. Journey times along the A511 are currently significantly constrained at the Clock Island where congestion is a frequent occurrence, particularly at peak times.

The Woodville Regeneration Area extends to 71.5 hectares, of which approximately 23 hectares is former mineral workings. A further 12 hectares is occupied by vacant and/or derelict industrial premises. Once the industrial heart of Swadlincote and home to numerous ceramics factories and coal mines, it is now a vast untapped resource. The Regeneration Route would not only unlock access to the former Dyson site, but would also greatly enhance the accessibility, connectivity and attractiveness of the wider Woodville Regeneration Area for further development. The unlocked land would still have reclamation challenges, but the new road would raise the value and reduce the risks associated with its development. Once the Regeneration Route is completed, the sites unlocked would sit alongside a new main arterial route and therefore be particularly attractive to inward investors. In addition to unlocking extensive development land and improving access, there is the opportunity to undertake tree planting and landscaping that would reflect the area's location in the 'Heart of The National Forest', together with enhancing the cycle links between the area and the Forest's attractions and facilities.

The Kiln Way section of the Regeneration Route would pass through an area of existing businesses. The Route has been designed to minimise the impact on their premises, though there would undoubtedly be some disturbance to their operations and access. However, the end result would be greatly improved access to the local road network and a much higher prominence for the businesses. Two traditional small business units will be lost at Woodhouse Business Centre, but assistance in identifying alternative premises is available to the occupants through the District Council and other organisations.

The County Highway Authority has not been consulted by this authority but raised no objections in principle previously to the formation of the link road as a stand-alone piece of infrastructure. Based upon the data and analysis contained in the supporting Transport Assessment, the overall effects upon the local highway network are considered to be beneficial, particularly in terms of congestion relief at the Clock Island and the approaches to it. Clearly, however, the proposals are not intended purely for the relief of the existing network but to unlock the potential for further economic growth by development of the surrounding land, and in this respect the project is also considered to offer positive benefits in the context of the NPPF. The Transport Assessment espouses a quantum of new development (150 dwellings, 5,400m² B1 (office) and 31,600m² B2 (industrial) floor area) potentially being served by the new link road. Whilst acknowledging that this does not form part of this application, it has been used as a sensitivity test to examine the performance of the link road and local network with this additional traffic generating use added. The outcomes continue to indicate an overall improvement to the performance of the local network compared to current conditions. Consideration has also been given to current collision data on the surrounding network and a comparison made to the anticipated safety performance of the proposed new route based upon its design and statistical data for this type of route. Again the outcomes are predicted to be positive in terms of an overall improvement to the safety of the network post development.

In terms of design, there are a number of features which would require further clarification and a far greater level of engineering detail before the scheme could be physically implemented. As with most projects of this scale and complexity, there is a balance to be struck between the level of engineering detail necessary to satisfy the Local Planning Authority that the planning principles of the development can be achieved and that required to physically construct the works. The scheme is considered to be achievable in principle, although if highway works are not to be promoted by the Highway Authority as a public scheme, clarification of the mechanisms by which adoption would be achieved (Sections 278, 72 and/or 38 of the Highways Act 1980) should also be explained and/or secured under a Unilateral Undertaking. In terms of general line, level and geometry the new link

road and its junctions all appear to conform to national and local design criteria. An Appendix is attached to the Highway Authority's first response which identifies a range of general and specific design issues which will require resolution or clarification as part of the detailed engineering design process, and this was provided to the applicant for attention. The designs have already been revised in line with some of these points, and the Highway Authority confirms that all outstanding matters can be addressed as part of the detailed design process. Conditions are recommended in the interests of safe and efficient traffic movement.

The Coal Authority previously confirmed the site falls within the defined high risk area where there are coal mining features and hazards which need to be considered, specifically probable shallow coal mine workings and recorded mine entries. Their records also indicate that the site has been subject to past surface mining operations. The PGIR is noted to confirm that rotary boreholes were advanced on site and all shallow coal seams were encountered intact, and that risks posed by shallow coal mine workings are low but further investigations will be required to locate a recorded mine entry (shaft) close to the road alignment and to identify any past surface mining features to enable appropriate foundation design. The Coal Authority concurs with these recommendations and that intrusive site investigation works should be undertaken in order to establish the exact situation. They therefore recommend the imposition of a planning condition to require such investigation works prior to commencement of development and, where necessary, remedial works to treat the mine entry to ensure the safety and stability of the proposed development.

The Environmental Health Officer (EHO) noted, in 2018, that the development represents a valuable contribution to improving the transport infrastructure in Swadlincote. It is noted that the Planning Statement indicates that the overall air quality impact of the proposed development is predicted to be beneficial, given that it is predicted to lead to reduced traffic congestion on High Street, Woodville. The EHO agreed that the air quality and noise impacts of the development itself are likely to provide a net benefit through re-distribution of traffic across the network. The release of currently undeveloped land on the former Dyson site is noted, and it stated that specific technical assessments will be likely necessary so to consider the operational impacts of each of these developments as they come through the planning process. The key environmental impacts of the proposed development would be through the construction phase, although it is noted that the exact construction methods are yet to be determined and therefore the potential impact of noisy construction activities such as piling cannot be accurately quantified. It is therefore requested that conditions be added to require a construction phase noise mitigation scheme, a construction phase dust mitigation scheme and a land contamination remediation scheme.

The Environment Agency and Lead Local Flood Authority (LLFA) previously noted that whilst the FRA proposes discharge rates lower than 5l/s from each of the attenuation ponds, to achieve these greenfield runoff rates appropriate methods of sediment detention and suitable protection for the inlet and outlet structures would be required. It is also noted that FRA proposes swales in the drainage design, and there should consequently be a sufficient buffer strip in place to allow for efficient maintenance to take place. An easement of approximately 3m is recommended for swales less than 2m in width, and 4.5m for swales over 2m in width. It is also noted that any works in or nearby to an ordinary watercourse require consent under the Land Drainage Act. Overall, there is no objection subject to conditions to require a detailed design and associated management and maintenance plan of surface water drainage for the site, and that the drainage strategy accords with the drainage hierarchy of directing surface water towards the most appropriate waterbody in terms of flood risk and practicality.

Natural England had no comments to make to the previous application, noting that their published Standing Advice can be used to assess impacts on protected species.

Derbyshire Wildlife Trust (DWT) noted, against the 2017 application, that Himalayan Balsam and Japanese Knotweed, both invasive species, are outside of the site boundary and at some distance

from the new road. They were therefore satisfied that no further surveys are required for these species and it is not necessary to condition a method statement for their control. They noted that given that multiple surveys for GCNs on the site and surrounding areas over the period 2012 to 2015 have continually confirmed their absence from the area, they consider that adequate information is available in respect of this species to enable the Council to determine the application. As a precautionary measure, however, the proposed undertaking of eDNA sampling of the accessible ponds in Spring 2018 is supported, so to confirm the continued absence of GCNs [note: this has taken place and the findings are summarised above]. It is also noted that, as a precaution, works should be carried out in accordance with an agreed precautionary working method statement for amphibians. The retention of an existing pond is supported as this has been confirmed to support a breeding population of Common Toad, a priority species. The proposed habitat enhancement works to this retained pond were also welcomed, which should benefit the local amphibian and reptile population. However, as the new road would provide an obstacle for migrating toads, robust measures are required as part of a Common Toad mitigation strategy. In relation to reptiles, further detailed reptile surveys were not considered necessary provided that the works are carried out in accordance with the mitigation measures outlined in the Ecological Survey.

The Trust noted that the route goes through an area of ideal nesting habitat for ground nesting birds, including skylark, a priority species. Whilst accepting only a proportion of this suitable grassland habitat would be lost, suitable habitat would remain available at the current time. It remains important that agreed mitigation measures are followed however during construction. DWT are also mindful that the new road may facilitate further development on the adjacent land, and future proposals would need to be mindful of the presence of skylark and the need to mitigate for the impacts on ground nesting priority bird species. If sufficient areas cannot be provided as part of future development, off-site compensation will be required. It is further recommended that the development should be carried out under a Construction Environmental Management Plan (CEMP) for biodiversity. Finally, there is some uncertainty that the proposed scheme will, as a minimum, ensure no net loss of biodiversity and ideally achieve a net gain. The Trust advised that this should be addressed in an Ecological Design Strategy produced in association with a revised Landscaping Plan. The appropriate long-term management of all retained and created habitats should also be covered by a Landscape and Ecological Management Plan (LEMP).

The National Forest Company (NFC) welcomed the inclusion of a shared surface footpath/cycleway through the scheme, which would provide an off-road link from Swadlincote Woodlands into the heart of the Forest. The NFC would welcome the opportunity to work with the County Council to promote the use of this route as a gateway to the network of off-road cycle routes through the heart of the Forest. The NFC however noted that new road schemes should achieve well-wooded settings with planting adjoining the road and off site. Appropriate landscaping should also accompany road improvements, depending on the scale and impact of the development (policy INF8). The requirements of policy BNE1 were also noted, particularly that "*within the National Forest, new development should be encouraged to follow the National Forest Design Charter and Guide for Developers and Planners and fully reflect the Forest context*". The NFC initially raised concern that the Landscape Planting Plan proposed insufficient trees across nearly 1km of new road. Furthermore, the proposed roundabout at the A514 requires the removal of an area of woodland which forms part of Swadlincote Woodlands. This planting was undertaken by the District Council as part of a previous programme to regenerate the area after successfully applying for NFC funding in 1997. The amendments received at the time were however generally supported, although the proposed tree species need some further thought. Recent planting along the A514 through Swadlincote undertaken by the District Council has all been Field Maple and it would make sense to continue this approach for the tree planting on the A514 around the northern roundabout. The proposed fastigate hornbeam for the remainder of the new road is acceptable although there will be a need for tree pits - particularly where the route passes along Kiln Way. It is also still not clear why landscaping is largely restricted to the highway verge when the site includes further land. With proposed trees to the attenuation ponds welcomed, further trees could be proposed to the existing pond. Hence, the NFC

considers that whilst amendments were an improvement on the original scheme, and the correct species could be proposed; there still did not appear to be sufficient space to accommodate street trees successfully. Tree planting should not be seen as a constraint but as a fundamental and beneficial part of the scheme to regenerate the area, secure inward investment and create a character which is locally reflective.

The Open Spaces and Facilities Manager noted there was some concern that the verge, at 1m wide, is insufficient to properly accommodate trees, whilst also being unsure as to why the whole of the site isn't detailed. The ornamental planting suggested for each of the roundabouts was also not suitable as highway planting. The idea of using three varieties to give a colour definition is acceptable, but use of ornamental grasses and perennials is not suitable - especially considering the effects of road salt and spray. The selection of suitable species is crucial to the success of the scheme, so this needs more work, although a design scheme as suggested on the plan should be pursued to ensure there is some consistency and appropriate use of species throughout the redeveloped area.

The County Archaeologist noted the southern part of the site has been heavily impacted by opencast coal extraction, and appears very unlikely to retain any archaeological significance. North of the former Woodville Branch Railway, the road would cross the sites of the late 19th/early 20th century Granville No. 2 Colliery and the line of a former industrial tramway connecting the former Hilltop Works and other potteries/sanitary ware manufacturers in the area, with a large area of claypits to the north of Derby Road. It is likely that remains of the historic colliery and tramway survive below-ground in the northern part of the proposal site and these would be of local importance. However, this could be addressed through a conditioned scheme of archaeological recording, with archaeological monitoring during relevant phases of the development groundworks, or trial trenching of relevant areas followed by appropriate mitigation excavation.

Peak and Northern Footpaths Society initially objected due to the effect on public footpaths which cross the site. It was noted that Defra Circular 1/09 should be followed unless there is good reason not to do so, and it specifies that PROWs should not be routed along the footways of roads; and that the footpath should run through a wide landscaped strip away from the road as walking away from vehicular traffic is a healthy form of sustainable transport and should be encouraged. However, following further dialogue with the applicant and in view of the improved landscaping proposals, it was accepted that the proposals as they affect the public footpaths are the best which could be expected, and they held no objection to the proposal.

Responses to Publicity

As the Council is a consultee to this County application, no publicity of it has been carried out by this authority – it being for the County to do so.

Development Plan Policies

The relevant policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), S6 (Sustainable Access), E1 (Strategic Employment Land Allocation), E6 (Woodville Regeneration Area), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), SD5 (Minerals Safeguarding), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF4 (Transport Infrastructure Improvement Schemes), INF7 (Green Infrastructure) and INF8 (The National Forest).

- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), 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
- River Mease SAC Developer Contribution Strategy 2nd Edition (DCS2)

Planning Considerations

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

- The principle of development and the benefits arising;
- Highway capacity and safety and sustainable modes of transport;
- Historical uses of land and implications for the proposal;
- Drainage and water quality;
- Biodiversity impacts and enhancement; and
- Effect on living conditions for adjoining occupiers.

It is considered beneficial for Members to be aware of the assessment previously presented to the Committee. This is quoted in italics below, with further commentary to reflect the latest application in [bracketed regular text], as and where necessary.

Planning Assessment

The principle of development and the benefits arising

The proposal seeks to deliver a long anticipated transport improvement scheme as well as unlock the development potential for further land around Swadlincote and Woodville, delivering key objectives of the Local Plan and numerous other plans and strategies which have informed the key policies relevant here - namely policies INF4, E6 and E1 of the LP1. Policy INF4 confirms that the Council will work with others to deliver the Woodville to Swadlincote Regeneration Route, including securing financial contributions towards mitigating the impacts of other development for use in delivering this scheme. That has already occurred at residential sites such as Broomy Farm. In determining the detailed alignment and design, regard is to be had to the following criteria:

- i) minimising the impact on the environment, heritage assets and natural features;*
- ii) taking full account of recreational routes along, or affected by, the schemes;*
- iii) providing for the needs of pedestrians, cyclists and people with impaired mobility; and*
- iv) mitigating any potential flood risk impact.*

Policy E6 confirms that the Woodville Regeneration Area is protected for employment-led redevelopment, supported by the Regeneration Route, to enable the economic, social and environmental regeneration of the area. The policy confirms that redevelopment of the site should incorporate 12ha of employment development defined by use classes B1, B2 and B8 and up to 150 new dwellings, whilst policy E1(C) confirms the employment quantum expected but specifies further requirements - including limiting the uses to classes B1(b), B1(c), B2 and B8 of the Use Classes Order (i.e. not for offices under class B1(a)), and that provision to meet the needs of small and 'grow on' businesses in the form of premises or serviced

Plots will be secured, brought forward during the course of the development either by conditions or a legal agreement.

The applicant's Planning Statement highlights the evident benefits of the scheme. This is a long awaited project which is a key component to unlocking the Regeneration area - land that might otherwise remain undeveloped given the likely effects it would otherwise have without the transport mitigation this link would provide. The employment land provision is an important component of the 53ha aspiration set by policy S5 for delivery across the Plan period. There would also be the evident benefits in terms of reducing congestion around the Clock Island, and in turn reducing air and noise pollution in these areas - particularly at peak time, and recognising that two of the approaches to that island serve schools. Domestic and logistical based traffic would be able to traverse the town, from the A444 to the A511 and A42 beyond, in a more efficient manner, reducing journey times and clawing back the financial losses associated with business traffic being caught up in congestion.

Whilst there would be impacts on existing businesses, particularly those around Kiln Way and Woodhouse Street, these impacts would be largely neutral or beneficial (for the reasons already outlined). There would be some loss of employment floorspace to facilitate the proposal, but this is relatively minor and must be balanced against the substantial benefits (and resulting gain in employment floorspace). Compensation for this loss is not a matter to be handled under this application and is for separate negotiation between the applicant and the landowner(s). With a strong presumption to support the proposal given the strategy of the LP1, attention turns to the impacts of the development and whether these are appropriately minimised and/or mitigated for.

Highway capacity and safety and sustainable modes of transport

The Transport Assessment has not just considered the effect of introducing the link road, and how it would benefit the wider highway network, but 'loaded' the development allocations which it would serve - namely the employment floorspace and the potential for 150 dwellings. The results are that it achieves the desired benefits the wider network, providing much needed capacity at the Clock Island as well as facilitating swifter movement across the urban area.

Whilst the County Highway Authority raises questions over the need to ensure subsequent approvals are followed, by way of a planning obligation if necessary, as part of implementation the applicant intends to advertise orders to regulate the flow, speed and parking of all motor traffic using the route using its powers under the Highways Act and would follow its standard consultation processes in so doing. For clarity, the project requires state aid funding to install the link road with the aim of creating employment and housing, with a third party partner delivering the latter. It is not a County project funded through County budgets such that the project is unlikely to proceed without state aid support unless a private developer comes forward to deliver the road in its entirety. If that were the case, then the standard adoption processes would be the mechanism utilised. There is thus reasonable confidence that suitable controls already exist to ensure all the necessary stages are followed, without the need for this authority to impose further control. With the scheme also designed in line with national and local guidance, and it attracting no objection from the County Highway Authority, it is considered to be compliant with policy INF2 in these respects.

Policy E1 requires the proposal to take full account of recreational routes along, or affected by, the scheme; as well as provide for the needs of pedestrians, cyclists and people with impaired mobility. This is promoted under policy INF2 as well. As outlined in the description of the proposal, the route would facilitate walking and cycling along this new route where such journeys may have been more circuitous before. It would provide a desired element of the South Derbyshire Cycling Strategy. There is also connectivity to the national cycle network, albeit not achieved in a perfect fashion at the northern end of the site at Derby Road where ownership constraint prevents widening of the existing footway at the present time (although this is a matter the applicant is willing to pursue further separately under their own powers). The route would be suitable for a future bus service, although the necessity of this would need to be determined with regards to detail of the proposed development either side of the Regeneration Route and the likelihood of a service provider

delivering a viable service. In the meantime, the convenience this route would generate would promote use of non-vehicular modes of movement to reach existing services (i.e. on Derby Road and Ashby Road). In terms of impacting upon recreational routes, it is intended to extinguish Woodville PRow 5 from the point at which it meets the new road. This footpath currently runs from its junction with Woodville PRow 6 towards Kiln Way, where it terminates. However, the route is presently a difficult one, traversing a ditch and undulating in nature - and with a blockage at the Kiln Way interface. The proposed road would more or less follow its alignment, although the legal line would step out into the carriageway numerous times and across one of the proposed roundabouts. Given the comparable distance of the proposed alternative footway, alongside the carriageway, and betterment in terms of gradient, drainage and lighting, it is considered to be a favourable alternative. Whilst this would require a separate application to extinguish the route, the proposal is considered to be acceptable for the purposes of this application. Existing connectivity to, and improvement of, other PRowS across the Regeneration Area would be for consideration under subsequent applications made for those sites.

Historical uses of land and implications for the proposal

The site has potential in terms of coal mining legacy, ground contamination risk, groundwater contamination risk and archaeology. The responses from the Coal Authority, EHO, Environment Agency and Development Control Archaeologist all indicate sufficient study work has been carried out to identify the range of constraints and actions necessary to handle these so that permission can be granted, subject to conditions. The scheme would provide scope to enhance the environmental conditions of the site in this respect, and accord with policies E6, SD1, SD4, BNE2 and BNE10.

Drainage and water quality

The concern in respect of groundwater is covered above. However, particular attention must be given to the drainage strategy for much for the road - this looking to discharge to the River Mease catchment. The SAC and SSSI require the Council to be satisfied that there would not be a significant detrimental impact on these European sites, and hence surface water drainage from the site must be treated effectively to achieve high quality upon its point of discharge. The strategy involves a multiple train of treatment, using natural water bodies to achieve this, and coupled with a greenfield rate of discharge is considered appropriate to satisfy the Council's duties under the Habitat Regulations.

In terms of flood risk, the proposal would inevitably increase the impermeable area of the site, but the FRA indicates that suitable attenuation can be provided to cater for peak rainfall events and continue to do so under climate change scenarios. The lack of objection from the LLFA is notable, and overall the proposal is considered to accord with policies E6, SD2 and SD3.

Biodiversity impacts and enhancement

The impact on protected and priority species has been adequately assessed and, subject to mitigation and enhancement where necessary, the proposal would not cause unacceptable impacts, contrary to the Habitat Regulations and policy BNE3. Enhancement to existing and proposed habitats can also be secured to ensure a net biodiversity gain, although attention will need to be given to later stages of developing the Woodville Regeneration Area so to ensure such gains are not lost. The impact of drainage from part of the road on the River Mease SAC and SSSI has also been considered, but subject to an appropriate drainage scheme - including a sufficient number of treatment stages as set out in the Drainage Strategy; then the impact on the River Mease is likely acceptable. With this in mind, and the nature of the development proposed, a contribution under the River Mease DCS is not considered to be necessary.

The site lies within the National Forest where tree planting and landscaping of the road is an important component of its design. There is a need to mitigate the loss of some woodland around Derby Road, whilst the route itself should also provide for tree planting along its length. The applicant notes that the total number of trees has been increased from 17 to 57 during the course of the application, reflecting the

aspirations of the National Forest and planning policies supporting the provision of trees in this area. The Woodville Link Road is coming forward in advance of and separately from proposals for the surrounding development land, which limits the land available for additional planting; but within the constraints of the proposal this increase in tree planting is notable. The narrow form of the fastigate form of the native Hornbeam is well-suited to the restricted space along the verge, with a distinctive upright appearance intended to provide a strong, visually attractive and consistent linear feature along the length of the new road. Punctuating this are three specimen trees: Liquidambar, a fastigate Field Maple and Silver Birch; all of which offer strong autumn colours. Further wet woodland planting has been provided through native Common Alder located around the attenuation ponds but sited to avoid excessive shading. All these changes are welcome, although the width of the verge is still of some concern in terms of facilitating the long term health and retention of the Hornbeam. Nonetheless, whilst requiring further consideration and work to develop the landscaping scheme, it is considered that the basics of the landscape design are in place such that this matter could be conditioned.

[It is noted that now detailed layouts have developed, there are some areas of the site where additional verges, as opposed to tarmac, could be created so to aid with visual impacts and reducing heat island effects. There still also remains scope to increase the width of the highway verge so to allow tree planting].

Effect on living conditions for adjoining occupiers

Largely speaking, the proposal would affect few residents relative to the scale of the project. There are two groups - those on Occupation Lane, and those on Derby Road. Those living on Derby Road would experience some disturbance during the course of works to modify the layout of Derby Road, Swadlincote Road and Woodhouse Street. These works however, are likely to be carried out during the day - in the majority, and it is noted that (as existing highway) works could be carried out by the County or utility providers in any case. Nonetheless, the EHO seeks noise and dust mitigation plans to address any residual concerns. Those living on Occupation Lane would experience similar effects, although to a lesser degree given the limited extent of the interface with their properties. However, there is greater potential for the need to pile and compact ground to facilitate the road here, given the made ground nature of the site in this area. Notwithstanding this, the impacts would be short lived and at a reasonable distance so not to raise vibration concerns and hence the conditions requested by the EHO would be suitable in addressing the remaining impacts. The proposal is considered to satisfy policies E6 and SD1.

Summary

The proposal to deliver this key item of infrastructure is required to support the Local Plan as a whole, unlocking the delivery of employment and housing around the Swadlincote Urban Area. In particular, it would facilitate the regeneration of land immediately adjacent to the proposed route and deliver positive environment, social and economic benefits. In addition, the Regeneration Route would assist in alleviating pressure on the Clock Island which is at capacity during peak hours, in turn delivering economic and environmental benefits through reduced congestion. With the County Council taking specialist advice on drainage, ecological, noise, heritage and industrial legacy impacts, and it previously possible to make such impacts acceptable (subject to conditions where necessary), the proposal is considered to accord with the aforementioned policies.

Recommendation

Subject to considering and, where possible, addressing the following matters, **the Council DOES NOT OBJECT** to the granting of permission:

1. The County Council should satisfy itself that all matters in respect of ecology/biodiversity, drainage (including impacts on the River Mease Special Area of Conservation), highway safety and capacity effects off-site, noise impacts on surrounding residents and businesses, ground stability and heritage

interests can be satisfactorily addressed by way of design and/or appropriately worded conditions (including consideration of the triggers for submission of detail and implementation of works). Attention should be given to conditions 3, 4, 5, 7, 8(b), 11, 12, 13, 15 and 16 of South Derbyshire District Council planning permission ref. 9/2017/1222.

2. The submitted layouts indicate surplus areas of tarmac on footways where these areas could be more appropriately put to soft landscaping with consideration given to planting of trees to offset those lost. Examples include the proposed footway immediately south-west of 38 Derby Road (the present carriageway to Derby Road), the entire 4m radius created in front of 36-38 Derby Road (save for retaining a pedestrian footway to link with the pedestrian crossing and refuge on the realigned Derby Road), the proposed footway immediately south of 2-6 Derby Road (the present carriageway to Derby Road), the footways either side of the realigned junction of Woodhouse Street and Derby Road, the retained/created footway to the north-west side of Woodhouse Street (given an alternative means for pedestrians would exist on the south-east side of this stopped up section), the retained/created footway to the south-western end of the turning head stopping up Woodhouse Street and the created footway immediately adjacent to the retained part of Woodhouse Business Centre. Many of these areas would otherwise provide for indiscriminate parking by adjoining residents and business users to the detriment of the visual amenities of the area and/or to highway safety, as well as increase urban heat island effects and surface water run-off rates. It is recommended that these areas be altered to soft landscaping, put to verge, with specimen tree planting where feasible (including subterranean measures to enable trees to reach maturity). Lines of timber bollards should also be introduced to prevent indiscriminate parking in these and other areas.
3. The proposed link road includes a 1m wide verge to both sides between the carriageway and footway/cycleway south of the proposed culvert. The plans also indicate a further 2m wide verge to the rear of the footway/cycleway. During the course of the previous application, it was requested that the verge between the carriageway and footway/cycleway be widened to no less than 2m at the expense of the verge to the rear of the footway. This would appear to still be achievable following further work to detail the drainage ponds and swales and establish levels, but the verge to the rear of the footway remains at 2m width. The District Council requests that amendments be made to accommodate this change so to support avenue tree planting within the desired verge.

Item **2.1**

Ref. No. **9/2019/0415**

Valid Date **17/04/2019**

Applicant:
Mr Roger Carter
Carter Construction (Derby) Ltd

Agent:
Mr Barry Singleton
Gino Lombardo Associates Ltd
42 Friar Gate
Derby
DE1 1DA

Proposal: **THE ERECTION OF A PAIR OF SEMI-DETACHED HOUSES AND THE FORMATION OF A VEHICULAR ACCESS TO ADJACENT LAND ON LAND ADJACENT TO 29 PENKRIDGE ROAD CHURCH GRESLEY SWADLINCOTE**

Ward: **CHURCH GRESLEY**

Reason for committee determination

This item is presented to Committee at the request of Councillor Rhind.

Site Description

The property is located to the east of 29 Penkridge Road, Church Gresley, within the urban area of Swadlincote. It has a slight fall in levels from west to east and is substantially covered with semi-mature trees, forming a small woodland. This woodland is subject to a Tree Preservation Order (TPO). To the north and north east is further vacant land along with a small scrapyards, where permission exists for redevelopment. Further east, more industrial units and land exists.

Proposal

It is proposed to clear the site of trees and construct a pair of 3-bedroom semi-detached dwellings. Each would have its own garden and two off-road parking spaces. To the immediate east of the dwellings, an access road to serve the site to the north is proposed; this proposed in lieu of the already approved access for redevelopment of that land. Replacement tree planting would be provided in the remaining land at the eastern tip of the site, as well as to the boundary of the land to the north (off-site).

Applicant's supporting information

A Coal Mining Risk Assessment (CMRA) has been submitted. This highlights the fact that the site is located within an area where shallow coal and potential mine workings may exist beneath the site. The site is located within a residential area with no recorded damage claims, subsidence claims, mine entries/adits/shafts in close proximity to the site. However, the ground on and close to the site is likely to have been modified due to various works that have occurred in close proximity. Several coal seams exist at depth beneath the property (and in close proximity to the site) so it is likely that unrecorded shallow workings could exist at or close to the site. The site is underlain by shallow coal that has been worked historically, with no record, and this poses a high risk to the development. Workings, shafts and other lateral and vertical openings can act as pathways for the migration of mine and ground gases and consideration needs to be given to this, but none are noted that will impact the site.

**9/2019/0415 - Land adjacent to 29 Penkridge Road, Church Gresley,
Swadlincote DE11 9FH**



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Planning History

No direct planning history exists, save for the original permissions in the 1990s which created Penkrige Road (refs. 9/1090/0715 (outline) and 9/0494/087 (reserved matters) for 200 dwellings). The land to the north of the site benefits from the following permissions:

- | | |
|-------------|--|
| 9/2015/1127 | Outline application (all matters except for access to be reserved) for the residential development of 14 dwellings and construction of new access road – Approved 13/06/2017 |
| 9/2019/0052 | The erection of a 2 bedroom detached bungalow and detached double garage – Approved 01/05/2019 |

Responses to Consultations

The Coal Authority has no objection subject to a condition relating to a scheme of intrusive site investigation.

The County Highway Authority initially requested the removal of the access from the application but, following further discussion regarding the extant outline permission for 14 dwellings off Common Side, an unadopted access off Penkrige Road was considered to be acceptable.

Environmental Health raises no objection, subject to conditions relating to control of noise during construction and land contamination.

Responses to Publicity

One objection has been received, raising the following concerns/points:

- a) There is a Tree Preservation Order on the trees on the site which would be affected by the proposal;
- b) The occupiers of 29 Penkrige Road tried to buy the site in 2003 but were informed that the land formed part of public open space.

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), S6 (Sustainable Access), H1 (Settlement Hierarchy), H20 (Housing Balance), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF8 (The National Forest); and
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) and BNE7 (Trees, Woodland and Hedgerows)

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
- Design and amenity
- Character and impact on protected trees
- Highway safety impacts

Planning Assessment

Principle of development

The site is located within the urban area of Swadlincote and within walking distance of the local centre of Church Gresley on Church Street, to the north-west of the application site. It is thus a sustainable location and in accordance with LP1 policies S6 and H1 where, within urban areas, development of all sizes is considered appropriate.

Design and amenity

The design of the semi-detached properties are similar to those on Penkridge Road but differ in that the dwellings do not incorporate projecting enclosed porches – instead having a rain porch and projecting bay window to the lounge meaning the dwellings have a similar form. The use of brickwork and render at first floor level also harmonises with the existing. There are no windows on the side elevations and sufficient distance from primary windows not to cause any issues in terms of overlooking such that the proposal is considered to comply with policies BNE1 and SD1, as well as the SPD.

Character and impact on protected trees

Whilst the site is within the urban area and adjacent to a relatively modern housing development, the site comprises planting designated as structural landscape planting on the 1994 plans (ref. 9/0494/087). The group of trees covered by TPO468 covers the whole of the area on which the two semi-detached dwellings and access are to be located, and therefore all the trees would be required to be removed to facilitate the development. The TPO covers a mix of species and was made for the following reason:

“The trees have a moderate to high level of amenity as a developing woodland which acts as an effective screen to the scrapyard. That amenity offer is under threat following a pre-application enquiry for residential development and subsequent clearance of the site being started without any consideration of their visual and ecological contribution”.

The Tree Officer advises that the proposal involves the felling of trees within this young and evolving, but valuable, woodland. A permission here would result in the wholesale and widespread destruction of the woodland and its developing ecological ecosystem. Whilst the outline consent for 14 dwellings with access off Common Side was subsequently approved following the protection of the trees, this was because that development was considered to be capable of implementation without any harm to the protected trees. This proposal offers replacement planting in a location relatively distant from Penkridge Road with which it would have little relationship. In addition, the replacement planting is significantly smaller in area to that which would be lost. This proposal would therefore cause significant harm by way of the loss of a group of trees with high amenity value which also provides a semi-mature landscape buffer to the scrap yard to the north. The issue of the associated loss of biodiversity is not explored by the applicant.

The proposal therefore fails to demonstrate that there would be no unacceptable effect on landscape character, visual amenity and sensitivity, as well as biodiversity. There is no overriding need for two further

dwelling in this location, nor does the proposed access to the adjacent site provide weight given permission exists for development of that site with its own, independent access. The proposal is therefore contrary to policies BNE3, BNE4 and BNE7.

Highways safety impacts

The Highway Authority initially requested the removal of the private drive from the application. This access off Penkridge Road is included as an alternative access to the previously approved proposal (ref. 9/2015/1127). Following further discussion, the objection was withdrawn on the basis that, whilst although not normally agreeing to private driveways serving more than five dwellings, the Highway Authority considered the accessing of the consented development from Penkridge Road to be preferable rather than from Common Side, off Church Road – an unadopted road. On this basis, there is no objection and the proposal would satisfy policy INF2.

Other matters

Means to limit water consumption in accordance with policy SD3, and to ensure suitable ground conditions in line with policy SD4 can be secured by condition. Finer details of design and landscaping can also be addressed by conditions.

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

Recommendation

REFUSE permission for the following reason:

1. Whilst the site is within the urban area adjacent to a relatively modern housing development the application site comprises of structural landscaping purposely planted as part of the original adjacent development. The planting has since evolved into a semi-mature woodland and is protected by Tree Preservation Order (TPO) No. 468. The felling of trees within this evolving but valuable woodland is unacceptable and the proposal would result in the widespread destruction of the woodland and its developing ecosystem. The proposal fails to demonstrate that there would be no unacceptable effect on landscape character, visual amenity and biodiversity, and the benefits arising from the scheme or the need for the development do not outweigh this harm. The proposal is therefore contrary to policies BNE3 and BNE4 of the Local Plan Part 1, policy BNE7 of the Local Plan Part 2 and provisions of the National Planning Policy Framework.