

Date: 26 May 2023

Dear Councillor,

Planning Committee

A Meeting of the **Planning Committee** will be held at **Council Chamber**, Civic offices, Civic Way, Swadlincote on **Tuesday, 06 June 2023 at 18:00**. You are requested to attend.

Yours faithfully,



Chief Executive

To:- **Labour Group**

Councillor G Jones (Chair), Councillor Shepherd (Vice-Chair) and
Councillors Carroll, Gee, Hudson, A Jones, L Mulgrew and Storey.

Conservative Group

Councillors Haines, Lowe and Watson.

Non-Grouped

Councillor Wheelton.

AGENDA

Open to Public and Press

- 1** Apologies and to note any Substitutes appointed for the Meeting.
- 2** To receive the Open Minutes of the Meetings held on

03 May 2022 **3 - 8**

31 May 2022 **9 - 18**

28 June 2022 **19 - 23**

26 July 2022 **24 - 31**
- 3** To note any declarations of interest arising from any items on the Agenda
- 4** To receive any questions by Members of the Council pursuant to Council procedure Rule No. 11.
- 5** REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY) **32 - 200**
- 6** DEED OF VARIATION - LAND AT BROOMY FARM **201 - 203**

Exclusion of the Public and Press:

- 7** The Chairman may therefore move:-
That in accordance with Section 100 (A)(4) of the Local Government Act 1972 (as amended) the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraph of Part I of the Schedule 12A of the Act indicated in the header to each report on the Agenda.
- 8** To receive any Exempt questions by Members of the Council pursuant to Council procedure Rule No. 11.

PLANNING COMMITTEE

03 May 2022

PRESENT:

Labour Group

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and Councillors Gee, Pearson and Southerd

Conservative Group

Councillors, Bridgen, Lemmon, Muller, Redfern (Substitute for Cllr Brown) and Watson.

Independent Group

Councillors Dawson and MacPherson

Non-Grouped

Councillor Wheelton.

In attendance

Councillor Haines
Councillor Smith
Councillor Taylor

PL/145 **APOLOGIES**

The Committee was informed that apologies had been received from: Councillor Brown (Conservative Group).

PL/146 **DECLARATIONS OF INTEREST**

The Committee was informed that no Declarations of Interest had been received.

PL/147 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

MATTERS DELEGATED TO COMMITTEE**PL/148 REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/149 CREATION OF A NEW DISABLED ACCESS, SECURITY GATE AND ERECTION OF AN EXTERNAL WALL TO CREATE A NEW OUTDOOR AMENABLE SPACE AT MELBOURNE ASSEMBLY ROOMS, LEISURE CENTRE, HIGH STREET, MELBOURNE, DERBY DE73 8GF

The Planning Delivery Team Leader presented the report to the Committee noting that land was owned by Derbyshire District Council. The Planning Delivery Team Leader and sought approval for the recommendations within the report.

Members supported the improvement works that would benefit the residents.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/150 LISTED BUILDING CONSENT FOR CREATION OF A NEW DISABLED ACCESS, SECURITY GATE AND ERECTION OF AN EXTERNAL WALL TO CREATE A NEW OUTDOOR AMENABLE SPACE AT MELBOURNE ASSEMBLY ROOMS, LEISURE CENTRE, HIGH STREET, MELBOURNE, DERBY DE73 8GF

The Planning Delivery Team Leader presented the report to the Committee noting that land was owned by Derbyshire District Council. The Planning Delivery Team Leader outlined the application noting that there were no objections from the Conservation Officer and sought approval for the recommendations within the report.

Members supported the new access and requested that building materials be considered and were to be in keeping with the existing building.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery)

PL/151 THE PRUNING OF AN OAK TREE COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NO. 533 ON LAND AT SK2531 3702, LUCAS LANE, HILTON, DERBY

The Planning Delivery Team Leader presented the report to the Committee noting the 5.5 meter reduction of the tree with the removal of a number of tertiary and secondary branches, to enable access for lorries to the site. It

was noted that a number of objections had been received but that the Council's Tree Officer had no objections to the limited works.

An Objector attended the meeting and addressed the Committee regarding the application.

Members sought clarity regarding the need for a 5.5 meter reduction and whether a compromise could be reached.

RESOLVED:

That planning permission be deferred to allow for the applicant to consider a reduced level of pruning.

PL/ 152 **THE VARIATION OF CONDITION NO. 2 OF PERMISSION REF. 9/2017/1402 (RELATING TO THE LAYOUT OF CABINS) FOR THE ERECTION OF 8 NO. HOLIDAY CABINS, TO SEEK MINOR MATERIAL AMENDMENTS TO THE ACCESS ROAD, SIZE OF CABINS, LAYOUT OF CABINS AND ASSOCIATED ENTRANCE GATE AT LAND AT SK2923 5475 (KNIGHTS LODGES), KNIGHTS LANE, BRETBY, DERBYSHIRE, DE15 0RT**

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

The Head of Planning and Strategic Housing presented the report to the Committee noting the amendment to the layout of previously approved application, the Committee was informed that the construction and scale of the cabins were broadly similar to those approved. The Committee was advised that a condition would restrict the occupation as holiday lets only.

The Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As Local Ward Member Councillor Haines addressed the Committee raising concerns on behalf of the local residents regarding the biomass boiler that would be used to heat the complex.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/153 **THE ERECTION OF LEISURE BUILDING WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING ON LAND AT KNIGHTS LANE, BRETBY, BURTON ON TRENT, DE15 0RT**

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

The Head Planning and Strategic Housing addressed the Committee and outlined the main points regarding the variations to the previously approved design, that included a revised T shaped building with an increase in size. It was

explained that the building would house a swimming pool to be used by residents staying at the lodges.

The Applicant's Agent attended the meeting and addressed the Committee regarding the application.

Members raised concerns about the increase in size which appeared to be excessive and overbearing for the site and the impact on the landscape.

Councillor Wheelton sought clarification regarding the need for parking when it was for resident use only.

The Head of Planning and Strategic Housing explained that spaces were to be used during the changeover days and for guests of those legitimately using the lodges.

RESOLVED:

That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery), due to the excessive scale of the building in a countryside setting that would be visually intrusive and harmful to the rural landscape.

PL/154 **RETROSPECTIVE APPLICATION FOR THE ERECTION OF 8 HOLIDAY LODGE BUILDINGS (APPLICATION DMPA/2019/1305 RELATES) ON LAND AT KNIGHTS LANE, BRETBY, BURTON ON TRENT, DE15 0RT**

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

The Head of Planning and Strategic Housing presented the report to the Committee summarising the key points within the report that included the size of the permanent units, hot tubs and seating areas. The Committee was requested to approve the recommendations within the report.

The Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As the Local Ward Member Councillor Haines addressed the Committee on behalf of the local residents and raised concerns about the permanent builds.

Councillor Southerd raised concern regarding the permanent construction of the lodges compared to the temporary build nature of the other approved lodges on site.

Councillor Wheelton raised concern regarding the lack of biodiversity on site, the size which was too imposing and that the design was outside of the previously approved development.

RESOLVED:

That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery), due to the scale of the build and the harmful impact on the rural character and appearance on the landscape.

PL/155 **CHANGE OF USE OF EXISTING RESIDENTIAL ANNEXE TO A SEPARATE DWELLING TOGETHER WITH SINGLE STOREY AND FIRST FLOOR EXTENSIONS AND THE ERECTION OF A DETACHED GARAGE WITH LIVING ACCOMMODATION OVER AT THE OLD RECTORY, CHURCH ROAD, EGGINTON, DERBY, DE65 6HP**

The Head of Planning and Strategic Housing outlined the report to the Committee and noted that the applicant was Councillor Brown.

Members supported the application.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery),

PL/156 **THE ERECTION OF ONE DWELLING WITH NEW ACCESS, PARKING AND ASSOCIATED WORKS AT SUNNYSIDE BUNGALOWS, 38 MAIN STREET, NEWTON SOLNEY, BURTON ON TRENT, DE15 0SJ**

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

The Head of Planning and Strategic Housing presented the report to the Committee summarising the main point within the report highlighting the long term financial benefits for the Arms Housing Charitable Trust, improved parking, the removal of trees, the loss of open space and the build of a new bungalow. It was further noted that it was a finely balanced scheme.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As a Local Ward Member, Councillor Haines attended the meeting and addressed the Committee raising concerns on behalf of the residents.

Members raised concerns regarding the loss of established trees, the loss of open space, the loss of allotments, the impact on a war memorial and over development in a conservation area.

It was noted that the war memorial could be protected if registered by either residents or planning.

RESOLVED:

That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery), due to the loss of trees, the adverse impact on amenity of existing residents and the character and appearance of the area, the war memorial, the lack of overriding beneficial impact, the loss of open green space, landscaping and the conservation area.

PL/157 DEED OF VARIATION LAND AT BOULTON MOOR

The Planning Delivery Team Leader presented the report to the Committee regarding an application approved in July 2020. It was explained following submission of a viability report the variation requested sought reduce the number of affordable housing provided on site.

Members raised concerns that there was no evidence that less affordable housing was required.

RESOLVED:

1.1 The Committee approved to defer the decision to allow for further discussions with the Applicant with the view to an improved offer of affordable housing.

PL/158 LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)

RESOLVED:

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

PL/159 EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.

The Committee was informed that no questions had been received.

The meeting terminated at hours. 19:50 hours

COUNCILLOR N TILLEY

CHAIR

PLANNING COMMITTEE

31 May 2022

PRESENT:

Labour Group

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and Councillors, Richards (Substitute, for Councillor Dunn) Rhind (Substitute for Councillor Pearson) Southerd and Taylor (Substitute for Councillor Gee)

Conservative Group

Councillors, Ackroyd (Substitute for Councillor Haines) Bridgen, Brown, Dawson, Lemmon (Substitute for Councillor Smith) and Redfern.

Non-Grouped

Councillor Wheelton.

In Attendance

Councillor Bambrick

PL/01 **APOLOGIES**

The Committee was informed that apologies had been received from Councillors Dunn, Gee and Pearson (Labour Group) and Councillors Haines and Smith (Conservative Group)

PL/02 **DECLARATIONS OF INTEREST**

The Committee was informed that Declarations of Personal Interest had been received from Councillor Tilley regarding PL/12 by virtue of the applicant being related to him.

The Committee was informed that Declarations of Personal Interest had been received from Councillor Brown regarding PL/05.

PL/03 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

MATTERS DELEGATED TO COMMITTEE

PL/04 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/05 **APPROVAL OF RESERVED MATTERS (LAYOUT, SCALE, APPEARANCE AND LANDSCAPING) PURSUANT TO OUTLINE PERMISSION REF. DMPA/2019/1143 ON LAND AT SK2531 3702, LUCAS LANE, HILTON**

The Senior Planning Officer updated the Committee regarding the response from the National Wildlife Trust in relation to the Great Crested Newts and the Ecological Plan and outlined additional conditions for the Committee to consider.

The Senior Planning Officer presented the report to the Committee noting that the Highways Agency raised no objections and that the landscaping and biodiversity 10 percent net gain with the offsite area of mitigation were acceptable to the National Wildlife Trust. The Committee was informed that there was a Tree Preservation Order in place and that an additional method statement had been received that would help to reduce the impact on the tree.

An Objector and the Applicant attended the Meeting and addressed the Committee regarding the application.

The Senior Planning Officer confirmed that there was license in place for the Great Crested Newts and that the design approach to noise attenuation has been acceptable to the Environment Officer.

Members raised concerns regarding the timing of the outline permissions approval in relation to the Local Neighbourhood Plan and comments made by the Local Flood Agency. Members also queried the number of trees to be planted.

The Senior Planning Officer confirmed that the outline permission was given prior to the approval of the Local Neighbourhood Plan and that there were conditions in place to address drainage concerns. The Committee was informed that there were no issues with the landscaping and the applicant had included additional trees in the play area.

RESOLVED:

That planning permission be approved as per the recommendations, in the report of the Strategic Director (Service Delivery). subject to three additional conditions regarding wheel washing facilities, highways construction details, drainage, bin collection and a condition regarding compliance with the LEMP.

PL/06 **THE PRUNING OF AN OAK TREE COVERED BY SOUTH DERBYSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NO. 533 ON LAND AT SK2531 3702, LUCAS LANE, HILTON, DERBY**

The Senior Planning Officer presented the report to the Committee and advised of the amendment to condition 3 that would reduce the crown lift height to a maximum of 4 metres.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to an amendment to Condition 3 to stipulate a 4 metre crown lift.

PL/07 **APPROVAL OF RESERVED MATTERS (LAYOUT, SCALE, APPEARANCE AND LANDSCAPING) PURSUANT TO OUTLINE PERMISSION REF. 9/2014/0886 (RESIDENTIAL DEVELOPMENT FOR UP TO 68 DWELLINGS TOGETHER WITH ASSOCIATED HIGHWAY WORKS, PUBLIC OPEN SPACE, LANDSCAPING, ASSOCIATED DRAINAGE INFRASTRUCTURE AND CREATION OF PEDESTRIAN AND CYCLE WAYS) ON LAND AT SK2720 7907 (SITE A) PARK ROAD, CADLEY PARK, SWADLINCOTE**

The Senior Planning Officer presented the report and updated the Committee regarding amendments to Condition 1 and additional conditions regarding footways, drainage, parking spaces, gate openings and bin collection points.

The Senior Planning Officer informed the Committee that the landscaping and ecology were acceptable with conditions regarding bird and bat boxes. It was noted that surface water runoff would be dealt with via SUDS ponds and that there were strict conditions in place regarding the surface water mitigation that had been agreed at the outline permission stage.

The Applicant's Agent attended the Meeting and addressed the Committee regarding the application.

Members raised concerns regarding the play area and sought clarity regarding biodiversity net gain.

The Senior Planning Officer informed the Committee that he would liaise with the Agent regarding the play area details and confirmed that the 10 per cent biodiversity net gain would be achieved and was subject to conditions to ensure it.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to an amendment to Condition 1 to refer to Plan Rev, N .and an additional condition in relation to highways construction details, parking, gates and bin collection points.

PL/08 **THE VARIATION OF CONDITION NOS. 2, 5, 6, 9, 10, 12, 14 AND 15 OF PERMISSION REF. DMPA/2020/1117 'FOR REMOVAL OF CONDITIONS 13 AND 15 AND VARIATION OF CONDITION 7 OF 9/2018/1375, FOR CHANGE OF USE FROM AGRICULTURAL LAND TO STORAGE AND DISTRIBUTION USE (USE CLASS B8) ALONG WITH DEMOLITION OF EXISTING BUILDINGS AND LAYING OF HARDSTANDING' AT FORMER MIDLANDS PIG PRODUCERS, WOODYARD LANE, FOSTON, DERBY, DE65 5DJ**

The Head of Planning and Strategic Housing presented the report to the Committee explaining that the amendments to the conditions would provide better access and remove the bund and that no objections had been received from the Highways Authority and the National Wildlife Trust.

The Applicant's Agent attended the Meeting and addressed the Committee regarding the application.

Members raised concerns regarding the removal of the bund but noted that the changes to the access would improve safety to the site.

The Head of Planning and Strategic Housing noted that the removal of the bund would not have any significant ecological impact.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/09 **REPLACEMENT OF EXISTING RAISED DECKING TO REAR GARDEN AT 2 BISHOPS COURT, MELBOURNE, DERBY, DE73 8LN**

The Head of Planning and Strategic Housing presented the report to the Committee outlining the key points noting that no objections had been received.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/10 **PROPOSED SHOPFRONT AND FACADE REFURBISHMENT WITH MINOR INTERNAL ALTERATIONS. 1 HIGH STREET, SWADLINCOTE, DE11 8JG**

The Head of Planning and Strategic Housing presented the report to the Committee outlining the key points within the application.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/11 **THE PROPOSED CONSTRUCTION OF A DROPPED KERB, DRIVE ACCESS AND THE PROPOSED ERECTION OF BRICK PILLARS AND SINGLE STOREY DETACHED GARAGE AT 1 YEW TREE LANE, THULSTON, DERBY, DE72 3FG**

The Head of Planning and Strategic Housing presented to the report to the Committee and sought approval from the Members for the recommendations within the report.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

Councillor Tilley left the Chamber at 19:45 hours.

PL/12 **OUTLINE APPLICATION (MATTERS OF ACCESS TO BE CONSIDERED NOW WITH MATTERS OF LAYOUT, SCALE, APPEARANCE AND LANDSCAPING RESERVED FOR LATER CONSIDERATION) FOR THE ERECTION OF THREE DWELLINGS AT LAND TO THE REAR OF 69A AND 69B, REPTON ROAD, HARTSHORNE, SWADLINCOTE, DE11 7AF**

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

The Head of Planning and Strategic Housing presented to the report to the Committee highlighting the Tree Preservation Order and key issues that included properties that whilst were outside the village boundary were very close to properties within the proximity of the village. It was noted that highways were content with parking, visibility and the hardstanding surface proposed and that the Wildlife Trust was content subject to conditions regarding bat/bird boxes. The Committee was informed that there would be no significant impact on neighbouring amenity.

Members raised concerns regarding height restrictions for the third property and sought clarity regarding Permitted Development Rights.

The Head of Planning and Strategic Housing confirmed that there would be a condition in place to limit the height of the third property and that Permitted Development Rights would be removed.

As a Local Ward Member, Councillor Taylor addressed the Committee and found the proposals to be acceptable.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

Councillor Tilley returned to the Chamber 19:55 hours.

PL/13 **THE ERECTION OF A SINGLE STOREY REAR AND TWO STOREY SIDE EXTENSION AT 11 SANDCLIFFE PARK, MIDWAY, SWADLINCOTE, DE11 7PX**

The Head of Planning and Strategic Housing presented to the report to the Committee noting that the applicant was an employee of the Council and there would be no significant impact on existing property and the proposed design was acceptable.

RESOLVED:

That planning permission be refused as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/14 **DEMOLITION OF EXISTING DWELLING AND OUTBUILDINGS AND THE ERECTION OF TWO DWELLINGS AT BROADFIELD, THORN TREE LANE, NEWHALL, SWADLINCOTE, DE11 0LW**

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

The Head of Planning and Strategic Housing presented the report to the Committee it was explained that an appeal had been submitted prior to determination of the Committee. The Head of Planning and Strategic Housing outlined the key areas within the report noting that the County Highways had raised concerns regarding vehicle and pedestrian access and the increase of traffic from the site, that the Coal Authority deemed investigations necessary and that it would impact on the appearance of the countryside.

An Objector attended the Meeting and addressed the Committee regarding the application.

The Head of Planning and Strategic Housing clarified that the site could be accessed from the south with a number of appropriate conditions and that and construction management plan could also be subject to conditions.

Councillor Richards and Councill Taylor addressed the Committee and raised concerns regarding the very narrow lanes that would be used for access and noted that it was in opposition to the Local Plan and urged Members to refuse the application.

As Local Ward Member Councillor Dunn addressed the Committee and raised concern that trees and hedgerows had been removed.

Members raised concerns regarding the vast amount of work that had already taken place on site.

RESOLVED:

That the Council advise the Planning Inspectorate that planning permission would have been refused as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/15 **THE VARIATION OF CONDITION NO. 2 OF PERMISSION REF. 9/2016/1227 (THE CHANGE OF USE FROM FORMER FARM BUILDINGS TO WEDDING VENUE, FORMATION OF INCIDENTAL CAR PARKING AREAS, IMPROVEMENTS TO VEHICULAR ACCESS) AT GRANGEFIELDS FARM, LONG LANE, THURVASTON, ASHBOURNE, DE6 5BH**

The Head of Planning and Strategic Housing presented to the report to the Committee and outlined the proposal and noted that whilst noise was a key concern of the residents, the proposed Noise Assessment with a few minor changes had been found to be acceptable by the Environmental Health Officer.

Members requested that the Decision Notice not be published until after the close of the consultation period.

Councillor Bridgen addressed the Committee on the behalf of the Local Ward Member and sought confirmation that, as residents still had concerns regarding the impact of noise, the proposals would reduce the noise sufficiently.

The Head of Planning and Strategic Housing confirmed that the proposed noise mitigations would improve the situation.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery, subject publication of the Decision once consultation had expired on 4 June 2022,

PL/16 **THE ERECTION OF EXTENSIONS AND ALTERATION INCLUDING RENDER TO THE SIDE AND REAR ELEVATION OF 9B SOUTH STREET, WOODVILLE, SWADLINCOTE, DE11 7DW**

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

The Head of Planning and Strategic Housing delivered the report to the Committee and outlined the key points of the application that included the distance of the extension in relation to the neighbouring property.

Councillor Brown raised concern regarding the retention of the confer hedge.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to an additional condition safeguarding the conifer hedge.

PL/17 **NSIP CONSULTATION FOR OAKLANDS SOLAR FARM**

The Senior Planning Officer presented the report regarding consultation of a national solar farm proposal. The Senior Planning Officer sought comments from Members so that a joint response could be submitted with Derbyshire County Council.

The Senior Planning Officer outlined the impacts identified that included heritage assets, landscapes, biodiversity and the loss of agricultural land. It was further noted that noise was a concern and that Parish Councils felt that that there were other locations far more suitable.

Members raised concerns about Tenant Farmers and the loss of valuable agricultural land, the increase in traffic, noise pollution. It was suggested that there were other more suitable places that were not too far away that included brownfield sites. Members raised apprehension regarding the submission of a joint response and discussed the merits of the Council submitting its own response on behalf of its Members and residents. It was further noted by Members that technical assistance would help to strengthen the Council's response.

Members sought clarity regarding the assessment of consultation feedback and what weight the Local Plan would have. The Head of Planning and Strategic Housing informed the Committee that an inspector would have to look at all concerns and points raised that would need to be addressed and confirmed that courts would consider the weight of a Local plan.

RESOLVED:

The Committee delegated authority to the Head of Planning and Strategic Housing in consultation with the Chair to submit concerns raised by Members and all other consultees in time for the 6 June 2022 deadline.

PL/18 **CONSULTATION FROM THE COUNTY COUNCIL ON APPLICATION REF. CD9/0222/34**

The Head of Planning and Strategic Housing presented the report and noted that the planning application had been submitted in line with master plan and that Elvaston Castle would retain the listed buildings and would assist with attracting additional visitors to the area.

RESOLVED:

1.1 The Committee agreed to provide a response to the County Council's consultation on the application which drew attention to the following considerations:

- **Highways impact and the subsequent amenity impact on the residents of Thulston and Elvaston**
- **Impact on trees and biodiversity**
- **Drainage and land contamination**
- **Impact on Listed Buildings**

1.2 The Committee delegated authority to the Head of Planning and Strategic Housing in consultation with the Chair to agree the finer detail and wording of the response.

PL/19 **DEED OF VARIATION – LAND TO THE EAST OF ACRESFORD ROAD, OVERSEAL**

The Head of Planning and Strategic Housing presented the report and noted that the variation was a minor but sensible amendment.

RESOLVED:

1.1 The Committee approved the request to amend the Section 106 Agreement (S106) and subsequent Deed of Variation (DoV) to include amendments to be made to the definition of the Education Contribution to be payable in accordance with the Third Schedule of the Section 106 Agreement– Financial Contribution. This was based upon recommendations that had been received from Derbyshire County Council.

1.2 The Committee delegated authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the Deed of Variation.

PL/20 **DEED OF VARIATION – LAND ATSK3430 7732 DEEP DALE LANE,
BARROW ON TRENT**

The Senior Planning Officer presented the report to the Committee and outlined the amendments to the Section 106 Agreements.

RESOLVED:

1.1 The Committee approved the request to amend the Section 106 Agreement (S106) by means of a Deed of Variation (DoV) to include amendments to the Schedule Two (Management Company). This was based upon a request received from Taylor Wimpey Homes and following a discussion with colleagues at Derby City Council.

1.2 The Committee delegated authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the amendments to Schedule 2 of the Section 106 Agreement to be secured under the Deed of Variation.

PL/21 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL
GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:

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

PL/22 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO
COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at 20:40 hours.

COUNCILLOR N TILLEY

CHAIR

PLANNING COMMITTEE

28 June 2022

PRESENT:

Labour Group

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and Councillors Dunn, Pearson, Rhind (Substitute for Councillor Gee) and Southerd

Conservative Group

Councillors, Bridgen, Brown, Dawson, Haines, Muller (substitute for Councillor Redfern and Smith.

Non-Grouped

Councillor Wheelton.

In Attendance

Councillor Bambrick
Councillor Fitzpatrick
Councillor Hewlett
Councillor Mulgrew
Councillor Stuart

PL/23 **APOLOGIES**

The Committee was informed that apologies had been received from Councillors Gee (Labour Group) and Councillor Redfern (Conservative Group)

PL/24 **DECLARATIONS OF INTEREST**

The Committee was informed that no Declarations of Interest had been received.

PL/25 **TO RECEIVE THE OPEN MINUTES OF THE FOLLOWING MEETING**

The Open Minutes of the following Meetings 20 July 2021, 17 August 2021, 14 September 2021, 29 September 2021 12 October 2021 and 09 November 2021 were reviewed, considered as a true record and signed by the Chair.

PL/26 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

MATTERS DELEGATED TO COMMITTEE

PL/27 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members, as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/28 **DEMOLITION OF EXISTING SINGLE STOREY SHOP AND ERECTION OF NEW 2 STOREY BUILDING TO ACCOMMODATE 2 SELF CONTAINED FLATS AT 160B PARLIAMENT STREET, NEWHALL, SWADLINCOTE, DE11 0SG**

The Committee was informed that Members attended a site visit earlier today.

The Planning Delivery Team Leader presented the report to the Committee replace a vacant property with two, two bedroom flats it was noted that there would be no off street parking, there were no outstanding objections from statutory consultees but objections had been received regarding design, parking and additional traffic.

The Applicants Agent attended the Planning Committee meeting and addressed the Committee regarding the application.

Cllr Bambrick addressed the Committee as the Local Ward Member and raised concerns regarding parking, the position of the bus stop outside the property and noted that the property had not been used for 10 years.

Members raised concerns regarding parking issues and considered different options and design solutions available that could alleviate concerns.

The Head of Planning and Strategic Housing advised the Committee that County Highways had raised no objections to the application.

RESOLVED:

That planning permission be deferred to allow a discussion with the applicant and Highways regarding the provision of off street parking.

PL/29 **CHANGE OF USE FROM RESTAURANT (CLASS E) TO RESTAURANT (CLASS E) / PUBLIC HOUSE (SUI GENERIS)(FLEXIBLE USE) AT THE MANDARIN CHINESE RESTAURANT, EGGINTON ROAD, HILTON, DERBY, DE65 5FJ**

The Planning Delivery Team Leader presented the report to the Committee regarding the change of use and advised that due to a late submission of an updated site plan Condition 2 was to be amended to include revision B instead of revision A. The Committee was informed that no objections had been received from statutory consultees but that 10 representations had been

submitted in objection to the reopening as a gastro pub in a recently newly built residential location.

The Applicants Agent attended the meeting and addressed the Committee in relation to the application.

As Local Ward Member, Councillor Smith addressed the Committee and raised concerns in relation to carparking no sufficient and the entrance to the car park and enquired to whether electrical vehicle charging points could be considered.

The Planning Delivery Team Leader advised the Committee that the access from Egginton road had been closed as part of highways safety and that the carparking was deemed sufficient.

Members supported the application and discussed the installation of Electric Vehicle charging points and outside lighting.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to amendments to condition 2 to included 'revision B and condition 3 to included details of an external lighting scheme and the provision of two Electric Vehicle Charging Points.

PL/30 **OUTLINE APPLICATION (MATTERS OF ACCESS AND LAYOUT TO BE CONSIDERED NOW WITH MATTERS OF SCALE, APPEARANCE AND LANDSCAPING RESERVED FOR LATER CONSIDERATION) FOR THE ERECTION OF ONE DWELLING AT 29 BURTON ROAD, OVERSEAL, SWADLINCOTE, DE12 6LQ**

The Committee was informed that Members attended a site visit earlier today.

The Head of Planning presented the report to the Committee noting changes to Condition 4 that related to a late meeting between the Council and North West Leicestershire District Council regarding waste water drainage connecting to main drains and the Section 106 Agreement funding contribution towards the River Mease Scheme.

Councillor Wheelton, as Local Ward Member addressed the Committee and raised concerns on behalf of local residents and requested that due to the sloping nature of the land the proposed dwelling be a single storey building only.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery), subject to amendments to Condition 4 to include connection to the main drainage

system, an additional Condition in relation to the development of a single storey property and Section 106 Agreement contribution to the River Mease DCS.

PL/31 **APPROVAL OF DETAILS REQUIRED BY CONDITION 1 ATTACHED TO REF. DMPA/2020/0915 (TWO-STOREY SIDE AND SINGLE STOREY REAR EXTENSION ALONG WITH ATTACHED GARAGE) AT 247 HEARTHCOTE ROAD, SWADLINCOTE, DE11 9DU**

The Head of Planning and Strategic Housing presented the report to the Committee and outlined salient points that included tree planting, hard and soft landscaping and noted that concerns regarding Tree Preservation Orders were a separate application and not for the Committee to consider.

The Head of Planning informed the Committee that the soft landscaping proposed the of replacement trees, 6 new trees at the rear and others including silver birch with additional planting proposed to front. It was noted that the Council's Tree Officer was content with the proposals and there had been a request from the neighbouring property for boundary wall to be erected for privacy.

An Objector and the Applicants Agent attended the Planning Committee meeting and addressed Members in relation to the application. .

As the Local Ward Member Councillor M Mulgrew fought addressed the Committee and raised concerns of local residents.

Members raised concerns regarding the removal of trees and discussed the request for a wall to erected.

RESOLVED:

That the planning decision be deferred to allow for a site visit.

PL/32 **THE REMOVAL OF CONDITION NO. 7 (RELATING TO THE PERMISSIVE FOOTPATH) OF PERMISSION REF. 9/2015/0543, RELATING TO THE ERECTION OF A DWELLING AND A FORESTRY BUILDING WITH SOLAR PV ALONG WITH INSTALLATION OF ACCESS TRACK, HARDSTANDINGS, DRAINAGE POND AND CREATION OF GARDEN SPACE AT LAND AT BROADSTONE HOLT, BOG LANE, MELBOURNE, DERBY, DE73 8HU**

The Head of Planning and Strategic presented the report to the Committee and summarised the reasons for the need to remove condition 7, that could not be enforced as it related to a permissive footpath and explained that it was not a public right of way

An Objector and the Applicants Agent attended the Planning Committee meeting and addressed Members

As Local Ward Members Councillor Hewlett and Councillor Fitzpatrick addressed the Committee and raised concerns on behalf of local residents.

Members discussed the legality of the condition and recognised that permissive access could not be considered to be a public right of way.

RESOLVED:

The Committee approved the recommendations within the report of the Strategic Director (Service Delivery).

PL/32 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:

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

PL/33 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at 19:55 hours.

COUNCILLOR N TILLEY

CHAIR

PLANNING COMMITTEE

26 July 2022

PRESENT:

Labour Group

Councillor Tilley (Chair), Councillor Shepherd (Vice-Chair) and Councillors Dunn, Gee, Pearson and Southerd

Conservative Group

Councillors, Bridgen, Brown, Dawson, Haines, Muller and Smith

Non-Grouped

Councillor Wheelton.

PL/34 **APOLOGIES**

The Committee was informed that apologies Councillor Redfern (sub Muller)

PL/35 **DECLARATIONS OF INTEREST**

The Committee was informed that Councillor Wheelton declared a personal interest in item PL/ (Solar Farm) by virtue of being Secretary of Lullington Parish Council Meeting.

PL/36 **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO.11**

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

MATTERS DELEGATED TO COMMITTEE

PL/37 **REPORT OF THE STRATEGIC DIRECTOR (SERVICE DELIVERY)**

The Strategic Director (Service Delivery) submitted reports for consideration and determination by the Committee and presented oral reports to the Meeting to update Members as necessary. Consideration was then given thereto and decisions were reached as indicated.

PL/38 **DEMOLITION OF EXISTING SINGLE STOREY SHOP AND ERECTION OF NEW 2 STOREY BUILDING TO ACCOMMODATE 2 SELF CONTAINED FLATS AT 160B PARLIAMENT STREET, NEWHALL, SWADLINCOTE, DE1 0SG.**

The Planning Delivery Team Leader presented the report and informed the Committee that alternative parking arrangements had been considered and but were not possible and sought approval of the recommendations.

The Planning Delivery Team Leader read out a summary statement on behalf of Applicant who had previously addressed to the Committee.

Members were content that alternative parking arrangements had been fully considered.

RESOLVED:

That planning permission be approved as per the recommendations, subject to conditions, in the report of the Strategic Director (Service Delivery).

PL/39 **APPROVAL OF DETAILS REQUIRED BY CONDITION 1 ATTACHED TO REF. DMPA/2020/0915 (TWO-STOREY SIDE AND SINGLE STOREY REAR EXTENSION ALONG WITH ATTACHED GARAGE) AT 247 HEARTH COTE ROAD, SWADLINCOTE, DE11 9DU**

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

The Head of Planning and Strategic Housing outlined the appeal decision and the condition in relation to the development to both hard and soft landscaping to be approved by the Committee.

The Head of Planning and Strategic Housing read out summary of statements submitted by an Objector and the Applicant's Agent who attended a previous meeting and addressed the Committee.

Members discussed and considered the replacement of the Ash trees with an alternative species.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to an request to be submitted to the applicant to replace the Ash trees with an alternative species.

PL/40 **THE INSTALLATION OF GROUND MOUNTED SOLAR PHOTOVOLTAIC PANELS WITH ASSOCIATED INFRASTRUCTURE AND WORKS, INCLUDING SUBSTATIONS, CONVERTERS, INVERTERS, ACCESS TRACKS, SECURITY FENCING, BOUNDARY TREATMENT AND CCTV AT LAND NORTH OF LULLINGTON, SWADLINCOTE**

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

The Senior Planning Officer addressed the Committee and presented updated information received from Derbyshire County Council and Natural England and confirmed that both had raised no objections. The Senior Planning Officer summarised the application's key points that included the area and type of land proposed to be used and the changes proposed.

An Objector and the Applicant's Agent attended the meeting and addressed the Committee regarding the application.

As the Local Ward Member Councillor Wheelton addressed Committee and on behalf of the residents of Lullington. Councillor Wheelton raised many concerns that included the loss of Best and Versatile farming land that would impact on the lives of a number of tenant farmers, the loss of amenity and the impact on Lullington, one of the few heritage villages in South Derbyshire and a number of highway concerns.

Members commended the report but supported the issues raised by Councillor Wheelton and discussed the merits of the application along with the negative impact on Lullington, the farming land and future tourism.

The Senior Planning Officer addressed the Committee and advised that that the benefits would outweigh any impact and that the need to address the current climate emergency should be considered. It was also highlighted that the loss of agricultural land was temporary as it would be returned to the current state after 40 years.

Councillor Richards addressed the Committee and advised that DEFRA had warned local councils to stay away from the use of farming land that produced sustainable food productions in relation to solar farms and that along with the loss of farming land the Committee should also consider the number of other solar farms proposed in the area.

Members discussed the importance of green energy and considered the impact of the loss of good food production farming land and the impact on carbon footprints. Members also raised concern regarding the loss of local farming jobs and that the land could not be returned to its current condition following 40 years of use as a solar farm.

The Head of Planning and Strategic Housing informed the Committee that the information contained within the report was considered to be the best information available and that Natural England had paid due regard to the Best and most Versatile Land. The Committee was advised that the quality

of the other land proposed to be used in the application could be investigated further if needed and that it was considered that sufficient information was available to enable a decision to be reached on the application.

RESOLVED:

That planning permission refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) due to the loss of Best and Most Versatile land, the impact of the landscape, the historic village and its listed church and that it was contrary to local plan policies in these regards.

PL/41 **THE ERECTION OF A REPLACEMENT PORCH AT 79 MAIN STREET, KINGS NEWTON, DERBY, DE73 8BX**

The report was presented by the Planning Delivery Team Leader who noted that it was before Committee at the request of Councillor Fitzpatrick.

The Committee was advised regarding late items received in relation to updated plans and the challenge of ownership that had been referred to Land Registry but advised that ownership of land was not for the Committee to consider. The Planning Delivery Team Leader summarised the plans that formed part of a previously refused application. It was noted that objections received related to parking, harm of a preserved historical nature and the loss of privacy. The Committee was advised that the Planning Delivery Team Leader considered that there would be no harm of a preserved historical nature and no loss of privacy.

An Objector attended the meeting and addressed the Committee regarding the application. The Planning Delivery Team Leader read out the statement on behalf of the Applicant's Agent.

As Local Ward Member Councillor Fitzpatrick addressed the Committee and raised concerns on behalf of the residents that included the size of the porch, proposed parking arrangements and the loss of light and privacy on a neighbouring property.

Members sought clarity regarding the registration of land.

The Head of Planning and Strategic Housing advised that because the Council sought confirmation of an issue of land registration it did not make the application invalid.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery) subject to amendment to condition 2 to include the updated plans.

PL/42 **CONSTRUCTION OF 2 PAIRS OF SEMI DETACHED HOUSES WITH ACCESS AND PARKING AREA AT 69 WOODVILLE ROAD, OVERSEAL, SWADLINCOTE, DE12 6LU**

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

The report was presented by the Planning Delivery Team Leader to the Committee who highlighted key points of the development and advised that any impact on the River Mease could be mitigated.

As the Local Ward Member Councillor Wheelton addressed the Committee on behalf of local residents and raised concern of over development, access issues and the lack of green space.

Members considered Councillor Wheelton's concerns and discussed the merits of the application.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/43 **THE ERECTION OF A PROPOSED ROOF AND REAR EXTENSION AT 3 FISHPOND LANE, EGGINTON, DERBY, DE65 6HJ**

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

The report was presented by the Head of Planning and Strategic Housing who informed the Committee that County Highways had raised no objections but objections had been received from a neighbouring property and members of the public. The Committee was advised that that. the extension would increase the footprint but was of an acceptable design and was not within a conservation area. The Head of Planning and Strategic Housing noted that neighbouring amenity would be not impacted and that conditions would be in place to ensure that it would be a single residential property.

The Head of Housing and Strategic Housing read out a summary of the Objector's statement who had attended a previous meeting and addressed Committee.

The Applicant attended the meeting and addressed the Committee regarding the application.

Councillor Brown addressed Committee as the Local Ward Member and raised concerns of overbearing, loss of amenity for the neighbouring property and the design and scale of the proposals.

Members raised concerns regarding parking the design and the impact on the neighbouring amenity.

RESOLVED:

That planning permission be refused contrary to the recommendations in the report of the Strategic Director (Service Delivery) due to character and size of the proposal, the use of inappropriate materials, contrary to the Design Guide and Policy BNE1 and the impact on the neighbouring amenity.

PL/44 **RETAIN AN ADVENTURE PLAYGROUND WITH THE FOLLOWING EQUIPMENT: INCLUSIVE SWING, INCLUSIVE ROUNDABOUT, STANDING SWING, COMBINED CLIMBING TOWER AND SLIDE, 2 ZIP WIRES, 2 CLIMBING POLES AND A CALISTHENICS CENTRE AS SHOWN ON UPLOADED DRAWING AT HILTON VILLAGE HALL, PEACROFT LANE, HILTON, DERBY, DE65 5GH**

The report was presented by the Planning Delivery Team Leader presented and highlighted the key points of the proposal including equipment and landscaping.

A Supporter attended the meeting and addressed the Committee regarding the application.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/45 **RETROSPECTIVE PLANNING PERMISSION FOR EXISTING STABLE BLOCK WITH EXTENSION TO PROVIDE A NEW TORTOISE HOUSE AND CHANGE OF USE OF LAND TO MIXED USE DEVELOPMENT TO INCLUDE ZOO AND ANIMAL SANCTUARY AT MELBOURNE HALL, CHURCH SQUARE, MELBOURNE, DERBY, DE73 8EN**

The report was presented to the Committee by the Head of Planning and Strategic Housing who outlined the key points within the report and noted that Councillor Fitzpatrick as Local Ward Member was in full support of the application. The Committee was advised of objections received from Historic England.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/46 **LISTED BUILDING CONSENT FOR RETROSPECTIVE PLANNING PERMISSION FOR EXISTING STABLE BLOCK WITH EXTENSION TO PROVIDE A NEW TORTOISE HOUSE (AMENDED DESCRIPTION) AT MELBOURNE HALL, CHURCH SQUARE, MELBOURNE, DERBY, DE73 8EN**

The report was presented by the Head of Planning and Strategic Housing and the key points we outlined for the Committee.

RESOLVED:

That planning permission be approved as per the recommendations in the report of the Strategic Director (Service Delivery).

PL/47 **THE ERECTION OF LEISURE BUILDING WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING AT KNIGHTS LODGES, KNIGHTS LANE, BRETBY, BURTON ON TRENT, DE15 0RT**

The report was presented by the Head of Planning and Strategic Housing who informed the Committee of amended plans that increased internal and external areas. It was noted that the application was time driven due to the potential loss of grant funding. The Head of Planning and Strategic Housing informed the Committee that Bretby Parish Council had not enough time to consider plans and had requested that a decision be made after its meeting on 28 September. The Committee was advised that the proposed application's floor area was broadly correct and only marginally bigger to that approved. The Head of Housing and Strategic Housing outlined the additional landscaping proposal and advised that the previous refused applications were subject to appeal.

The Applicant's Agent attended the meeting and addressed the Committee regarding the application.

The Head of Planning and Strategic Housing read out a statement from the Local Ward Member, Councillor Churchill, that requested that the Committee considered the local community interest and the request by Bretby Parish Council.

RESOLVED:

That planning permission be deferred to allow for the consultation period to expire and to give time for the Parish Council to consider and respond.

PL/ 48 **DEED OF VARIATION – LAND AT THULSTON**

The report was presented by the Planning Delivery Team Leader to the Committee and the main points within the report were outlined and noted that

a decision would not be issued until July 2022 to enable an agreed way forward and the increased provision of 12% affordable housing.

RESOLVED:

1.1 The Committee approved an amendment to the Section 106 agreement (S106) by means of a Deed of Variation (DoV) to accept total financial contributions of £6,356,145 along with the provision of 12% on site affordable dwellings (66).

1.2 The Committee delegated authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the DoV.

PL/49 **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985)**

RESOLVED:-

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

PL/50 **EXEMPT QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE No 11.**

The Committee was informed that no questions had been received.

The meeting terminated at hours. 21:15 hrs

COUNCILLOR N TILLEY

CHAIR

Report of the Strategic Director (Service Delivery)

Section 1: Planning Applications

Section 2: Appeals

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

1. Planning Applications

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

Reference	Item	Place	Ward	Page
DMPA/2020/0436	1.1	Walton-upon-Trent	Seales	35
DMPA/2022/0544	1.2	Foston	Hilton	48
DMPA/2023/0338	1.3	Church Broughton	Hilton	69
DMPA/2022/1182	1.4	Hilton	Hilton	76
DMPA/2022/1621	1.5	Woodville	Woodville	80
DMPA/2022/1293	1.6	Shardlow	Aston	85
DMPA/2021/0394	1.7	Overseal	Seales	92
DMPA/2021/0651	1.8	Overseal	Seales	99
DMPA/2022/0318	1.9	Elvaston	Aston	104
DMPA/2023/0351	1.10	Hilton	Hilton	156
DMPA/2023/0454	1.11	Etwall	Etwall	162
DMPA/2023/0423	1.12	Castle Gresley	Linton	166
DMPA/2022/0927	1.13	Linton	Linton	170

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

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

Glossary of terms

The following reports will often abbreviate commonly used terms. For ease of reference, the most common are listed below:

LP1	Local Plan Part 1
LP2	Local Plan Part 2
NP	Neighbourhood Plan
SPD	Supplementary Planning Document
SPG	Supplementary Planning Guidance
PPG	Planning Practice Guidance
NPPF	National Planning Policy Framework
NDG	National Design Guide
SHMA	Strategic Housing Market Assessment
SHELAA	Strategic Housing and Employment Land Availability Assessment
s106	Section 106 (Agreement)
CIL	Community Infrastructure Levy
EIA	Environmental Impact Assessment
AA	Appropriate Assessment (under the Habitat Regulations)
CPO	Compulsory Purchase Order
CACS	Conservation Area Character Statement
HER	Historic Environment Record
LCA	Landscape Character Area
LCT	Landscape Character Type
LNR	Local Nature Reserve
LWS	Local Wildlife Site (pLWS = Potential LWS)
SAC	Special Area of Conservation
SSSI	Site of Special Scientific Interest
TPO	Tree Preservation Order
PRoW	Public Right of Way
POS	Public Open Space
LAP	Local Area for Play
LEAP	Local Equipped Area for Play
NEAP	Neighbourhood Equipped Area for Play
SuDS	Sustainable Drainage System
LRN	Local Road Network (County Council controlled roads)
SRN	Strategic Road Network (Trunk roads and motorways)
DAS	Design and Access Statement
ES	Environmental Statement (under the EIA Regulations)
FRA	Flood Risk Assessment
GCN	Great Crested Newt(s)
LVIA	Landscape and Visual Impact Assessment
TA	Transport Assessment
CCG	(NHS) Clinical Commissioning Group
CHA	County Highway Authority
DCC	Derbyshire County Council
DWT	Derbyshire Wildlife Trust
EA	Environment Agency
EHO	Environmental Health Officer
LEP	(D2N2) Local Enterprise Partnership
LLFA	Lead Local Flood Authority
NFC	National Forest Company
STW	Severn Trent Water Ltd

Item No. 1.1
Ref. No. [DMPA/2020/0436](#)
Valid date: 08/07/2020
Applicant: S Lyell **Agent:** Anna Meynall
Proposal: **Change of use of agricultural land to equestrian land on Land to the rear of Walton Hall SK2117 5882, Coton Road, Walton On Trent, Swadlincote, DE12 8LZ**
Ward: Seales

ADDENDUM

Following a late representation made on behalf of Councillor Wheelton before the item was due to be heard at Planning Committee on 21 March 2023, this item was deferred. The following additional comments are made in response to the representation made in relation to each point made.

1. It was commented that the representations previously made were out of date due to the application first being consulted on in 2020. This was noted and the item was deferred to allow this updated representation to be considered.
2. Two planning applications were also live at the application site, DMPA/2020/0437 'Installation of a ground source heat pump' and DMOT/2020/1485 'The felling/pruning of tree(s) covered by South Derbyshire District Council Tree Preservation Order no. 1'. This situation has now changed, and it can be reported that application DMPA/2020/0437 was withdrawn on 7th March 2023. Application DMOT/2020/1485 was also withdrawn on 12th May 2023, after the applicant was granted a felling licence for the proposed works from the Forestry Commission and therefore the application to the Council was no longer required. It should be noted that the Council were consulted on the felling licence application and raised no objection.
3. It was commented that there are inaccuracies in the report which are set out in turn and addressed below:
 - a. As per the representation, it should be noted that Councillor Wheelton and her company Wheelton Farming Limited are tenant farmers on the application site and neighbouring land, as well as being a residential neighbour to the application site.
 - b. While the land may have an overall flat appearance in terms of topography, it is noted there is evidence of ridge and furrow on the application site. The Council have been informed that the site is within the Higher Tier Countryside Stewardship scheme, and while this is not disputed, it is not considered that the site description is inaccurate in its general overview of the site.
 - c. It should be noted that land has been farmed by the Wheelton family for over 80 years, as part of the total holding which is approximately 300 acres (used for both sheep farming and arable). There is no alternative access to reach other parts of the farm, and therefore the loss of this field stops access to half of the tenanted farm. This is not disputed.
 - d. The representation states that land is not suitable for grazing horses, or for hay making due to tree stumps, ridge and furrow and low tree branches. In response to this, the health of the horses or the method of hay making are not the expertise of the Planning Officers, and these matters are not disputed either way. The applicant is fully aware of the

limitations of the Management Plan and has been involved in its drafting. In terms of the health of the horses, this duty of care would be covered by separate legislation.

- e. The representation states that the Design and Access Statement is out of date. While it is acknowledged that there has been a considerable gap between the application having been submitted and being heard at Planning Committee, any changes that have taken place do not directly impact on the application site itself and therefore updates to the Design and Access Statement have not been deemed necessary to request.
- f. The representation states that the application site was a medieval deer park and has been farmed with ridge and furrow, without machinery. This is not disputed.
- g. The representation states that the Management Prescriptions are not realistic because the land cannot be used to make hay. As stated in the Management Plan, no machinery is to be used, so the applicant would need to use alternative methods to make hay. The applicant has been involved in writing the Management Plan and therefore should be aware of the limitations it sets out.
- h. The representation mentions tree pruning applications that have not been set out in the report. There is an outstanding consultation application ref. DMOT/2022/0083 from the Forestry Commission to the Council relating to the aforementioned application that has now been granted permission through a felling licence. The Tree Officer commented at the time of the application and prior to the trees being felled that there was no objection to the proposal.
- i. The representation raised issues with felling of trees at the entrance to Walton Hall, these have now been resolved through separate applications.
- j. As above, matters relating to trees at the entrance to Walton Hall have been resolved separately to this application.
- k. The representation sets out that the land has been in an environmental scheme for 16 years in total (and is in the first five years of a new scheme). This is noted, however the current management of the site does not alter the planning merits and determination of this application.
- l. The representation states that there is no reference in the report to the impact of the application on the Wheelton Farming Limited business as the farm itself will be cut in half should the application be approved. This is noted, and it is set out again here that should this application be granted permission that this land is removed from agricultural use. However, the loss of agricultural land is set out in the main report, and it is considered on balance that there is no justifiable planning reason to warrant a refusal on this basis.
- m. The representation states that the submission does not address the archaeological importance of the site and that exercising horses on the land could damage remains close to the surface, and that the land is on the SHINE register. While these elements are noted, Council's Conservation Officer did not raise any objections. By way of note, Historic England were consulted on the related application (DMPA/2020/0437) for the ground source heat pump (now withdrawn) and did not raise objections, despite this being a more invasive proposed scheme. The County Archaeologist also commented on the related application and while they objected to the scheme itself, they commented that if the works went ahead, a management plan to restore the land afterwards would be an appropriate solution. It is considered that this is also relevant to this application which does not involve groundworks and should not therefore lead to the loss of the Historic Environmental Record.

Item No. 1.1

Ref. No. DMPA/2020/0436

Valid date: 08/07/2020

Applicant: S Lyell

Agent: Anna Meynell

Proposal: Change of use of agricultural land to equestrian land on Land to the rear of Walton Hall SK2117 5882, Coton Road, Walton On Trent, Swadlincote, DE12 8LZ

Ward: Seales

Reason for committee determination

This item is presented to the Committee as Councillor Wheelton is a neighbour and comments have been submitted on Councillor Wheelton's behalf.

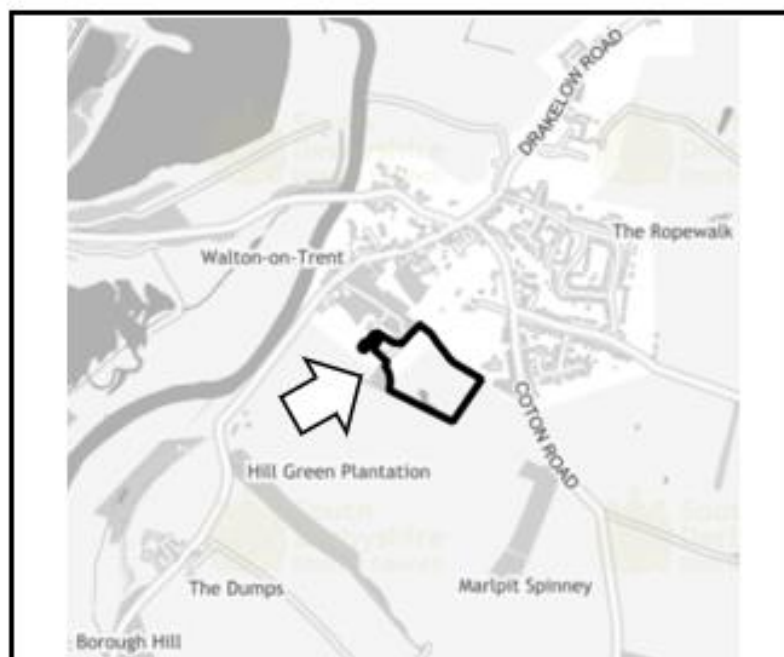
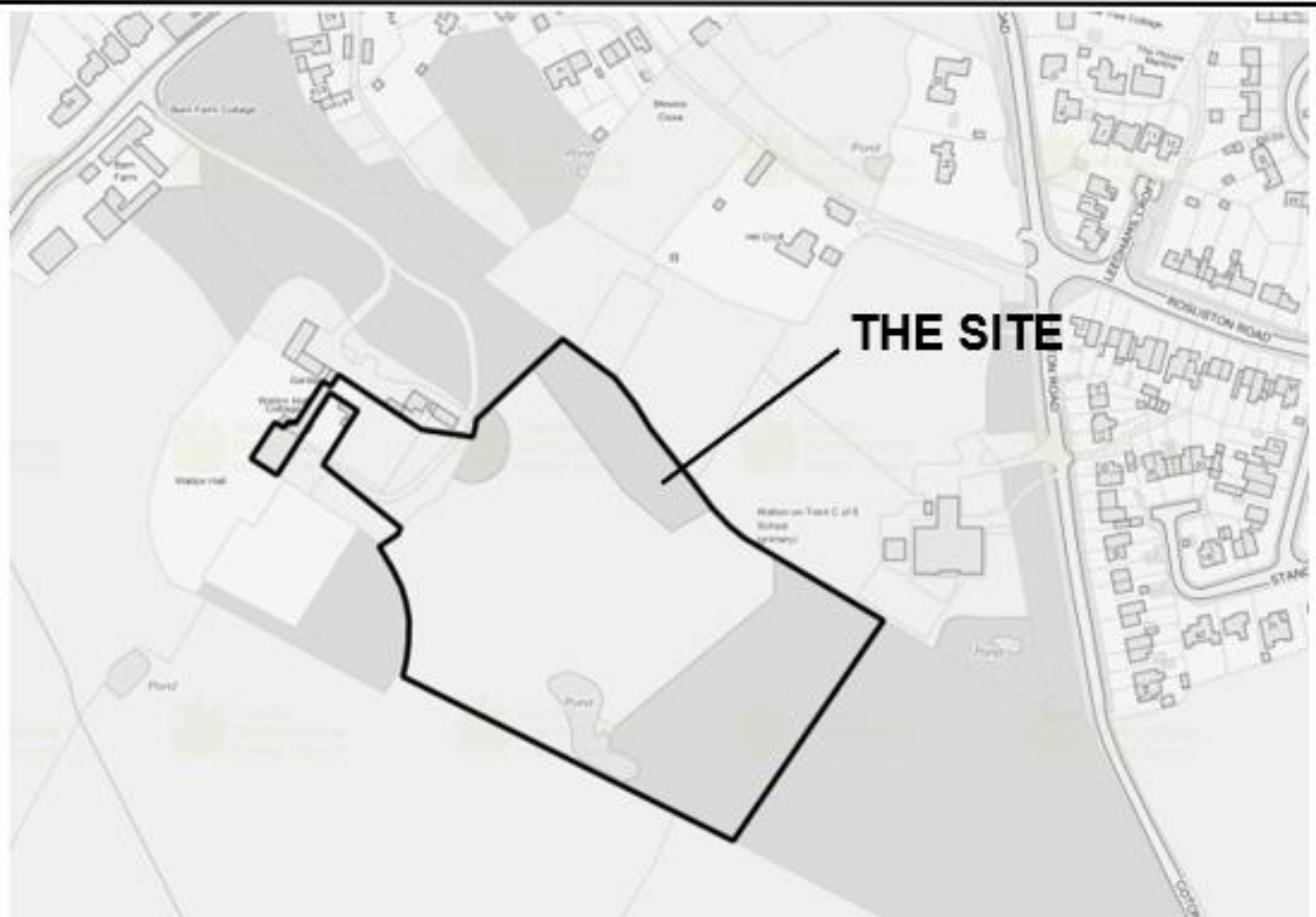
Site Description

The site comprises a large area (4.8ha) of agricultural grassland and parkland trees. The agricultural classification is Grade 3/4. The site edged red is within the same ownership and related to Walton Hall which is Grade II* listed. The site comprises agricultural grassland and parkland trees. The site is generally flat with some variation in topography close to the many veteran trees on site. The site is situated to the south of Walton on Trent settlement boundary and is within the Walton on Trent Conservation Area. The site is also located within part of Walton Hall Local Wildlife Site SD190 for 'wood-pasture and parks' and is currently managed under a Environmental Stewardship Entry Level Scheme grassland management options by a tenant gazier. To the north east of the site is a residential area, north is Walton on Trent primary school and to the north west is more residential dwellings and the River Trent. Land to the north of the site is in equestrian use.

The proposal

The proposed development is to change the use of the land from agricultural to equestrian land. No physical development including erection of stabling, jumps and other equestrian facilities is planned. The land lies adjacent to Walton Hall and is proposed to utilise the existing Grade II* stables for three horses. It is proposed that the change of use to provide space/land for the exercising of horses will encourage the renovation of the stables and bring them back into a use that they were originally intended for. The stables, hall and site in question are within the same ownership. It is proposed that the land would solely be used on a private basis by the owners of the hall for their own horses and would not include commercial activities. The site will be accessed from the existing access off Main Street where the existing parking area for Walton Hall would be used.

DMPA/2020/0436 – Land to the rear of Walton Hall SK2117 5882, Coton Road, Walton On Trent, Swadlincote, DE12 8LZ



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South Derbyshire District Council. LA 100019461.2020

Applicant's supporting information

Design and Access Statement (May 2020) – The applicants consider that the development of the land from agricultural to equestrian use is acceptable as it would be a modest and private endeavour by the owners of the hall for their own horses exercise that would in turn allow for the restoration of the Grade II* stables without the loss of best and most versatile agricultural land. They consider the use of the site for this purpose would complement the equestrian uses to the north of the site and would not involve any other built development with the proposed use including exercising, supplementary feeding and grazing of horses during spring, summer and autumn months. The applicants consider that the development would not detract from the character and appearance of the area, given no other physical development is proposed. The applicants state they would accept a planning condition to restrict the use of horse jumps and associated infrastructure. The applicants state that the proposals would not impact biodiversity, trees, hedgerows or topographical features. The applicants state that the site would be accessed from an existing access off Main Street and with the applicants being the users traffic generation would be incidental to the residential use of Walton Hall.

Heritage Statement (June 2020) – The applicants consider that the development would not detrimentally impact the setting or significance of the designated heritage assets including archaeology due to the lack of operational development in the change of use for equestrianism and as no horse jumps or stabling in the field would be required and the clients would accept a condition to this effect. They consider that the keeping of horses on the land would be traditionally associated with a property such as Walton Hall and as such can be seen as making a positive contribution to the local landscape area.

Management Prescriptions (November 2022) - The applicant has submitted a Management Plan to secure the long term condition of the Local Wildlife Site alongside the change of use to the keeping of horses. They consider that the Management Plan can be secured by a Planning Condition which will serve as a betterment to the ongoing management of the site, which does not benefit from statutory protection currently. The Management Plan includes grazing restrictions depending on the time of year, and also limits the horse grazing to three individual horses. Methods that would damage the integrity of the site such as ploughing or allowing areas of bare ground to comprise more than 5% of the site, are also restricted through the Management Plan.

Tree Survey (June 2020) - A Tree Survey has also been submitted by the applicant, however, this would appear to relate more directly to a separate application on the same site (DMPA/2020/0437) relating to the installation of ground source heat pumps, as no works to trees are proposed through this application.

Relevant planning history

(Mostly relating to the adjacent site of Walton Hall)

9/1999/0381 – The felling of 10 Sycamore trees and saplings in the grounds of – no objections - August 1999

9/2003/0144 – The felling and pruning of trees in the grounds of – May 2003

9/2004/0285 – Use of existing stable building and barn for retail purposes at – refused – May 2004

9/2005/0220 – The pruning of trees at – no objections – May 2005

9/2007/1299 – The replacement of the front door at – approved – January 2008

9/2008/1083 - Work to trees within grounds of – approved – December 2008

9/2013/0940 - The felling of a beech tree at – approved – December 2013

9/2014/0817 - The pruning of an ash and holly tree – approved –October 2014

9/2014/0962 - Listed building consent for replacement of three external doors and one window at – approved – December 2014

9/2017/0680 - The felling and pruning of trees at – no objection to works –August 2017

9/2017/1038 - the pruning of various trees covered by South Derbyshire District Council Tree Preservation Order Number 1 at – granted – November 2017

DMPA/2019/0960 – The opening up of 7 former windows and modification to 1 external door – approved with conditions – October 2019

DMPA/2019/1006 – Listed Building Consent for the opening up of 7 former windows and modification to 1 external door – approved with conditions – October 2019

DMPA/2020/0445 - Reparation/re-building of existing outbuilding associated with main house to form plant room at - approved with conditions - July 2020

DMPA/2020/0525 - Listed Building Consent to repair, rebuild and re-use of existing outbuilding associated with main house to form plant room at – approved with conditions –July 2020

DMPA/2020/0437 - Installation of a ground source heat pump on – awaiting decision

DMOT/2022/0083 - Consultation from the Forestry Commission for works to trees at – awaiting decision

DMPA/2022/0412 - Listed building consent for reinstatement of former blocked-up window opening at ground floor level to the rear (east) elevation and to create bathroom/en-suite and WC facilities at first and second floors at - approved with conditions September 2022

Responses to consultations and publicity

Derbyshire Wildlife Trust initially objected to the proposal with concerns in relation to the impact the keeping of horses would have on the condition of the site (including veteran trees and the the sward). However, following the submission of a Management Plan, written under the advice of DWT and the SDDC Biodiversity Officer, DWT have withdrawn their objection providing the specifics of the Management Plan are adhered to.

They state 'On the whole the prescriptions are considered to be acceptable for the management of the Local Wildlife Site. I have a couple of comments set out below.

With regard to the timing of cuts it would be desirable to see the date amended as below. This is in line with Natural England and Defra's advice on hay cutting times used for agri-environment agreements. It helps to ensure that any flowering plants are able to flower and set seed.

- Manage the grassland by grazing with livestock between 1st April and 30th November; or, by cutting and removing field-dried hay after 16th July.

With regard to the removal of deadwood it would be beneficial to retain fallen deadwood or snags wherever possible. This is a valuable habitat for insects, fungi, bats and birds. The amendment below is suggested,

- Standing and fallen deadwood will be retained on site wherever possible. However, any wind-blown trees, or trees which present significant health and safety risks, can be removed from the area covered by these prescriptions.

If the above can be incorporated into a final document and planning permission is subject to a condition for the application of the plan, we have no further objection to the application.'

These requirements were subsequently added to the Management Plan (dated November 2022), to address the request of the Wildlife Trust.

Biodiversity Officer initially objected to the proposals due to the lack of a suitable management plan to maintain the features of the Local Wildlife Site. However, upon receipt of the Management Prescriptions plan dated 17 November 2022, the Biodiversity Officer confirmed that this was acceptable and their objection was removed.

Tree Officer has no objection subject to conditions and informatives covering: posts and markers to be erected during construction to indicate RPA's, Tree Protection as per supporting Method Statement.

Environmental Health Officer has no objections.

Conservation Officer has no objections to the development subject to conditions to ensure brightly coloured artificial jumps etc. are not erected within the site.

Landscape Officer sought a Full Arboricultural Survey, Ecology Survey and specification stating the proposed treatment, cultivation and grass seeding of the park.

Walton on Trent Parish Council has no objections.

Members of the public/neighbours

One letter of objection has been received raising the following comments:

- a) Lack of genuine intention of the land owner to use the land for equestrian purposes - the application is a device to trigger the termination of agricultural tenancy of the land known as the Park, as is following application DMPA/2020/0437 for Ground Source Heat pumps (currently pending). This will result in a substantial impact on the agricultural tenancy and as a result the ongoing viability of the farm business that partially operates from this site as well as on a further 118.03 acres of land.
- b) Around 224 sheep are now farmed/held on the land (previously cattle until three years ago due to TB concerns) due to proximity to nearby barn buildings (Barn Farm) and other farmed land units such as Housefield and Mowfield, which is in line with the management of the land as stated within the LWS, which an equestrian use would not be. To take this land out of agricultural practice/maintenance will truncate the main flow of sheep flock between the other land under the agricultural tenancy will impact that business.
- c) The holding is in a Higher Tier environmental scheme (Natural England/DEFRA/Rural Payments Agency affiliated – a personal not land related agreement) and has been for over 13 years and in the third year of a five year Higher Tier Countryside Stewardship Agreement which commenced on 1st January 2018. If the land is removed from agricultural use this would lead to breach of contract of this agreement and liable for penalties for not maintaining the land in lines with environmental features and agreement. This would also impact the visual setting of the land in the context of the designated heritage assets, including underground potentially medieval archaeological assets.
- d) While SDDC do not have a local list, there is compelling reason that the Park would fall within the definition of an undesignated heritage asset, being both a medieval deer park and featuring on the SHINE register.
- e) It would appear that the ownership of Walton Hall and the Park changed some years ago, however the tenant of the land has received no notice that their landlord had changed.
- f) The Tenancy agreement includes a landlords covenant of quiet enjoyment, right of access and other limitations for the land and this combined with the environmental schemes would prevent the owners undertaking the change of use or installation of the associated application to install ground source heat pumps.
- g) The development will detrimentally impact the long-term environmental schemes which are currently contributing to the maintenance of this medieval and post-medieval piece of land.
- h) The development will detrimentally impact a number of ancient and veteran trees on the land which ought to be subject of Tree Preservation Orders and are mentioned within the LWS Designation Assessment.
- i) The development will be contrary to local and national planning policy as it would result in detrimental impacts on the Conservation Area and setting of the Grade II* listed building if the application were granted.

- j) The management of the land in accordance with the LWS for cattle/sheep grazing and the other practices mentioned are key to maintaining nature conservation, environmental incentives, and tree protection.
- k) The land would be unsuitable for horses as they may get colic if they too much grass or if not enough is available this too could impact environmental management of the site.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 The Local Plan Part 1 (LP1) – S1 Sustainable Growth Strategy, S2 Presumption in Favour of Sustainable Development, S3 Environmental Performance, H1 Settlement Hierarchy, 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, INF8 The National Forest

2017 The Local Plan Part 2 (LP2) SDT1 Settlement Boundaries and Development, BNE5 Development in Rural Areas, BNE7 Trees, Hedgerow and Woodland, BNE10 Heritage

The relevant local guidance is:

Trees and Development SPD

Walton-on Trent Conservation Area Statement 2014

The Landscape Character of Derbyshire 2014 – Part 1.10 Mease-Sense Lowlands

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

The relevant legislation is:

Town and Country Planning (Development Management Procedure (England) Order) (DMPO) 2015

Other material considerations are:

Walton Hall Local Wildlife Site SD190

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- The principle of the development – change of use of the land from agricultural to equestrian;
- Landscape character and quality, biodiversity, and best and most versatile agricultural land;
- Heritage assets, including archaeology;
- Other matters.

Planning assessment

The principle of the development – change of use of the land from agricultural to equestrian:

The most applicable policies to consider are S1, S2, H1 and BNE4 of the LP1 and SDT1 and BNE5 of the LP2 and paragraphs 170. Between them these policies seek to ensure that development in rural areas is limited, with the majority of development directed to sustainable defined settlement boundaries and is appropriate for their setting with regard to local landscape character, the size of the settlement, protecting best and most versatile agricultural land, biodiversity and heritage assets.

H1 of the LP1 defines the site as being within the rural area of Walton on Trent. SDT1 of the LP2 reads

that 'Settlement boundaries define the built limits of a settlement. Within settlement boundaries as defined on the policies map and in Appendix A, development will be permitted where it accords with the development plan. Outside of settlement boundaries and allocated sites, within the Rural Areas as defined in Policy H1, development will be limited to that considered acceptable inter alia by Policy BNE5.' The site lies outside of the nearest defined settlement boundary of Walton-on-Trent (north of the site beyond the school). BNE5 of the LP2 states that 'Outside of settlement boundaries (as defined in policy SDT1) within the Rural Areas of the district planning permission will be granted where the development is:

- i) allowed for by policies H1, H22, E7, INF10, H24, H25, H26, H27 or H28; or
- ii) otherwise essential to a rural based activity; or
- iii) unavoidable outside settlement boundaries; or
- iv) considered to be infill that is in keeping with the character of the locality and represents the infilling of a small gap for not normally more than two dwellings, within small groups of housing; and
- v) will not unduly impact on: landscape character and quality, biodiversity, best and most versatile agricultural and, and heritage assets.'

The explanation accompanying this policy also allows for facilities essential to rural based activities such as equestrianism and outdoor recreation.

The use of the land for equestrian use would constitute a rural based activity, one which would unlikely be appropriate or able to be facilitated within a settlement. The relationship of the existing stables at Walton Hall and the land in question also appears closely linked in both character and physical proximity, it would be logical therefore for this to be used for equestrian purposes. It is noted that a parcel of land to the north of the application site is also in equestrian use and therefore this proposal would not be out of keeping with the locality. It is stated by the applicants that the proposed equestrian use would include exercising of horses, supplementary feeding and grazing during spring, summer and autumn months being solely in private not commercial use. It is also argued by the applicants that the grazing of horses would fall into the definition of agriculture. Whilst the grazing element of the proposed equestrian use of the site may be within the realms of agriculture which as a result would not require planning permission, the proposed exercising etc. would constitute a change of use of the land. This proposed change of use, is however considered to be acceptable in principle in relation to Policy BNE5, providing that point v) of the policy can be met, and these matters will be considered in turn below.

Landscape character and quality, biodiversity, and best and most versatile agricultural land

The most applicable policies to consider are S1, S2, S3, SD1, BNE1, BNE3 and BNE4 of the LP1 and BNE5 and BNE7 of the LP2, the Trees and Development SPD, The Landscape Character of Derbyshire 2014 – Part 1.10 Mease-Sense Lowlands and the Walton Hall Local Wildlife SD190 Assessment. Between them these policies and guidance seek to ensure that new development that could have a direct or indirect effect on sites with potential or actual ecological or geological importance including: Internationally important sites; nationally important sites such as SSSI's; Sites of Country Importance (such as Local Nature Reserves, Local Wildlife Sites and Local Geological Sites); Ancient woodlands, veteran trees and hedgerows and priority habitats and species do not significantly harm or detrimentally impact nature conservation, biodiversity and geodiversity and provide mitigation or enhancement at a scale proportionate to the site/proposed use/development. Where mitigation measures, or exceptionally, compensation cannot sufficiently offset the significant harm resulting from the development and/or where the development can potentially be located on an alternative site that would cause less or no harm, planning permission will be refused.

Derbyshire Wildlife Trust and the SDDC Biodiversity Officer both acknowledged in their comments that equestrian use and therefore also horse grazing, would have a different and higher impact to cattle and sheep grazing, due to both the normal patterns of grazing intensity and the way in which the animals graze the land. However, it is considered by both these consultees that these concerns have now been overcome by the submission of the 'Management Prescriptions' Management Plan which places controls on the level of grazing, as well as 'indicators of success' to ensure that the

site and species within it are not negatively affected and that the wood pasture and parkland is maintained. The Management Plan also gives specific attention to the veteran trees within the site, as well as the sward itself. Importantly, the Management Plan places restrictions on the number of horses allowed to be kept (and therefore grazed) of up to three, as well as grazing restrictions to allow the land to recover at appropriate times of year.

The site has many veteran trees within it and there are instances of replacement parkland tree planting having taken place, as noted in comments provided by DWT. It is considered that veteran trees, particularly those in a parkland setting, can be important both visually to the character of the area and for invertebrate assemblages especially in deadwood or fallen branches etc. The retention of these trees is key, however, no tree, woodland or hedgerow works are proposed as part of this application. The SDDC Tree Officer has reviewed the proposals and raised no objection to the development subject to suitably worded planning conditions to avoid root protection areas, however these comments appear to relate to the separate planning application DMPA/2020/0437 (pending) for ground source heat pumps as no machinery is required to be used through this proposal. It is considered subject to the Management Plan being secured by a condition on the application, that the development would comply with policy in terms of potential impact on trees, woodland and hedgerows. The Management Plan also addresses the comments raised by the SDDC Landscape Officer, as the ongoing maintenance of the site and sward can be protected through this.

The site is presently in agricultural use as grazing land for a flock of over 200 sheep. The applicants have stated that the land is classified as Grade 3 and 4 on the DEFRA Land Classification Map. However, it would appear that this site would largely be within Grade 3 land – 'good to moderate' (shaded green), and also areas of Grade 2 land 'very good' (shaded blue) when using the Agricultural Land Classification Map (Natural England 2010). BNE4 of the LP1 seeks that new development should protect soils that are 'Best and Most Versatile' (Grades 1, 2 and 3a in the Agricultural Land Classification) and wherever possible direct development to areas with lower quality soils. Given the Agricultural Land Classification on this site, this element of Policy BNE4 should therefore also be considered.

The Management Plan 'Management Prescriptions' that has been submitted, includes a provision for the continuation of agricultural grazing as set out below;

'Grazing with cattle and sheep is permitted to maintain a specific sward height; The average height of the grass sward (excluding rushes and flowering stems) should be between 5 and 15 cm at the end of the grazing period.'

While it is acknowledged that if permission is granted for the keeping of horses, that the land is in effect, taken out of agricultural use, it would not preclude the land from still being used for agricultural purposes by way of cattle and sheep grazing, in fact this is encouraged by the Management Plan. In addition, it is not considered that by granting planning permission it would result in the land being permanently unavailable for agricultural purposes as the use is considered to be reversible. For these reasons it is not considered that the proposal conflicts with Policy BNE4 which seeks to protect best and most versatile agricultural land.

In terms of landscape character, the keeping of horses does change the use of the land from a purely agricultural use, however, in terms of its overall appearance, the keeping and grazing of up to three horses is not anticipated to change the character of the landscape, as it will retain its parkland character and no built development is proposed. Changes in the sward height are anticipated due to horse grazing, however it is acknowledged that there is currently no statutory restriction on the maintenance and preservation of this site, and that the Management Plan sets out that the sward should be between 5 and 15cm at the end of the grazing period, thus retaining its presence and integrity. It is not considered therefore that the proposed change of use would have a detrimental impact on the landscape character of the site and the integrity of Local Wildlife Site SD190.

Heritage assets, including archaeology

Policy BNE10 explains that development which may affect heritage assets requires appropriate assessment that describes the significance, identified the impact of the development on these

assets/significance and provides clear justification for the works.

The Walton on Trent Conservation Area Statement states that ‘the entrance to Walton Hall is very understated, and falls between Barn Farm Cottage and a small wooded copse. It has a simple metal estate fence lining the entrance drive with a wrought iron gate and cast-iron posts. The parkland occupies a long, tranche of land stretching from Catton Road to Coton Road. The landscape parkland to Walton Hall is quite small and self-contained. Another informal entrance appears to have existed onto Coton Road, but this was probably just designed for access and ease of maintenance. The lack of gatepiers or a significant entrance into the Hall does tend to support the sense that this was the house of a well-to-do family, who, like many within this part of the Country, shared the 18th century desire to have a house in a picturesque setting that overlooked the River Trent. The house is imposing from the west bank of the river. It appears quite large, as there is nothing to compare it with, and the giant order of the pilasters do give a heightened sense of its scale. The building is in fact quite small by country house standards. The parkland is also simply planted, with mature trees sitting within the natural contours of the landmass and no obvious landscape devices or re-shaping.’

The site is located in an area with archaeological potential, with a Historic Environment Record suggesting that ‘the site is perhaps part of the medieval deer park associated with the old Walton Hall and the prevalence of trees, particularly at the eastern end of the pasture would seem to offer some support to this view’ (SDDC Conservation Officer). As the proposal doesn’t involve any physical alterations to the site beyond its change of planning use from agriculture to equestrian, there are no objections on archaeological grounds.

The land is also closely related to the Grade II* listed property Walton Hall which it is connected with historically, functionally and physically. The land is also within the setting of Grade II listed Outbuilding and attached Garden Wall to the East of Walton Hall. The Conservation Officer has no objection to the proposal, commenting that the change of use is limited in its scale and nature, and may result in the positive re-use of the stabling block. It is not considered that the proposal would be harmful to the setting of the listed building or the historic character and appearance of the Conservation Area with the site being experienced in context with adjacent land already in equestrian use. It is however recommended by the Conservation Officer that a condition be secured on any permission which restricts artificial and brightly coloured horse paraphernalia such as jumps from being placed on the land which would detract from the setting of the heritage asset and the historic parkland.

Taking into consideration the view of the Conservation Officer, the proposal is not expected to be harmful to the setting of the listed Walton Hall, or the historic character and appearance of the Conservation Area of Walton on Trent. The proposal can therefore be considered to be in accordance with Policy BNE2 of the LP1 and BNE10 of the LP2, as well as national policy and guidance.

It is also noted that the applicant wishes to bring the stables back into use which form part of the stable block of the Walton Hall Grade II* listed building. This application relates only to the change of use of the land edged red as part of this submission and any alterations that would be required to facilitate the stabling of horses within the buildings may require separate Listed Building Consent.

Other matters

A number of comments of objection from Councillor Wheelton have been received which relate to the tenancy of the land, the intention of the applicant, and the existing Higher Level Stewardship Agreement. While these comments are noted, these matters fall outside of the control of the planning framework and cannot be given weight as material considerations. Informatives will be added to any decision to inform the applicant of the need to ensure due procedure is followed in terms of tenancy arrangements and access rights over the land. The Management Prescriptions that have been submitted and will be secured through a condition to any approval, should also cover the long-term management and preservation of the site.

Conclusion

It is concluded that the proposal would be in accordance with national and local planning policy, providing that the ongoing management of the site is secured through the submitted Management Plan, 'Management Prescriptions' dated 17 November 2022 as a condition, to ensure the preservation of the site in terms of its significance as a Local Wildlife Site, and important historic wood and parkland setting of the Grade II* listed building Walton Hall. It is therefore recommended that the application be approved subject to 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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to the following conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with the approved Management Plan 'Management Prescriptions (dated 17 November 2022)' and thereafter maintained in accordance with the aforementioned plan throughout the lifetime of the development.

Reason: In order to safeguard designated and non-designated species and habitats from undue disturbance and impacts, and to retain the character of the landscape.

3. The application site shall only be used for the social and domestic use by the occupiers of the dwelling known as Walton Hall, Coton Road, Walton on Trent, DE12 8LZ and shall not be used for commercial gain in association with any business.

Reason: To safeguard the amenities of nearby occupiers and to preserve the character of the landscape.

4. Prior to the siting of any jumps, chattels and/or paraphernalia associated with equestrian use on the land subject to this permission, details shall first be submitted to the Local Planning Authority and approved in writing. Only jumps, chattels and other paraphernalia approved by this condition shall be kept on the site thereafter, with the remainder of the site kept clear in perpetuity.

Reason: In the interests of the character and appearance of the Conservation Area and the historic setting of the Walton Hall Grade II* listed building.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, no gates, walls, fences or other means of enclosure shall be erected on the site without the prior grant of planning permission pursuant to an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interest of the character and appearance of the Conservation Area and the setting of Walton Hall Grade II* listed building.

Informatives:

- a. The applicant is advised to follow other areas of legislation and give due consideration to existing tenancy arrangements and any existing Higher Tier Countryside Stewardship Agreements, noting that this decision notice relates to planning permission only.

06/06/2023

Item No. 1.2

Ref. No. [DMPA/2022/0544](#)

Valid date: 19/04/2022

Applicant: Dove Valley Park Limited

Agent: Asteer Planning

Proposal: Full planning application proposing the erection of 2no. employment buildings (Use Class B8, B2 and Ancillary E(g) at Plots 3a and 3b with associated landscaping, drainage (including attenuation basin), car parking, refuse stores and other infrastructure at Plot 3, Dove Valley Park, Foston

Ward: Hilton

Reason for committee determination

This item is presented to the Committee given it is a major application which is considered a partial departure from the Local Plan.

Site Description

The site is located in Foston at the north eastern extent of the Dove Valley Park commercial complex, itself north of the junction of the A50 and the A511. The site is approximately 15 km west of Derby City Centre and 4.5 km west of Hilton. Hilton is a village identified as a Key Service Village, where there are numerous local services and amenities.

Plot 3 is an irregular shape and comprises approximately 3.33 hectares of vacant managed greenfield and scrub land. The site is clear from any tree planting.

The site is bound by the existing large scale commercial building to the south, an internal service road and roundabout known as Park Avenue to the west, vacant unpastured agricultural land to the east and to the north at an angle commercial storage outside of DVP. The angle of this boundary acts to create an obscure apex to the site away from the proposed access off Park Avenue.

Dove Valley Park is a designated strategic employment area in the Local Plan. It comprises a number of plots, some of which have already been delivered for example, Nampak Plastics, Futaba Manufacturing, Trauma Limited and Kuehne + Nagel Ltd. The businesses operate on a strategic and national level and is a major source of employment for SDDC area.

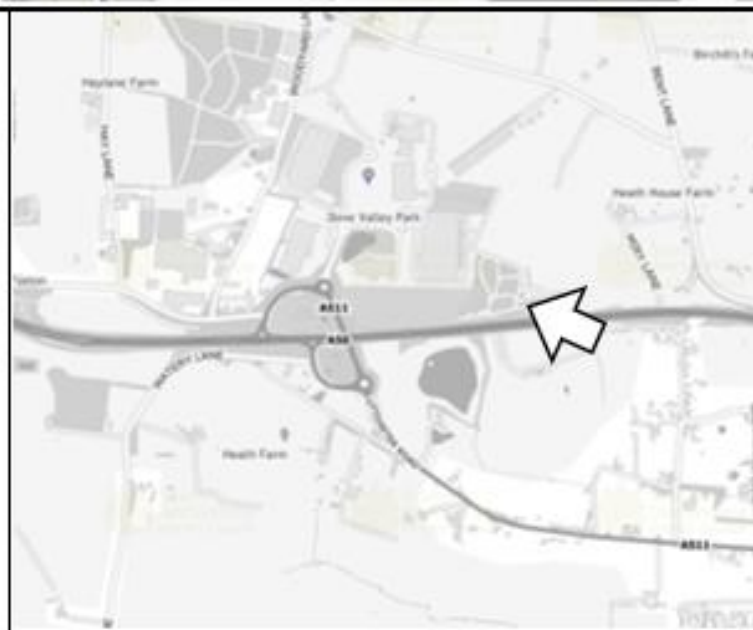
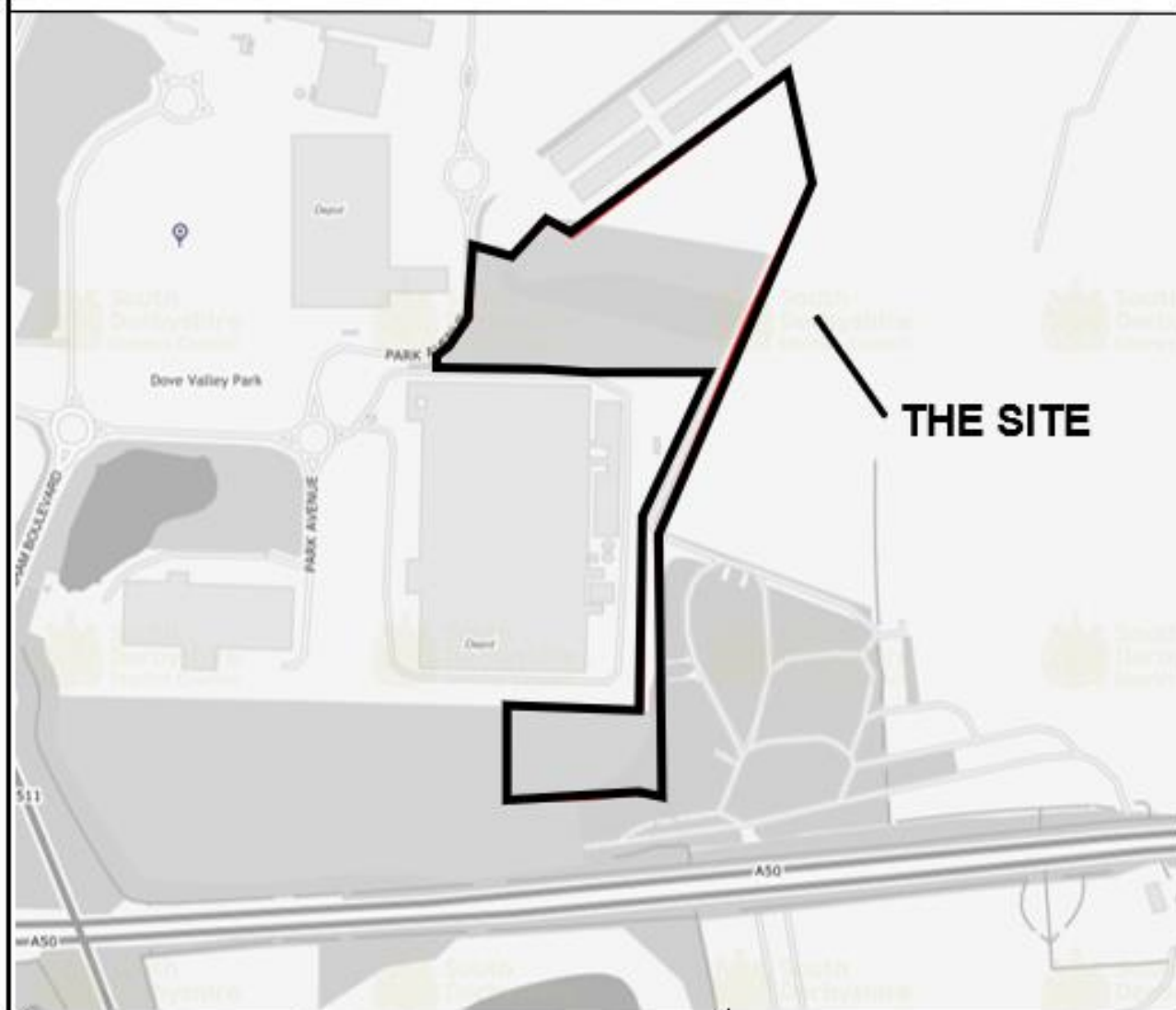
The positioning of the site at the junction of the A50 and A511 results in the site have a high level of accessibility by vehicles, and good vehicular links to the strategic road network of the Midlands.

The site comprises two sub plots within the irregular overall shape of the site: Plot 3a comprises the south of the site following the southern plot boundary, Park Avenue and field boundary to the west. Plot 3b then extends north between the triangular space created by the field boundary and the angled commercial storage to the north.

The site is covered by two allocations.

Plot 3A is allocated in the LPP1 for industrial and business development (Ref: E1E). The strategic employment allocation encompasses to the wider employment site 'Dove Valley Business Park'. Policy E1 "Strategic Employment Land Allocations 2011-2028" states development at Dove Valley Business Park will not be permitted other than for new industrial and business development as defined by classes B1(b), B1(c), B2 and B8 of the Use Classes Order.

DMPA/2022/0544 - Plot 3, Dove Valley Park, Foston



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Plot 3B is allocated as a safeguarded employment site (Ref: E5). This allocation incorporates a wider swathe of land to the north and west of the site. Policy E5 “Safeguarded Employment Sites – Dove Valley Park” states that land measuring 28.3ha, to the north of Dove Valley Business Park, is allocated for the development of large scale industrial and business units only, as defined by classes B2 and B8 of the Use Classes Order. The minimum gross internal floor area per unit will be 15,000 sqm.

The site is not subject to any further allocations. It is noted as a Green Zone for Great Crested Newts representing the lowest risk. The site is in Flood Zone 1 representing the lowest risk of surface water flooding, however there are individual pockets on site noted for medium risk of flooding due to local topography. The site has no heritage assets on site or nearby.

The proposal

The proposal is for full planning permission for an employment development within Use Class B8, B2 and Ancillary E(g). There would also be associated landscaping, drainage and infrastructure.

The development description is as follows:

“Full planning application proposing the erection of 2no. employment buildings (Use Class B8, B2 and Ancillary E(g)) at Plots 3a and 3b with associated landscaping, drainage (including attenuation basin), car parking, refuse stores and other infrastructure.”

Each element of the works can be broken down as follows in more details:

<i>Plot</i>	<i>Gross Internal Area (GIA) (sqm)</i>	<i>Height (haunch) (m)</i>
<i>Plot 3A</i>	Warehouse - 9,990 sqm GF Office - 256.5 sqm FF Office - 256.5 sqm Total GIA - 10,503 sqm	<i>12m</i>
<i>Plot 3B</i>	Warehouse - 2,836 sqm GF Office - 150 sqm FF Office - 150 sqm Total GIA - 3,136 sqm	<i>8m</i>

The proposed attenuation basin is located within the Plot 1 boundary but forms part of the drainage strategy for Plot 1 and Plot 3 and is therefore included within both planning applications. As set out above, an application for enabling works including drainage at Plot 1 has been approved (Ref: DMPA/2022/0567).

The proposed development is located in the north east of the wider Dove Valley Park estate. A new eastern spur would be created from the adjacent roundabout. The spur would then lead into both sites via two separate bellmouths for each site providing accesses into the site for HGVs and services, and also private vehicles, along with a separate footpath for pedestrians.

The arrangement of THE site positions the buildings 3A and 3B to the rear of each site allowing for access parking and delivery yard to service both buildings. The proposed buildings include warehouse and office space. These different uses are reflected in the external design.

Plot 3A unit is to be constructed with an underside haunch height of 12m and a ridge height of 14.3m. Plot 3B unit is to be constructed with an underside haunch height of 8m and a ridge height of 10.7m.

The proposed cladding is a combination of metal composite and built-up cladding in tones of grey with polyester powder coat aluminium windows and door sets. The buildings also feature curved roofs, soffits & profiled fascias to provide a higher quality finish and an enhanced aesthetic.

The proposed landscaping scheme for Plot 3A and 3B includes a combination of tree, shrub and amenity grass planting. A native hedgerow and several trees are also proposed to be planted to the site boundaries, as well as several trees within the car park area. Additional planting including wildflower and grass seeding is proposed to the south of attenuation basin which is located just outside of the application site boundary.

Access to Plots 3A and 3B will be via the roundabout at the northeast corner of the site. The site access will become the south-eastern arm of what will become a four-arm roundabout.

The parking provision proposed for Plot 3A comprises 92 parking spaces including 10 electric vehicle charging bays, 4 disabled car parking bays and 6 motorcycle parking spaces. The parking provision proposed for Plot 3B comprises 43 parking spaces including 6 electric vehicle charging bays, 2 disabled parking bays and 4 motorcycle parking spaces. Cycle parking will be provided to 6C's standards with space indicated for such provision for both plots.

Applicant's supporting information

The application has been supported by a range of documents set out and summarised below:

- 222002-PLOT 3-SK10 B - Plot 3 – Phasing Plan Rev B
- Plot 3 – Site Location Plan- 222002-PLOT3-PL01 Rev D
- Plot 3 – Proposed Overall Site Plan – 222002-PLOT3-PL21 Rev G
- Plot 3 – External Fencing and Bollard Elevation – 222002-PLOT3-PL22 Rev B
- Plot 3A – Sprinkler Tank Layout – 222002-PLOT3-PL23 Rev D
- Plot 3A – Cycle Shelter Layout – 222002-PLOT3-PL24 Rev C
- Plot 3A – Bin Store Layout – 222002-PLOT3-PL26 Rev C
- Plot 3A – Proposed Substation Details – 222002-PLOT-PL28 Rev D
- Plot 3B – Cycle Shelter Layout – 222002-PLOT3-PL25 Rev B
- Plot 3B – Bin Store Layout – 222002-PLOT3-PL27 Rev B
- Unit 3A – Proposed External fencing and Impact Protection Plan -222002-PLOT3-PL06 Rev F
- Unit 3A – Proposed Site Plan 222002-PLOT3-PL02 Rev H
- Unit 3A – Proposed External Finishes Plan -222002-PLOT3-PL04 Rev F
- Unit 3A – Proposed Ground Floor Plan -222002-PLOT3-PL10 Rev C
- Unit 3A – Proposed Main Office Floor Plans – 222002-PLOT3-PL11 Rev B
- Unit 3A – Proposed Roof Plan -222002-PLOT3-PL12 Rev B
- Unit 3A – Proposed Elevations -222002-PLOT3-PL13 Rev C
- Unit 3A- Proposed Sections -222002-PLOT-PL14 Rev C
- Unit 3B – Proposed Site Plan -222002-PLOT3-PL03 Rev C
- Unit 3B – Proposed External Finishes Plan -222002-PLOT3-PL05 Rev C
- Unit 3B – Proposed External Fencing & Impact Protection Plan-222002-PLOT3-PL07 Rev C
- Unit 3B – Proposed Ground Floor Plan- 222002-PLOT3-PL15 Rev A
- Unit 3B – Proposed Main Office Floor Plan -222002-PLOT3-PL16 Rev A
- Unit 3B – Proposed Roof Plan -222002-PLOT3-PL17 Rev A
- Unit 3B – Proposed Elevations -222002-PLOT3-PL18 Rev A
- Unit 3B – Proposed Sections -2220002-PLOT3-PL19 Rev A
- Plot 3A Landscape Proposals - 22.1648.001
- Plot 3B Landscape Proposals - 22.1649.001
- Arboricultural Impact Assessment, Method Statement and Tree Protection Plan - April 2022
- Archaeological Desk-Based Assessment - July 2022
- Geophysical Survey Report (including UXO Assessment) – August 2022
- UXO Desk Study & Risk Assessment – November 2022
- Design and Access Statement - April 2022
- Flood Risk Assessment and Drainage Strategy – July 2022

- Flood Risk Assessment and Drainage Strategy – July 2022
- Geo-Environmental Report - March 2020[AH1]
- Supplementary Ground Investigations Report – September 2022
- Technical Memorandum (Ground Gas Testing) TM001 – March 2023
- Noise Assessment – August 2022 V2
- Ecological Impact Assessment - March 2022
- BIA Review – 31 August 2022
- Transport Assessment - April 2022
- Travel Plan - September 2022 Rev A
- Economic Impact Note - April 2022

Relevant planning history

9/590/155/0 Dove Valley Park Foston Derby Outline application for erection of business and industrial units on approximately 83 hectares of land - Approved May 1992 and renewed under 9/0595/0170 in August 1995 and varied under 9/0897/045, 9/2005/0758 (to extend the time period to submit reserved matters) and 9/2005/1078 (to amend the limit on the floor space allowed on site)

9/1993/0445 Dove Valley Park Foston Derby Reserved matters for the formation of estate roads together with the implementation of a landscaping scheme - Approved September 1993 and amended under 9/2004/0796 in October 2004

2017/0816 Outline application for the development of site for B2/B8 units, each unit providing no less than 15,000sqm of floor space with access for approval now and all other matters reserved for future approval – Approved November 2018 (8 year in total condition to implement)

DMPA/2022/0567 Full planning application proposing enabling works including site clearance, site re-profiling, drainage (including attenuation basin) and other associated ground works at Plot 1 - Approved April 2023

Responses to consultations and publicity

The application was publicised via three rounds of consultation running from the 25th May until 17th June 2022, and then again on the 16th December 2022 until the 6th January 2023, and finally from the 12th May until the 2nd June, during which letters were sent to neighbours and a site notice and press notices publicised the application referring to both its scale and departure from the Local Plan. It should be noted that at the time of writing the last period of consultation was still ongoing. A verbal update on this matter will be given at committee.

Notwithstanding the above, the application is considered to have been publicised in accordance with national and local legislation on consultation.

The reason for the reconsultation was consideration of the E5 policy and the following minor amendments:

- Access road updated to suit latest proposals (This affects the site plan drawings).
- Rear boundary fence line to Plot 3B amended to exclude BNG area (This affects the site plan drawings).
- Eastern boundary fence line to Plot 3A amended to exclude BNG area and basin (This affects the site plan drawings).
- Ground Floor Disabled WC now increased in size to accommodate shower (This affects the 3A Floor Plan drawings)
- Plot 3A external finishes plan updated to accommodate fire tender turning. (This affects the Plot 3A external finishes plan)
- Fence lines relocated to back of pavement.
- Red line boundary error corrected to include balancing pond.

The following responses were made by statutory consultees in response to consultation:

Planning Policy - No objection

Identifies Local Plan Part 1 Policy EMP1 as that identifying land at Dove Valley Business Park, including application site 3a for B1c, B2 and B8 development and Local Plan Part 1 Policy EMP5 allocating land for “the development of large scale industrial and business units only, as defined by classes B2 and B8 of the Use Classes Order. The minimum gross internal floor area per unit will be 15,000 sqm.” Comments that whilst unit 3b has a smaller floor area than that stipulated in Policy EMP5, the plot of land is too small and constrained to accommodate a unit of the size indicated by the policy. To not permit a reduced size employment development on this site would therefore render it undevelopable and would mean that the important economic benefits that the proposed development would yield would not be delivered. Furthermore the proposed development does not prejudice the remaining EMP5 allocation land from delivering employment buildings of 15,000 sqm or more. These material considerations should be afforded significant weight in considering the proposal.

Health and Safety Executive (HSE) - No objection

Environmental Health Officer - No objection subject to conditions

Condition seeking EV Recharge points for electric vehicles - at least 1 point for every 10 parking spaces

Cadent Gas - No objection

Comments that application is near medium and low pressure gas assets and thus recommends an informative.

National Forest Company (NFC) - No objection

Secure by Design (SbD) - No objection subject to condition

Condition on boundary treatments securing commercial yard and cycle store.

Coal Authority - No objection

Environment Agency (EA) – No objection subject to conditions

Conditions on the basis that this is a sensitive location due to a Aquifers present and historic uses as airfield, landfill and industrial uses. Therefore it is recommended as part of any future site discovery strategy that it includes the turning of soils at the site to reduce the likelihood that no unexpected contamination or UXO is encountered.

Derbyshire County Council – Archeaologist - No objection

Further material in the form of geophysical assessments were provided in response to initial comments. Subject to this it was considered that Plot 3 did not warrant further assessment. The LPA has been in continual discussion with the DCC Archeaology across the plots being developed and the removal of the originally proposed WSI.

Highways England - No objection

Local Lead Flood Authority (LLFA) - No objection subject to conditions

The LLFA has no objection subject to the conditions related to the detailed design and maintenance of surface water drainage, details of the proposed drainage hierarchy, details related to surface water drainage during construction, the design of attenuation features and verification that these have been constructed correctly.

Derbyshire County Council Highways - No objection subject to conditions and travel plan contributions

A Transport Assessment (TA) has been submitted in support of the application which has been reviewed.

Sustainable Travel – It is noted that the proposed site is over 400m from the nearest bus stops which could discourage future employees from using bus services to travel to and from the proposed development.

Access – Access to the proposed development will be via a fourth arm (to be constructed) of the existing three-arm roundabout serving Muller to the north and THO to the east.

This is considered acceptable in principle subject to operational assessment and S278 approval.

Layout – The submitted swept paths for an articulated heavy goods vehicle demonstrate that these vehicles can satisfactorily enter and leave the proposed site and also manoeuvre within the site.

The level of car parking provision is considered acceptable for the type and quantum of development proposed.

Trip Generation and Distribution – The TRICS database has been interrogated to establish the likely trip generation of the proposed site. Use category, trip gen methodology, traffic distribution all of which was considered acceptable.

Traffic Impact - Future year traffic growth to the surveyed traffic flows has been applied using TEMPro growth rates to 2028, the end of the Local Plan period. In addition, the committed development traffic flows for Plots 4 and 5 on Dove Valley Park as well as the traffic associated with the residential development northeast of Hatton have been included in the base traffic flows. This is acceptable.

The operational assessment undertaken for the proposed access at the assessment year of 2028 satisfactorily demonstrates that it would operate well within capacity with minimal queues or delays occurring.

Additional operational assessments indicates that the internal junctions and junctions on the local highway network will all also operate well within capacity with the addition of background traffic growth and committed development traffic.

Travel Plan - Comments were provided on the draft travel plan. Measures including bus taster tickets and monitoring were requested.

Derbyshire Wildlife Trust (DWT) - No objection subject to condition

Net gain would be secured via a site wide and off site solution set out in the supporting RammSanderson. Important to ensure that there is an overarching plan (LEMP) in place for the three plots and that the net gain strategy is implemented alongside these developments. Stated in previous correspondence the ecological assessment has largely scoped out any substantial impacts on protected species. Provided there is a precautionary approach are unlikely, although some mitigation measures are needed.

Conditions related to breeding birds, a construction and environmental management plan, a landscape and Biodiversity Enhancement and Management Plan and lighting are recommended.

No public objections or comments have been received.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy); S2 (Presumption in Favour of Sustainable Development); S3 (Environmental Performance); S6 (Sustainable Access); E1 (Strategic Employment Land Allocation); E5 (Safeguarded Employment Sites - Dove Valley Park); SD1 (Amenity and Environmental Quality); SD2 (Flood Risk); SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure); SD4 (Contaminated Land and Mining Legacy Issues); SD5 (Minerals Safeguarding); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF1 (Infrastructure and Developer Contributions); INF2 (Sustainable Transport); and INF7 (Green Infrastructure).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development); BNE5 (Development in the Countryside); and BNE7 (Trees, Woodland and Hedgerows)

The relevant local guidance is:

South Derbyshire Design Guide SPD
Employment Land Position Paper (2014)

The relevant national policy and guidance is:

Material Considerations:

- Report on the Examination of the South Derbyshire Local Plan Part 2 By Mike Hayden BSc (Hons) DipTP MRTPI – File Ref: PINS/F1040/429/2
- Schedule of Main Modifications to the South Derbyshire District Council Submission Local Plan Part 2 recommended by the Inspector – Appendix F

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- The principle of development
- Biodiversity and Ecology;
- Design and visual impact;
- Access and highway capacity/safety;
- Cultural heritage;
- Drainage;
- Section 106 obligations; and,
- Conclusion and Planning Balance

Environmental Impact Assessment (EIA)

The application was screened under Regulation 5 of the Environmental Impact Assessment (EIA) Regulations, following the submission of a request in April 2022. The proposal was considered to fall within paragraph 10(a) of Schedule 2 to those Regulations, being an infrastructure project. However, having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to give rise to significant environmental effects in the context and purpose of EIA, and the application is not accompanied by an Environmental Statement.

Planning assessment

Principle of development

The majority of the site is designated for employment use via policy E1 which states:

Development of the following sites will not be permitted other than for new industrial and business development as defined by classes B1(b), B1(c), B2 and B8 of the Use Classes Order:

E1E Dove Valley Business Park 19.27 HA

At sites allocated for strategic employment development at E1A, E1B, E1C and E1E the Council will secure provision to meet the needs of small and “grow on” businesses in the form of premises or serviced plots, to be brought forward during the course of the development, either by conditions or a legal agreement attached to a planning permission.

Plot 3B extends beyond the allocation boundary of E1E into an allocation under Policy E5. The allocation extends across the entire northern extent of DVP, which for its majority is uninterrupted, however the angled adjacent commercial storage in effects cuts into the allocation and means that the allocation bleeds south around this development and then into the site at Plot 3B. It is unclear from reading the Inspector’s report on the Local Plan at the time of adoption as to why the allocation extends across Plot 3B given the physical context of the land at this location.

Policy E5 states:

Policy E5 Safeguarded Employment Sites - Dove Valley Park Land measuring 28.3ha, to the north of Dove Valley Business Park, is allocated for the development of large scale industrial and business units only, as defined by classes B2 and B8 of the Use Classes Order. The minimum gross internal floor area per unit will be 15,000 sqm.

The explanatory text for this policy outlines that:

The sites listed under policy E1 are capable of accommodating most industrial and business development need of South Derbyshire. However, it is recognised that there is demand for the development of units of an exceptionally large scale for businesses in the manufacturing and logistic sectors, particularly in the A50 corridor, and it is important that land be identified to accommodate such needs. To ensure that the site is developed for its intended purpose, individual units should have a minimum gross internal floor area of 15,000 sqm.

The development of Plot 3B for an employment building of 3,135 sqm falls within the permitted Use Classes of B8, B2 and ancillary E(g)), however it is of a scale below the explicitly set 15,000 sqm threshold meaning that it is not entirely consistent with Policy E5. However, the explanatory text also notes that the sites under policy E1 can accommodate most business need suggesting that other sites such as this could be needed.

Outline application 2017/0816 provided an indicative layout which included Plot 3b. The layout showed the large policy compliant units based in the main extent of the allocation. With regards to Plot 3b the indicative layout showed truck parking. The truck parking was noted by the Officer's report in that whilst it did not follow wider allocations for truck parking given it did not provide refuelling and driver facilities – "it is of some merit that there could be some informal provision within Dove Valley Park". On review, it is considered that there is no suggestion in the application 2017/0816 nor conclusion from the Officer that the truck parking was intrinsic to the delivery of the wider permission.

As set out in the site description, Plot 3b is broadly triangular in shape and is constrained by the existing commercial storage site to the north and Policy E1-E land to the south. The open land to the east of the site is unallocated and therefore constitutes open countryside. As such, due to its characteristics and surrounding land uses Plot 3B is physically unable to deliver a unit over 15,000 sqm required by Policy E5.

In addition to the above, the main extent of allocation E5 has outline planning permission reference 2017/0816 and full planning permission reference DMPA/2019/1205 for compliant uses in acceptable sizes. The development of Plot 3B for an employment building of 3,135 sqm (Use Classes B8, B2 and ancillary E(g)) does not prejudice the remaining E5 employment allocation land from delivering employment buildings of 15,000 sqm or more.

With specific regards to 2017/0816 the truck parking was only indicative as part of the wider outline. On review of the Officer report the truck parking was of merit but not fundamental to the application. With regards to DMPA/2019/1205 the application meets its own parking needs within its application site. On this basis, whilst there could be an instance where this area of the allocation is used for an ancillary use, it is not considered that truck parking at this location is fundamental to the delivery of E5; indeed truck parking along would not be policy compliant with E5.

Furthermore, Dove Valley Park is a strategic employment site in the SDDC which provides a major source of employment. The proposal represents investment into this strategic employment site to enhance its capacity. The proposal would also lead to direct employment opportunities - it is accepted that Plot 3A specifically is anticipated to generate 140 on-site jobs and Plot 3B 40 on-site jobs. Beyond this it is accepted that there would be indirect employment opportunities from construction and synergies between DVP and wider associated industries, all of which are considered benefits arising from the development.

Overall, the application proposes the development OF two serviced employment buildings with flexible employment uses - Use Class B8, B2 and Ancillary E(g). Where the site is allocated by Policy E1E (Plot 3A) the principle is acceptable. Where the site extends into the E5 allocation there is partial conflict given the scale of building proposed, however, as set out above it is considered there are clear material considerations, principally that the proposal still delivers employment use inline with the policy minimising the conflict; the site is physically unable to deliver a unit over 15,000 sqm in accordance with the requirement of Policy E5; the development is not considered to prejudice the remainder of the

E5 allocation in delivering policy compliant employment units; and the tangible economic benefits of job creation and enhancing Dove Valley Park capacity which is of strategic importance to SDDC. When taking these considerations these are considered to significantly outweigh the partial conflict and on this basis on balance the principle of development is acceptable for Plot 3b.

Biodiversity and Ecology

An Ecological Impact Assessment has been prepared by Ramm Sanderson which assesses the potential ecological constraints associated with the proposed development site. The habitats impacted on site were of negligible ecological value.

Although none of the habitats on the site are considered to be of substantive nature conservation value, the proposed development would result in the removal of the majority of semi-natural vegetation from the site.

On this basis, the approach is to secure a Biodiversity Net Gain on land outside of the redline but controlled by the applicant (Clowes as freeholders of the wider Dove Valley Park employment site). To evidence this a blue line plan has been provided and ownership is accepted by Officers.

Derbyshire Wildlife Trust (DWT) has considered the supporting Ecological Impact Assessment and approach to securing Biodiversity Net Gain.

Overall, it is important any approach to offsite provision is sufficient to deliver the value to result in a net gain to wildlife and biodiversity; and then such is deliverable/maintainable for a minimum of 30 years (but as per guidance in perpetuity) which needs to be suitably controlled by obligation as per the Environment Act. The approach has been considered by DWT who accepted the off site principle in this instance, given the adjacency of off-site sites, land owner control and gains possible set out in supporting documents. DWT have also advised a suite of conditions which will secure the net gain with periodic monitoring which have been attached.

On this basis, no objection is raised by DWT in terms of approach or gain and it is considered that the proposed development from an ecology perspective would be in accordance with LPP1 Policy BNE3 and paragraph 174 of the NPPF.

Design and visual impact

The proposed development consists of two commercial units with landscaping and service yard and parking. The design, layout and orientation is in-keeping with existing units at the wider Dove Valley Park site, and with the scale and appearance of modern employment buildings that is considered to be flexible which is considered a benefit to attract to a range of occupiers, which is given more weight on the basis that these are speculative developments but on allocated sites.

The proposed development seeks a mixture of external materials across both units but a consistent palette as follows:

Metal Composite Cladding - the corners of the buildings, and certain 'feature' areas are provided with a composite cladding panel which has a micro-rib finish, to order to provide an enhanced aesthetic to the building.

Metal Built-up Cladding - this is the primary material to the building, which features heavily on industrial buildings such as those being proposed. In this instance it is to be laid vertically and contrasts in colour to other materials.

Aluminium Feature Band - running all the way around the perimeter of the building is a feature band which is a flashing band included to provide a further enhancement to the design.

Glazing - the use of glazing to both the main entrance and the first floor office area provides an enhanced feel to the design.

Curved Roof - the use of a curved roof design provides an enhanced aesthetic to the building.

The applicant has proposed a design which is obviously functional and one that has worked and consented previously. There is limited scope to amend the scale here without undermining the

operational flexibility and resulting in inconsistency in design making. The elevation detail has different elements to help create visual interest, but as proposed would be in a singular grey/metal colour of varying tone helping to break up single grey facades which the council is actively seeking to avoid across its administrative area.

The proposed building is considered to be coherent with the architectural principles of modern employment development and the material palette and finishes employed are considered to function well and be robust to maintain a level of quality over the lifetime of the development. The application outlines that sustainable and environmental initiatives will be designed into the buildings, including the use of sustainable materials and methods of construction, together with compliance with the industry's energy efficiency standards as controlled by Building Regulations.

Overall, the proposed development is well-designed; has regard to local character and context and will employ a high-quality material palette in accordance with LPP1 Policy BNE1, paragraph 126 of the NPPF and the South Derbyshire Design Guide SPD.

Access and highway capacity/safety

This application is supported by a Transport Assessment (TA) and Travel Plan (TP), prepared by Hub Transport Planning. These are global documents that have been submitted in support of this application and wider applications across Plots 2 and 10. In terms of Plot 3:

Access to Plot 3 is from Park Avenue on the northern boundary of the plot. Drawing ref: T22521.003, contained within the submitted TA indicates tracking at the access for an articulated HGV, demonstrating that the access is suitable for such use. The parking provision proposed for Plot 3A comprises 92 parking spaces including 10 electric vehicle charging bays, 4 disabled car parking bays and 6 motorcycle parking spaces. The parking provision proposed for Plot 3B comprises 43 parking spaces including 6 electric vehicle charging bays, 2 disabled parking bays and 4 motorcycle parking spaces. Cycle provision will be provided inline with the 6c's guidance. No objection has been raised by DCC Highways or Secure by Design on this matter.

Capacity analysis indicates that internal junctions and junctions on the local highway network will all operate well within capacity with the addition of background traffic growth, committed development traffic, and the proposed developments at Plots 2, 3 and 10. It is noted that the existing highway infrastructure network was initially designed to cater for a significant amount of floorspace across the whole of Dove Valley Park, which included the design of the relevant junctions & roundabouts to ensure that they could cater for this full capacity.

A Travel Plan has also been prepared which set out the measures and initiatives to be implemented promoting sustainable travel to/from the site, striving to achieve the overall target of minimising single-occupancy car use.

Local Plan Part 1 Policy INF2 states:

"A i) Planning permission will be granted for development where:

b) appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car; and

c) car travel generated by the development is minimised relative to the needs of the development.

ii) In order to achieve this, the Council will secure, through negotiation, the provision by developers of contributions towards off-site works where needed."

The application site is more than a 400m walk from the nearest bus stop.

The application has been considered by Derbyshire County Council Highways, who raised no issues regarding highways impacts or trip generation. The proposed parking is inline with standards and there is the provision of cycle and indication of EV parking points. Conditions will be attached controlling these matters. Regarding the Travel Plan, a legal agreement under Section 106 has been agreed and signed. The legal agreement controls the travel plan measures deemed necessary by the Derbyshire County Council as highways authority. In addition, it controls the monitoring and monies required for the travel plan.

Overall, it is considered that the proposal will not give rise to undue impacts on network capacity, provision of parking, cycle and EV parking is acceptable subject to condition and there is an agreed legal agreement controlling Travel Plan measures. On this basis, the application is considered acceptable in terms of highways, access and sustainable transport.

Cultural heritage

At the time of initially considering the application, the Development Control Archaeologist had sought a geophysical study and scheme of trial trenching to be carried out prior to determination and a condition requiring a WSI.

Since then, the applicant for the suite of applications across Plots 1, 2, 3 & 10 has carried out the further GI study work on the site and wider sites (specifically Plot 10) required to provide certainty that this particular development can proceed without detriment to archaeological interests. Following this work, the DCC Archaeologist has confirmed no further work is necessary on Plot 3. On this basis, it is considered there would be no unacceptable impact on archaeology.

Drainage

The site lies within Flood Zone 1 on the Environment Agency's flood map. Consequently, the area is deemed to be at the least risk to flooding. The most applicable policies to consider are S1, S2, SD2, SD3 and SD6 of the LP1.

As the built development proposed has a significant roof area and introduces considerable impermeable paving it would therefore generate appreciable rainwater run-off, there is potential for substantial surface water and therefore potential for flooding of the site and/or other land.

In order to ensure the increase in surface water runoff will not increase flood risk elsewhere, flow control will be used, and attenuation provided on site to accommodate storm events up to and including the 1 in 100 year plus 40% climate change event. During discussion with the LLFA it was outlined that in greater storm events, it is anticipated that there will be a need to collect run off in lesser areas of the site such as parking areas and landscaping, to then feed into the basin to maintain an acceptable rate of discharge.

Soakaways have been found not to be suitable on this site. The proposals is therefore to collect the water and channel it into a land drain to the south of the site adjacent to DVP Plot 1. The attenuation storage will be required on site in order to restrict surface water discharge. The proposed drainage strategy was subject to consultation with the Local Lead Flood Authority (LLFA). In response to initial concerns, further information has been provided to the LLFA, which subsequently satisfactorily addressed all concerns. The LLFA do not object subject to conditions controlling the detailed drainage strategy, its maintenance and control of surface water during construction.

In summary, the proposed development is not at significant flood risk and a suitable drainage strategy can be implemented. The proposed development therefore accords with LPP1 Policies SD2 and SD3 and Section 14 of the NPPF.

Section 106 obligations

As set out above, a draft travel plan was submitted with the application. During the applications determination a legal agreement under Section 106 has been agreed and signed. The legal agreement controls the travel plan measures deemed necessary by the Derbyshire County Council as highways authority. In addition, it controls the monitoring and monies required for the travel plan.

It is not considered that the proposal would yield any further contributions.

Conclusion and Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

In terms of the Local Plan, this comprises SDDC Local Plan Part 1 (LP1) and SDDC Local Plan Part 2 (LP2). Which is considered to be up to date in terms of the relevant policies set out above. On this basis, Paragraph 11 of the NPPF is not 'triggered'.

The site is partly allocated for the proposed employment use (Plot 3A) and located within a wider site acknowledged to be a strategic employment site for the district. As set out in the report, the part of the site subject to the E5 allocation (Plot 3B) is physically limited so that it cannot physically provide a unit that would meet the sizing specifics of the policy. The proposal would align with the permitted land uses set out in policy. On this basis, it is considered that whilst there would be a slight departure from policy if permitted, the proposal represents a proposal that has synergies to the wider strategically important employment site of DVP, an efficient use of land given the physical constraints of the site and would not undermine the wider delivery of the E5 allocation. Whilst Plot 3B was shown indicatively for ancillary truck parking as part of a previous outline planning application, detailed permission does not exist for truck parking and the site is allocated for employment use, therefore the proposals under this application would not undermine any previously approved permissions.

The site is accessible and well serviced with an agreed Travel Plan to promote sustainable transport options. The proposal will deliver economic benefits and build on the strategic employment allocation of Dove Valley Park. The proposed development of the site will give rise to ecological and archaeological impacts but no objection has been provided on these matters and it is considered that with conditions the approach to these matters and impact acceptable in this instance. Subject to conditions, the application will also not give rise to any additional flood risk.

With specific regard to the historic environment, this proposed development has been considered with due regard for Section 66 and 72 of the Act and found to be acceptable.

Overall, for the reasons set out above, the proposed development is broadly compliant with the local plan, Plot 3b given its scale is a partial departure from the allocative policy of E5, however as set out in the report there are clear and substantial material considerations which amount to significantly outweigh the assessment of this issue set out above. It is therefore recommended that the application is approved subject to conditions and the legal agreement securing travel plan measures.

Equality Implications

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

APPROVE subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings:

- 222002-PLOT 3-SK10 B - Plot 3 – Phasing Plan Rev B
- Plot 3 – Site Location Plan- 222002-PLOT3-PL01 Rev D
- Plot 3 – Proposed Overall Site Plan – 222002-PLOT3-PL21 Rev G

- Plot 3 – External Fencing and Bollard Elevation – 222002-PLOT3-PL22 Rev B
- Plot 3A – Sprinkler Tank Layout – 222002-PLOT3-PL23 Rev D
- Plot 3A – Cycle Shelter Layout – 222002-PLOT3-PL24 Rev C
- Plot 3A – Bin Store Layout – 222002-PLOT3-PL26 Rev C
- Plot 3A – Proposed Substation Details – 222002-PLOT-PL28 Rev D
- Plot 3B – Cycle Shelter Layout – 222002-PLOT3-PL25 Rev B
- Plot 3B – Bin Store Layout – 222002-PLOT3-PL27 Rev B
- Unit 3A – Proposed External fencing and Impact Protection Plan -222002-PLOT3-PL06 Rev F
- Unit 3A – Proposed Site Plan 222002-PLOT3-PL02 Rev H
- Unit 3A – Proposed External Finishes Plan -222002-PLOT3-PL04 Rev F
- Unit 3A – Proposed Ground Floor Plan -222002-PLOT3-PL10 Rev C
- Unit 3A – Proposed Main Office Floor Plans – 222002-PLOT3-PL11 Rev B
- Unit 3A – Proposed Roof Plan -222002-PLOT3-PL12 Rev B
- Unit 3A – Proposed Elevations -222002-PLOT3-PL13 Rev C
- Unit 3A- Proposed Sections -222002-PLOT-PL14 Rev C
- Unit 3B – Proposed Site Plan -222002-PLOT3-PL03 Rev C
- Unit 3B – Proposed External Finishes Plan -222002-PLOT3-PL05 Rev C
- Unit 3B – Proposed External Fencing & Impact Protection Plan-222002-PLOT3-PL07 Rev C
- Unit 3B – Proposed Ground Floor Plan- 222002-PLOT3-PL15 Rev B
- Unit 3B – Proposed Main Office Floor Plan -222002-PLOT3-PL16 Rev A
- Unit 3B – Proposed Roof Plan -222002-PLOT3-PL17 Rev B
- Unit 3B – Proposed Elevations -222002-PLOT3-PL18 Rev A
- Unit 3B – Proposed Sections -222002-PLOT3-PL19 Rev A
- Plot 3A Landscape Proposals - 22.1648.001
- Plot 3B Landscape Proposals - 22.1649.001
- Arboricultural Impact Assessment, Method Statement and Tree Protection Plan - April 2022
- Archaeological Desk-Based Assessment - July 2022
- Geophysical Survey Report (including UXO Assessment) – August 2022
- UXO Desk Study & Risk Assessment – November 2022
- Design and Access Statement - April 2022
- Flood Risk Assessment and Drainage Strategy – July 2022
- Flood Risk Assessment and Drainage Strategy – July 2022
- Geo-Environmental Report - March 2020[AH1]
- Supplementary Ground Investigations Report – September 2022
- Technical Memorandum (Ground Gas Testing) TM001 – March 2023
- Noise Assessment – August 2022 V2
- Ecological Impact Assessment - March 2022
- BIA Review – 31 August 2022
- Transport Assessment - April 2022
- Travel Plan - September 2022 Rev A
- Economic Impact Note - April 2022

unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and to ensure a high-quality development.

3. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- a. Delta Simons Flood Risk Assessment and Drainage Strategy. Plot 3 (July 2022) ref: 22-0422.01. including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team.
- b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March

2015) have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.

4. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7- 080-20150323 of the planning practice guidance.

The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- I. into the ground (infiltration);
- II. to a surface water body;
- III. to a surface water sewer, highway drain, or another drainage system;
- IV. to a combined sewer.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options.

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

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

6. The attenuation ponds should not be brought into use until such a time as it is fully designed and constructed in line with CIRIA SuDS manual C753 and to the agreed specifications on document:
a. "Flood Risk Assessment and Drainage Strategy. Plot 3 (July 2022) ref: 22-0422.01 including any subsequent amendments or updates as approved by the Flood Risk Management Team. and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753 is submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future.

7. Prior to the commencement of each phase of the development, a Construction Environmental Management Plan (CEMP) for the that phase of the development shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP shall provide details of how demolition and construction works are to be undertaken and include:

- i) The identification of stages of works;
- ii) The parking of vehicles of site operatives and visitors;
- iii) The erection and maintenance of security hoarding including external safety and information signage, interpretation boards, decorative displays and facilities for public viewing, where appropriate;
- iv) Details of working hours, which unless otherwise agreed with the Local Planning Authority

shall be limited to 08.00 to 18.00 Monday to Friday and 08.00 to 13.00 on Saturdays); There shall be no such activities whatsoever on Sundays, public holidays and bank holidays.

- v) Details of all plant and machinery to be used during preparatory and construction stage, including an inventory of all Non-road Mobile Machinery (NRMM);
- vi) Details of any further Unexploded Ordnance Surveys;
- vii) Details of community engagement arrangements and complaints procedure;
- viii) Details of a acoustic hoarding on boundary of site;
- ix) Details of mitigation measures any species identified on site;
- x) Details for avoiding vegetation clearance during the bird nesting season;
- xi) A temporary drainage strategy and performance specification to control surface water runoff and Pollution Prevention Plan (in accordance with Environment Agency guidance);
- xii) Details of external lighting demonstrating no unacceptable impact on wildlife;
- xiii) Details of noise, dust and air quality monitoring and compliance arrangements, including provision for monthly attendance at the Parish council meeting;
- xiv) Details of measures to remove/prevent re-colonisation of non-native species;
- xv) The appointment of an Ecological Clerk of Works to oversee the works and approved monitoring and compliance arrangements;
- xviii) Access and protection measures around the construction site for pedestrians, cyclists and other road users;
- xiv) Use of protective fences, exclusion barriers and warning signs.
- xv) The location and timing of sensitive works to avoid harm to biodiversity features;
- xvi) The times during construction when specialist ecologists need to be present on site to oversee works;
- xvii) any proposed temporary traffic management;
- xviii) routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicant's / developer's control; and
- xix) storage of plant and materials

The Proposed Development shall only be carried out in accordance with an approved CEMP.

Reason: To safeguard residential amenity, to ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts / inconvenience for existing highway users / nearby residents and protect areas of nature conservation interest.

8. Prior to the commencement of each phase of development including preparatory works, the details of any fencing (including temporary) including the specification of suitable mammal gaps within that phase shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of safeguarding against harm to protected species during the period of construction and throughout the life of the development.

9. Prior to the commencement of the development a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of on-site and off-site habitats and should combine both the ecology and landscape disciplines. It shall be suitable to provide to the management body responsible for the site and shall include the following: -

- a) Description and location of features to be retained, created, enhanced and managed.
- b) Details of bat and bird boxes to be installed including location, type and number
- c) Details of hedgehog connectivity gaps including a plan showing locations
- d) Aims and objectives of on-site and off-site management.
- e) Ecological trends and constraints on site that might influence management.
- f) Appropriate management methods and practices to achieve aims and objectives.
- g) Prescriptions for management actions.
- h) Preparation of a work schedule (including a five-year work plan capable of being rolled forward in perpetuity).
- i) Details of the body or organization responsible for implementation of the plan.

j) Ongoing monitoring and remedial measures including benchmarking of the site enhancement areas against the DEFRA conditions sheets reportable to the authority at 5-, 10-, 15- and 30-years post completion

The land used as off site mitigation to secure the Biodiversity Net Gain shall be held for that use only in perpetuity/for the lifetime of the development. The LBEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. This will incorporate both the onsite and offsite enhancement measures detailed with RammSanderson RSE_5833_L1_V1 Dated 31st August 2022 Re Dove Valley Business Park – BNG Consolidated Approach.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LBEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and for the life of the development.

10. No phase of development hereby permitted shall be occupied until such time as secure (and under cover) cycle parking for that phase has been provided in accordance with the approved details as set out in 222002-PLOT3-PL24 Rev C and 222002-PLOT3-PL25 Rev B. Thereafter the cycle parking shall be maintained and kept available for use.

Reason: To promote travel by sustainable modes in accordance with the National Planning Policy Framework (2021).

11. Prior to their incorporation into the buildings hereby approved, details and samples of the external materials for that phase shall be submitted to and approved in writing by the Local Planning Authority. The buildings within each phase shall thereafter be constructed in accordance with the approved materials for that phase.

Reason: In the visual interest of the buildings and character and appearance of the area.

12. Prior to the installation of lighting fixtures for each phase of the development, a detailed lighting strategy shall be submitted to and approved in writing by the LPA for that phase to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 – Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

Reason: In the interests of safeguarding against harm to protected species throughout the construction period and for the life of the development.

13. Prior to the first occupation of any phase of the development, a verification report for that phase carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Nonstatutory technical standards for sustainable drainage and CIRIA standards C753.

14. Prior to the occupation of any phase of the development hereby permitted, a Travel Plan, which sets out actions and measures with quantifiable outputs and outcome targets for that phase, shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed Travel Plan for that phase shall be implemented in accordance with the approved details.

Reason: To reduce the need to travel by single occupancy vehicle and to promote the use of sustainable modes of transport in accordance with the National Planning Policy Framework (2021).

15. Any access gates / bollards / chains / other means of obstruction shall be hung to open inwards and thereafter retained a minimum distance of 15m metres from the near channel edge of the adjacent carriageway. Any sidewalls/fences/hedges adjacent to the access shall be splayed at an angle of 45 degrees from each of the outside gateposts to the front boundary of the site.

Reason: In the interests of highway safety enabling vehicles to safely draw off the highway before the gates/obstruction is opened.

16. If, during development, contamination not previously identified is found to be present at the site then no further development of that phase, where contamination is identified (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of controlled waters, future end users of the land, neighbouring land, property and ecological systems from potential pollutants

17. No stripping, demolition works, or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present. Any such written confirmation should be submitted to the local planning authority.

Reason: As per the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

18. The scheme of tree protection for each phase as set out in Section 7 of the Arboricultural Impact Assessment, Method Statement and Tree Protection Plan (April 2022) shall be implemented prior to any works commencing on site for each phase and thereafter retained throughout the construction period.

Reason: To protect existing trees and hedgerow through the construction period of the development.

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

Reason: In the interest of highway safety and that there would be no debris on the highway during the construction period.

Informatives:

A. Planning permission does not give you approval to work on the public highway. To carry works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as

Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk email highways.hub@derbyshire.gov.uk or telephone 01629 533190.

Planning permission does not give you approval to work on the public highway. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written agreement of the County Council as Highway Authority. It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed, which may take up to 16 weeks. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained by contacting the County Council via email – ete.devcontrol@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

If an adoption Agreement is not in place when the development is commenced, the Highway Authority is obliged to serve notice on the developer, under the provisions of the Advance Payments Code part of the Highways Act 1980 (section 219 / 220), to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This takes the form of a cash deposit equal to the calculated construction costs and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980.

If the roads within the proposed development are to be offered for adoption by the Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please contact the County Council's Implementation team – email ete.devcontrol@derbyshire.gov.uk

Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

The layout of swales within the proposed highway limits do not comply with the Highway Authority's Design Guide and the design indicated on the application drawings has not been used elsewhere in the County. The applicant should be aware that their provision will attract a commuted sum for future maintenance purposes and could compromise the future adoption of the new estate streets.

B. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.

Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk.

No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.

The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.

The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.

The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.

The applicant should provide a flood evacuation plan which outlines:

- *The flood warning procedure*
- *A safe point of extraction*
- *How users can safely evacuate the site upon receipt of a flood warning*
- *The areas of responsibility for those participating in the plan*
- *The procedures for implementing the plan*
- *How users will be made aware of flood risk*
- *How users will be made aware of flood resilience*
- *Who will be responsible for the update of the flood evacuation plan*

Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

Surface water drainage plans should include the following:

- *Rainwater pipes, gullies and drainage channels including cover levels.*
- *Inspection chambers, manholes and silt traps including cover and invert levels.*
- *Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.*
- *Soakaways, including size and material.*
- *Typical inspection chamber / soakaway / silt trap and SW attenuation details.*
- *Site ground levels and finished floor levels.*

On Site Surface Water Management;

The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.

The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 30 year + 35% climate change and 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).

Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.

A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

Peak Flow Control

For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.

For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1% probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

Volume Control

For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.

For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

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

Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.

Guidance on flood pathways can be found in BS EN 752.

The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.*
- Ground water levels records. Minimum 1m clearance from maximum seasonal groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.*
- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.*
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.*
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.*
- Drawing details including sizes and material.*
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included.*
- Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.*

All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development

Item No. 1.3

Ref. No. DMPA/2023/0338

Valid date: 03/04/2023

Applicant: Andrew Tebbs

Agent: Lathams

Proposal: Conversion of existing agricultural barn to dwelling and installation of septic tank at Lodge Hill Farm , Unnamed Road Leading From Longford Lane To Barton Hall, Church Broughton, Derby, DE65 5AL

Ward: Hilton

Reason for committee determination

The application does not fully accord with the provisions of the development plan.

Site Description

The site is located within the parish of Barton Blount and is accessed along the private driveway to Barton Hall off Longford Lane and currently consists of a steel portal frame, what is left of a modern agricultural building, on a large plot adjacent to more traditional brick and tile agricultural buildings which have been converted to six dwellings and the original farmhouse. The proposal site is on rising ground at the highest point of the former farmstead.

The proposal

The application seeks permission for the conversion of the existing agricultural building and installation of a septic tank.

Applicant's supporting information

The applicant has submitted a Design and Access Statement, a Planning Statement, Proposed Plans and Elevations and a letter setting out the personal circumstances which are relevant to this application. The applicant has confirmed in writing that he is content for this material to be available publicly including the health conditions of his parents.

- The works to the floor arose from a need to take remedial action as a result of a necessary operation to remove soil from the back wall and a collapse of the floor from a small mechanical digger.
- The remedial works were undertaken on the advice of an approved building inspector.
- Other than works to the floor and additional footings, the remaining works proposed as part of the current application are identical to those previously approved under the class Q conversion application.
- The purpose of the project is to allow the applicants elderly parents to live with them and receive care. The applicant has submitted information related to his parents significant health needs that require a full time carer.
- You have used your life savings to invest in this project.
- You attempted to gain advice on the works you could undertake without success, and when you got advice from your planning consultant this was that there was no material difference between the scheme now applied for and that approved under the class Q process.
- All building works were stopped following the visit from the Council's enforcement team and have not continued pending the outcome of this application.
- The applicant is content for a time limit of 7.5 years not to sell the property while his parents are receiving care with this time to be ended in the event of the death of his parents or himself (the main caregiver).

DMPA/2022/0338 - Lodge Hill Farm, Unnamed Road Leading From Longford Lane To Barton Hall, Church Broughton, Derby, DE65 5AL



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South Derbyshire District Council, LA 100019461.2020

Relevant planning history

9/2017/0712 - Change of use of barns from agricultural to six dwellings with the provision of two car barns for parking facilities and associated landscaping works. an additional car barn is proposed for the farm house - Approved 3/11/2017.

9/2018/1408 - The variation of condition 2 of permission ref. 9/2017/0712 (relating to change of use of barns from agricultural use to six dwellings (Class C3) with the provision of two car barns for parking facilities and associated landscaping works, along with an additional car barn for the farm house) - Approved 12/03/2019.

DMPN/2020/0745 - Prior Approval for change of use of agricultural building to 2 dwellinghouses (use class C3) along with associated operational development - Refused 3/02/2021.

DMPN/2021/0414 - Prior Approval for change of use of agricultural buildings to dwellings (class C3) along with associated operational development - Approved 29/04/2021

DMPN/2022/1083 - Prior approval for a proposed change of use of agricultural building to dwellinghouse - Approved 9/11/2022

Responses to consultations and publicity

County Highway Authority - No objection to the proposal subject to a condition relating to the provision of parking and manoeuvring prior to occupation.

Environmental Health - No objection to the proposal subject to conditions relating to noise, air quality and contamination.

Church Broughton Parish Council - No objection.

Three letters of support have been received making the following comments:

- a) The conversion of the traditional barns to dwellings that has taken place has brought a positive look to the area;
- b) The conversion of the barn into a dwelling would complete the area and bring a positive conclusion;
- c) The new plans are in keeping with the existing building and as such will enhance the area.
- d) The site currently looks like wasteland and a converted building would be more pleasing appearance.
- e) The proposed design will add to the appearance of the area.
- f) The proposed conversion will complete the re-development of the area.
- g) No more delays to the build.
- h) There should have been no need for re-application, waste of developers time and money.
- i) Typical bureaucracy that makes this council so inefficient.

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

- a) Original building was never intended to be a dwellinghouse and has no amenity or intrinsic value;
- b) Approving steel framed buildings as dwellings opens up the countryside to sporadic development;
- c) The use of septic tanks should be avoided as these are not ecologically sound.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise.

The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), National Design Guidance (NDG) together with the South Derbyshire Design Guide Design Supplementary Planning Document (SPD).

The relevant Development Plan policies are:

2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in favour of Sustainable Development), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF2 (Sustainable Transport)

2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), H28 (Residential Conversions).

The relevant Local Guidance is:

Design Guide Supplementary Planning Document (SPD)

The relevant National Policy and Guidance are:

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

Planning considerations

In taking account of the application documents submitted and supplemented and the site and its environs; the main issues central to the determination of this application is/are:

- Principle;
- Design and Impact on Landscape Character;
- Residential Amenity; and
- Parking and Highway Safety

Planning assessment

Introduction and background

This is a part retrospective application for planning permission. The Planning Enforcement Team were notified of development that was taking place to convert a redundant agricultural building to a residential dwelling that had consent under Class Q of the General Development Procedure Order 2015 (as amended). The complaint revolved around the extent of works being undertaken to convert the building. Consent from the Local Planning Authority for Class Q is different to that granted for a planning application as it is simply an assessment of compliance with the conditions and limitations set out in the General Permitted Development Order. (GPDO). The Enforcement Team considered that the works undertaken were beyond what is allowed by the Class Q permission and the applicant was advised to stop work and submit a full planning application.

Principle

The principle for the conversion of agricultural buildings is supported by policy H1 of the LP1. This supports the conversion of existing buildings in the countryside. Tier 5 – Rural Areas – states that ...'only development of limited infill and conversions of existing buildings will be acceptable'. Policy H28 supports the conversion of buildings to provide residential accommodation provided the building:

- i) is of permanent and substantial construction;*
- ii) is suitable for conversion without extensive alteration, rebuilding and/or extension;*
- iii) constitutes the re-use of a suitable redundant or dis-used building or would secure the future use of a heritage asset.*

It is evident from the site visit undertaken by the Enforcement Team that the building has been dismantled with the exception of its steel frame, the existing floor had been removed and works have been undertaken to provide new foundations for new walls. The extent of the works extends to new foundations for all four elevations. This additional work goes beyond what was allowed under the Class Q permission and also amounts to extensive alteration to the property that is not permitted under Policy H28 criterion ii). This policy conflict needs to be considered with reference to other material considerations put forward by the applicant in support of the application.

In terms of the planning merits, the applicant puts forward the point that the external appearance of the building will be near identical to that approved under the class Q conversion. This point is accepted, but this alone would be insufficient to outweigh the policy conflict identified above. National and local plan policy allows the conversion of buildings in the countryside, but not their demolition and rebuild. However, in addition to this, the health needs of the applicant's parents amount to a significant material consideration in support of this application to provide care for his parents. If permission is refused alternatives will need to be found. There is no evidence to dispute either the applicant's financial situation or the health needs of his parents. It will be possible to condition that the building is not sold on while the applicant's parents remain alive. It is noted that the applicant would prefer a time limit to this but given the health needs of his parents is considered together with the lack of any additional visual harm to the character and appearance of the countryside amounts to the material considerations sufficient to justify a new building in the countryside, it follows that these needs should be met in the dwelling until their passing.

Design and Impact on Landscape Character

This proposal is very similar to the previous Class Q proposal and the footprint and external appearance of the building will be no different. The building will therefore be a steel framed building with blockwork walls and timber cladding and metal profile roof. The only difference to the overall scheme in this proposal allows for the inclusion of a ramped entrance to be included for disabled access and for the car parking to be located at the south eastern corner of the site. The additions can be included in this application as there is no restriction on the external curtilage of the proposal as there is on a Class Q application. These additions will have little effect on the overall appearance, the end result being the appearance of a converted agricultural building albeit that the building will, to all intents and purposes, be a new dwelling in the countryside. There will therefore be minimal impact on the countryside and will improve the outlook of the area for the neighbours. The proposal is considered to comply with BNE1 and BNE4

Residential Amenity

The site is separate to but adjacent to the traditional agricultural buildings, now dwellings which were all part of Lodge Hill Farm. The proposal is to the west of the other buildings in a slightly elevated position on the opposite side of a shared access. Although the eastern elevation of the building has large glazed areas facing to the east, there are no primary windows facing toward the existing dwellings. Much of the glazing provides light for the spacious double height entrance lobby and there are secondary windows to a bedroom and lounge on the ground floor. In any event the proposal building is sufficiently distant to comply with the distance standards set out in the design SPD. As such the proposal is considered to comply with BNE1 and SD1.

Parking and Highway Safety

The proposal has sufficient parking and manoeuvring space well away from the public highway and its shared access is part of a wider redevelopment of the conversion of the traditional agricultural buildings to dwellings. The Highway Authority has no issues, being a long way down a private drive but requests a condition relating to the parking and manoeuvring. Subject to the inclusion of this condition the proposal is considered to comply with INF2.

Other Matters

The building is very close to an area of contaminated land. Whilst Environmental Health does not object to the proposal it does request a condition relating to how this should be dealt with should any contamination be found during construction. Subject to the inclusion of this condition the proposal complies with SD4.

Conclusion and planning balance

The application effectively amounts to a new build dwelling in the countryside which is contrary to Policy H28 of the Local Plan. This is considered to be outweighed by a combination of material considerations in that the finished appearance of the new building is nearly identical to that previously approved under the class Q conversion and therefore no additional harm to the character and appearance of the countryside, the health needs of the applicants parents and the ability to attach planning conditions are in place to ensure that these needs can be met for as long as they are needed in the dwelling subject to this application.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

APPROVE subject to the following conditions

1. The development hereby permitted shall be carried out in accordance with drawing refs.
7559-LAT-XX-RL-DP-A-1300-S3-P03 (Location Plan);
7559-LAT-XX-RL-DP-A-1200-S3-P05 (Proposed Site Plan);
7559-LAT-XX-XX-DE-A-3210-S3-P04 (Proposed Elevations);
7559-LAT-XX-XX-DE-A-3200-S3-P04 (Proposed Elevations);
7559-LAT-XX-00-DP-A-2200-S3-P03 (Proposed Ground Floor Plan);
7559-LAT-XX-01-DP-A-2210-S3-P03 (Proposed Mezzanine Plan);
unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason:

2. The dwellings hereby permitted shall not be occupied until space has been provided within the site, in accordance with approved drawing No. 7559-LAT-XX-RL-DP-A-1200-S3-P05, for the parking and manoeuvring of vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

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

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

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

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

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

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

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

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

7. Notwithstanding the submitted information, prior to the occupation of a dwelling a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling 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.

8. The occupation of the dwelling hereby approved shall be limited to Mr and Mrs Tebbs and their immediate family until such time as and Mr Tebbs parents are deceased.

Reason: To ensure that the property is used for its intended purpose and not sold for immediate profit.

Informatives:

- b. Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

Item No. 1.4
Ref. No. [DMPA/2022/1182](#)
Valid date: 19/08/2022
Applicant: Richard Forrester
Proposal: Stockmans rest cabin at Land Adjacent to Stock Building, off Hoon Lane, Hilton, Derby
Ward: Hilton

Reason for committee determination

This item is presented to the Committee at the request of Councillor Smith as unusual site circumstances should be considered by the committee.

Site Description

The site is accessed from a private access track from Hoon Lane to the east and Derby Road runs to the south with intervening fields. The site is part of a larger parcel of land used as grazing, rearing and breeding cattle. The area where the building is to be located is currently used for parking in association with the use of the wider site.

The proposal

The applications seeks planning permission for the siting of a single storey building within an existing agricultural unit to be used as an ancillary rest and storage facility for the agricultural activities on site. The building would measure 12.8 metres by 3.6 metres with a shallow pitched roof. It would provide shower, food prep and seating areas as well as storage rooms for medical, PPE supplies and smaller tools.

Applicant's supporting information

The application has been supported by an application form, block plan, floor and elevation plans and a Design and Access Statement.

Relevant planning history

DMPA/2021/0160 - The erection of an extension to the existing barn – Granted 15/11/22

Responses to consultations and publicity

Environmental Health raise no objections.

County Highways raise no objections, subject to conditions.

There were no representations received from neighbours as a result of publicity undertaken.

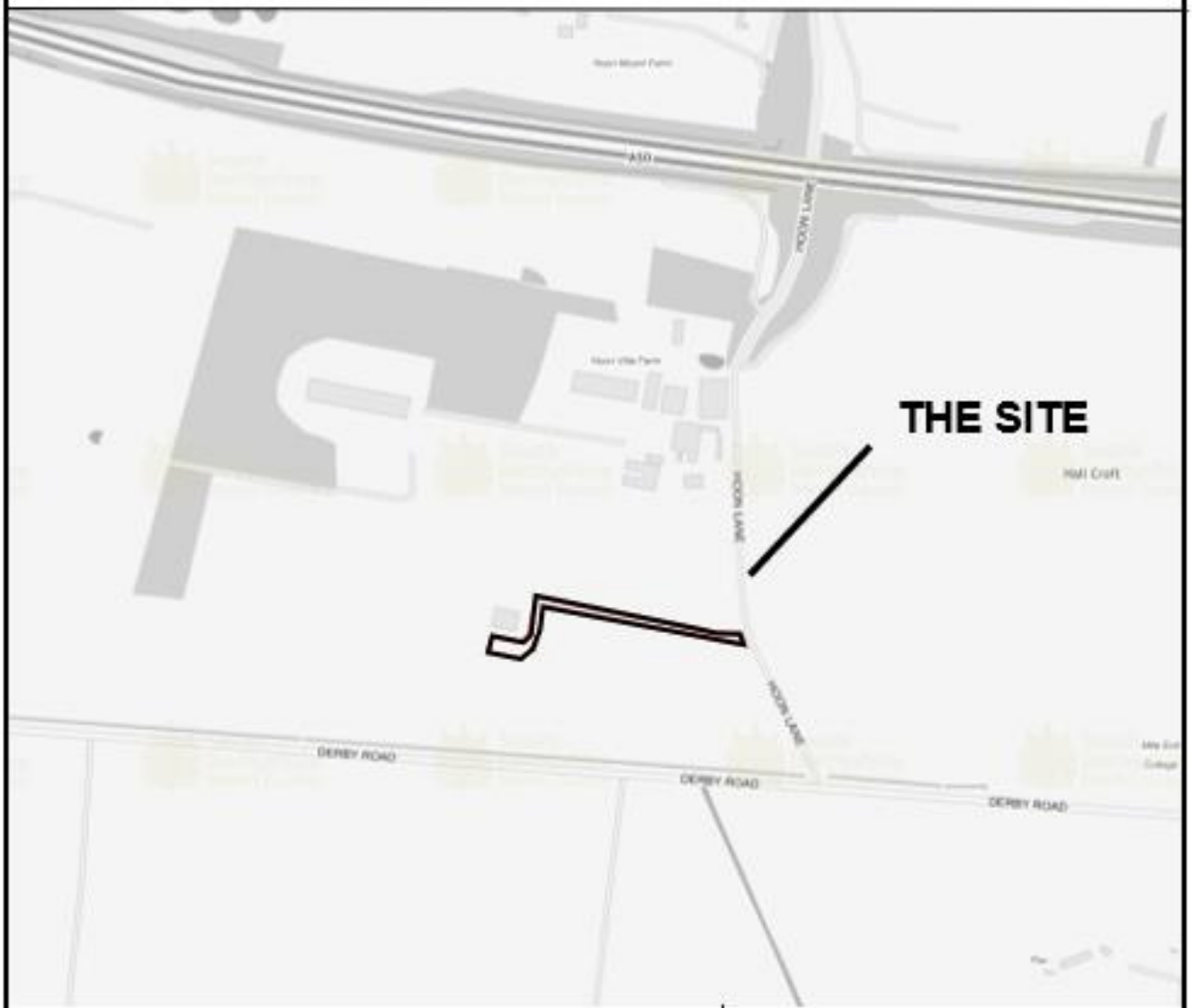
Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), SD2 (Flood Risk), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport). Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), H28 (Residential Conversion).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE6 (Agricultural Development).

**DMPA/2022/1182 - Land Adjacent to Stock Building, off Hoon Lane, Hilton,
Derby**



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South Derbyshire District Council, LA 100019461, 2020

The local guidance is provided within the following:
South Derbyshire Design Guide Supplementary Planning Document.

The relevant national policy and guidance is:
National Planning Policy Framework (NPPF).
Planning Practice Guidance (PPG).

Planning considerations

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application is/are:

- Principle of Development;
- Environmental Impact;
- Flooding;
- Access; and
- Design.

Planning assessment

Principle of Development

The proposal seeks the erection of a 12.8m by 3.6m single storey welfare unit, providing shelter, washing facilities and secure storage to be used ancillary to the existing use of the site for housing cattle and associated storage. The unit is solely for daytime use, with no sleeping accommodation or overnight functionality proposed. The principle of agricultural use and buildings to support such uses is already established on the site. Given the proposal is solely an intensification of and ancillary to the existing use, albeit with the introduction of an additional small scale building, the principle of development is considered to be acceptable in relation to policies STD1, BNE5 and BNE6.

Environmental Impact

The use of the site to provide ancillary stockman's facilities to the established use of housing cattle and associated storage has raised no objections from Environmental Health. Although the building is located approximately 210m from residential development, the nature of the activities undertaken on-site are considered suitable given the rural context of the site's surroundings and would not give rise to unacceptable environmental impacts, in compliance with policy SD1.

Flooding

The site is located in Flood Zone 2/3. As a less vulnerable use as classified by the NPPG, the mitigation measures as set out within the supporting Design and Access Statement are considered to be proportionate to the nature of development proposed and adequate for the purposes of compliance with policy SD2.

Access

The building is to be located in the north-western corner of the field, in immediate proximity to where the existing agricultural building is sited. There is an established track, leading from Hoon Lane, which itself is an unclassified road serving a small number of agricultural and residential developments. The proposal would not surmount to a significant or harmful increase in vehicle movements resulting from the development's intensification. This view is supported by County Highways, who raise no objections to the scheme. The proposal is therefore in accordance with policy INF2.

Design

The proposal is of such a scale that it sits subserviently to the existing agricultural building and clearly reads as ancillary. The design is distinctly functional in appearance, in a similar materiality to that of the existing agricultural building. The site is screened on two sides by mature trees and hedgerow and is partly obscured by further hedgerow adjacent to Hoon Lane and Derby Road. It is likely that the

proposal will be visible from Hoon Lane, however the minor scale and size of the building minimises visual impact and within the context of the existing agricultural building, the proposal does not represent a significant increase in development. Accordingly, it is considered that the proposal sites appropriately within the landscape and established rural character in accordance with policies BNE1, BNE4, BNE5, BNE6 and policy E2 of the Neighbourhood Plan.

The proposal supports the sustainable growth of a rural business, is appropriately sited and of a scale that creates minimal impact on the character of the surrounding landscape. Taking these main issues into account, the proposal would not result in a conflict with the policy requirements of the Local Plan and is considered to be acceptable. The relevant constraints have been considered in the planning balance and no material harms have been identified that would warrant refusal of the application.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

APPROVE subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the submitted plans and drawings made valid on 19th August 2022 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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 for agricultural purposes in connection with the farming of the agricultural land within the agricultural unit only and shall not be used for overnight accommodation.

Reason: The use of the building as part of another agricultural enterprise or for other uses could lead to the intensification in the use of a substandard access, contrary to the best interests of highway safety.

Item No. 1.5
Ref. No. [DMPA/2022/1621](#)
Valid date: 22 December 2022
Applicant: Paul Hardy **Agent:** Chris Welbourne
Proposal: Installation of 1 x 48 sheet gable mounted digital advertising display unit at 1 High Street, Woodville, Swadlincote.
Ward: Woodville Parish

Reason for committee determination

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

Site Description

The site is located within the Swadlincote urban area, with the locality being well built up and consisting of a mix of residential properties, retail units and other commercial uses including pubs, a library and car garages.

The advertisement will be placed on the rear/side wall of the building facing towards the Woodville Box Club and associated carpark. The advert will only be clearly visible to vehicles driving towards the roundabout just off A511.

The proposal

The application seeks to gain consent for a 48-sheet digital advertisement with no requirement for it to be removed after 5 years. Permission has already been granted under delegated powers for the advertising display on 12th May 2022 (DMPA/2022/0203), and this was subject to Condition 1 which requires the advertisement to be removed after 5 years unless a further consent is granted. The applicant did appeal the Council's decision to issue advertisement consent with the disputed condition, but the appeal was withdrawn as the Inspector confirmed the whole proposal would be considered and not just the disputed condition and so the original grant of express consent would potentially be at risk.

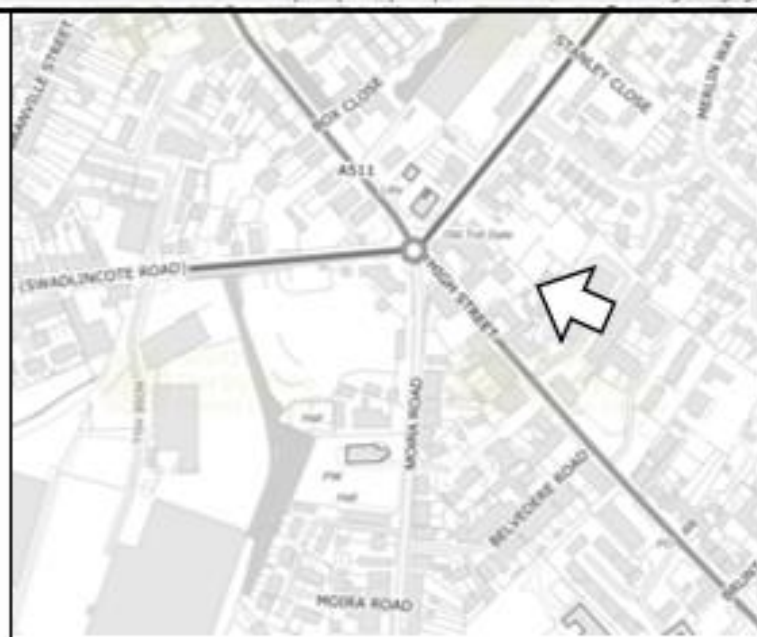
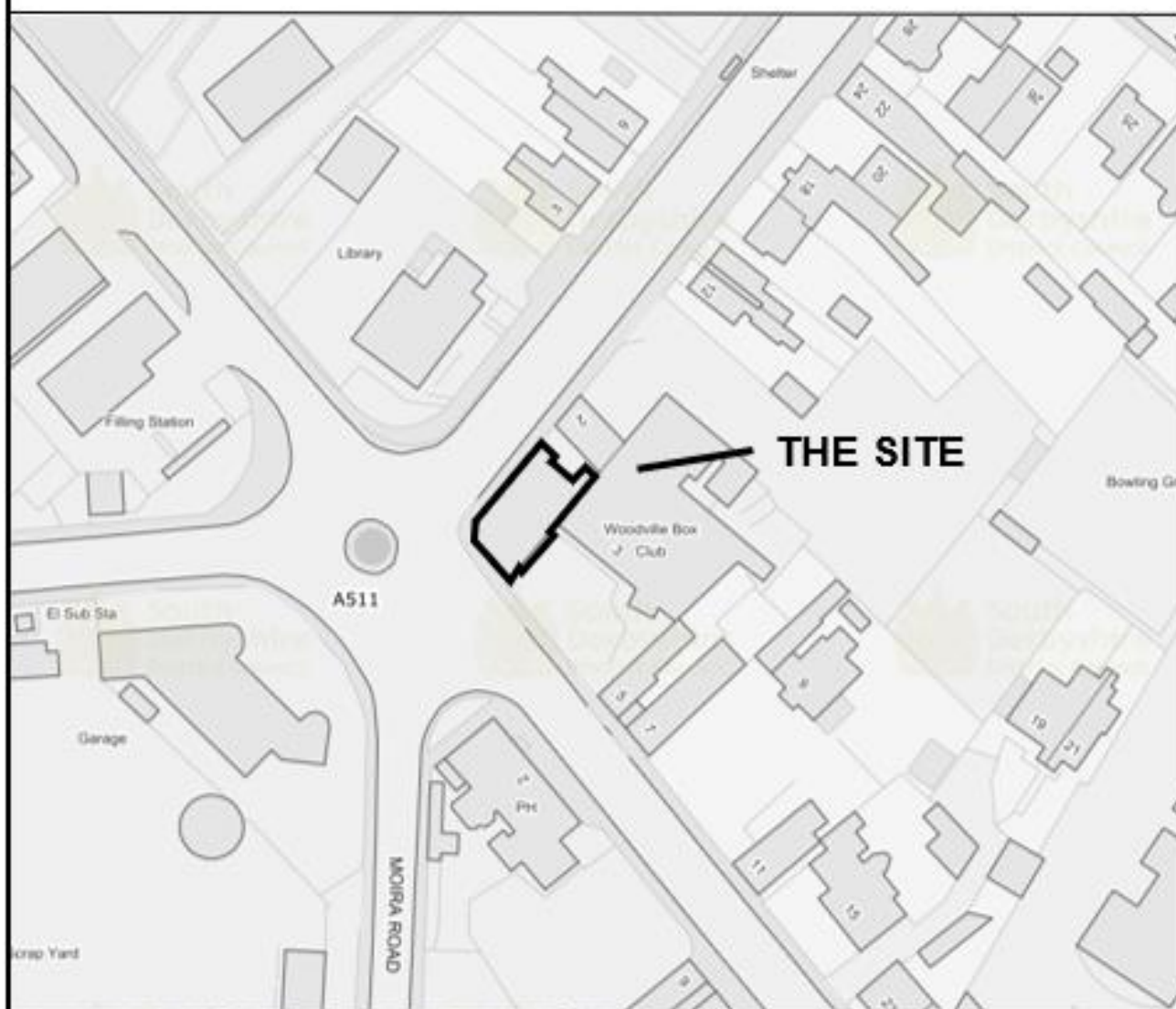
The size, position and orientation of the advertising display will not change from the previous consent.

Applicant's supporting information

The documents submitted with the application include;

- DE 101 01A Location Plan at 1:1250
- DE 101 02A Site Plan at 1: 500
- DE 101 03A Google Street View Oct 2008 (Photo)
- DE 101 04A Proposed Elevation with 48 sheet Digital Display Unit (Photomontage)
- DE 101 05A Proposed Elevation Drawing
- DE 101 06A 48 sheet Digital Display Unit specifications
- DE 101 07A Appeal Decision Liverpool July 2018
- DE 101 08A Consented Digital 48sheet Liverpool (site photo)
- Original Planning Statement submitted with DMPA/2022/0203 received 22th December 2022
- Planning Statement (Updated) received 22th December 2022

DMPA/2022/1621 - 1 High Street, Woodville, Swadlincote, DE11 7EH



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South Derbyshire District Council. LA 1000194651.2020

Relevant planning history

DMPA/2022/0203 - Installation of a gable mounted digital advertising display unit – Approved with conditions. Appeal withdrawn.

9/2012/0614 – The display of non-illuminated signs - Approved with conditions

9/1999/0049 - The display of illuminated signs - Approved with conditions

Responses to consultations and publicity

Highways

No objections subject to conditions.

Environmental Health

No objections

Woodville Parish Council

Objects. Members consider a digital display of such size to be distracting to motorists whilst using an extremely busy roundabout. The parish council objects to this application on the grounds of highway safety.

Relevant policy, guidance and/or legislation

The relevant policies are:

2016 Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), BNE1 (Design Excellence).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE9 (Advertisements and Visual Pollution).

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)
Display of Advertisements SPG

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)
Town and Country Planning (Control of Advertisement) (England) Regulations 2007

Planning considerations

Regulation 3(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (SI 783) (the Regulations) limits the exercise of the powers of control of advertisements solely to the interests of amenity (including aural and visual) and public safety, and these matters are elaborated in Regulation 3(2).

Regulation 3(3) provides that the Local Planning Authority in taking account of factors relevant to amenity may disregard any advertisement that is being displayed. Whereas, Regulation 4(3) permits the Local Planning Authority to have regard to any material change of circumstances likely to occur within the period for which the consent is requested.

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- The effect of the proposal on the visual amenity of the site and surrounding area; and
- The effect on highway safety.

Planning assessment

Amenity

The proposed digital display sign would be located on the side of the building (gable) and would be clearly visible from the street scene. The surrounding area is well built up and characterised by a combination of residential and commercial uses, including shops, pubs, eateries, hairdressers, car garages, library and a petrol station. Signage

is a common feature within the area and the proposed sign would not be at odds with the surrounding commercial character.

There is one first floor window in the north west elevation of the flat at 5A High Street but this is over 20m from the proposed sign and not directly opposite the proposed sign. Therefore, it is considered the sign would not be harmful to amenity in this mixed use location, particularly with conditions relating to luminance levels and speed of advert change.

Google maps shows that a similar sized advert in the same location was present from 2008 until 2017. The proposed advert would be replacing this previous advert for a digital equivalent at the same size and would not be considered to result in any adverse impact on the character and appearance of the surrounding area. Overall, the proposal would be in accordance with Policies SD1, BNE1 and BNE9.

Highway safety

The sign would be illuminated and the images static, however conditions will control the luminance levels, no moving images, ambient environmental control, a black screen to be displayed in the event of malfunction, smooth transition between images, the speed of change of the adverts and the minimum length of display of each advert (10 seconds). The Highways Officer has raised no objections to the proposal subject to these conditions. The concerns of the Parish Council are noted but in the absence of an objection from the Highway Authority, a refusal on the basis of highway safety would be disproportionate given the ability to mitigate the impact of the sign with the use of conditions. It is therefore considered that there would be no harm to highway safety interests in accordance with Policy BNE9.

Time Limit Removal

Given that the sign is considered to be acceptable in the interests of amenity and public safety it is recommended to include the conditions requested by the highway authority and the standard conditions, but not the requirement to remove the sign after 5 years. As noted above, there is evidence of a sign in this location for nearly 10 years without evidence of either highway safety or amenity problems as a result. Guidance the NPPG is that signs should not be required to be removed at the end of their express consent period (five years) unless there a good planning grounds for doing so. For the reasons outlined above it is not considered that this condition is necessary

Conclusion

Taking these main issues into account, the proposal would not result in a conflict with the policy requirements of the Local Plan and is considered to be acceptable. Given it would not give rise to any visual or highway issues The relevant constraints have been considered in the planning balance and no material harms have been identified that would warrant refusal of the application.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

APPROVE subject to the following conditions

1. The works hereby permitted shall be carried out in accordance with the location plan, elevation drawing and signage details received 11th February 2022; unless as otherwise required by condition attached to this consent.

Reason: For the avoidance of doubt.

2. The maximum level of illumination shall be no more than 300 cd/m² during hours of darkness (dusk until dawn) and 600 cd/m² during daytime hours, in accordance with the terms of the Institution of Lighting Professionals, Professional Lighting Guide 2015 recommendations for maximum luminance (cd/m²).

Reason: To ensure that the display does not appear as an unduly prominent feature in the area and to avoid dazzle/glare for highway users.

3. The luminance level of the display shall be controlled by ambient environmental control, which will automatically adjust the brightness level of the screen to track the light level changes in the environment throughout the day.

Reason: To ensure that the display does not appear as an unduly prominent feature in the area and to avoid dazzle/glare for highway users.

4. The approved display shall contain at all times a feature that will turn off the screen (i.e. show a black screen) in the event that the display experiences a malfunction or error.

Reason: To ensure that the display does not appear as an unduly prominent feature in the area and to avoid dazzle/glare for highway users.

5. No individual advertisement on the digital screen shall contain moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.

Reason: To ensure that the display does not appear as an unduly prominent feature in the area and to avoid dazzle/glare for highway users.

6. There shall be a smooth uninterrupted transition from one image to another, with no fading or other animated transition methods between successive displays. Transitions shall be of not less than one second between static images, and no individual advertisement shall be displayed for a duration of less than 10 seconds.

Reason: To ensure that the display does not appear as an unduly prominent feature in the area and to avoid dazzle/glare for highway users.

Item No. 1.6

Ref. No. [DMPA/2022/1293](#)

Valid date: 20/09/2022

Applicant: Mark Rodgers

Agent: TUK Architecture

Proposal: **Change of use and Conversion of the existing Building into a Holiday Let at 11 Wilne Lane, Shardlow, Derby, DE72 2HA**

Ward: Aston

Reason for committee determination

This item is presented to the Committee at the request of Councillor Peter Watson based on local objection.

Site Description

The application site is located off Wilne Lane behind properties 19-27 Wilne Lane and relates to a single storey old Coach house currently used as garages with associated hardstanding. The site lies within the Shardlow Conservation Area and to the north of the site lies the Trent and Mersey Canal and the towpath. A number of listed buildings lies within the vicinity.

The wider area is made of residential properties with a holiday home park located to the southeast of the site along with some agricultural land.

The proposal

The application seeks permission to convert an existing outbuilding into a holiday let at the front of the property.

Applicant's supporting information

The documents submitted with the application include

- Location Plan, Block Plan and Proposed Plans & Elevations Dr No. 2111-BC01-P01 B received 18th April 2023
- Cover Letter – Update received 18th April 2023
- Flood Risk Assessment received 20th September 2022
- Inspection Report – ASP Consulting received 20th September 2022
- Bat Survey received 20th September 2022

Relevant planning history

DMPA/2020/0426 - Refurbishment of the existing sash windows (x 4) to the front elevation of house and replacement of the existing leaded lights with clear double-glazed glass and the replacement of the existing casement windows – Approved.

Responses to consultations and publicity

Highways

No objections to amended parking layout subject to condition.

Lead Local Flood Authority (LLFA)

No objection.

Conservation Officer

No objection.

Derbyshire Wildlife Trust

No objection provided appropriate mitigation measures to avoid harm to potential nesting birds is conditioned.

Environmental Health

No objection.

Parish Council.

Object on the following grounds:

- a) Parking - Wilne Lane is already overpopulated with vehicles, especially in the evenings/weekends and a number of complaints have been received over a period of time regarding the passage of agricultural vehicles which is impeded significantly at times due to the volume of parked vehicles. The application details the removal of some current parking spaces to the rear of the property and indicates there will only be two parking spaces instead of the current five. It is questioned, where the additional cars will park following the removal of parking spaces to the rear of the property.
- b) Access - there is a shared access to the rear of the properties and the access is owned by one resident who is not the applicant. This access is a right of way to all residents from number 19-27 Wilne Lane and is available for vehicle access for loading and unloading - it is not intended to be used as parking spaces and doing so will restrict access for other residents.
- c) Privacy - the plans indicate the construction will include a window which is less than 8ft from a neighbouring property rear entrance causing significant lack of privacy for the existing residents.
- d) Sewerage/Drainage - the current sewers are Victorian and have been lined rather than replaced in previous years. The current system already has significant issues with a connection to five existing properties and will unlikely be robust enough to add further connections. Severn Trent are regular visitors to these properties as blockages are extremely frequent and will only increase with additional connections.
- e) Appearance - the application states that this construction cannot be seen from a public footpath. This is incorrect in its entirety as the construction butts up to a public towpath to the rear of the property.
- f) Conservation Area - this proposed construction is within the conservation area, and it is not felt that this is in keeping.

Public Comments

7 objections have been received which have been summarised below;

- a) Exacerbate parking issues in the area. Already a lack of parking.
- b) Lack of sufficient drainage
- c) Lack of maintenance not a reason for change of use. Historical buildings formally the stables – Airbnb not in keeping.
- d) Too many short-term rentals in the village resulting in rowdy behaviour
- e) Need for more permanent accommodation rather than rentals.
- f) Impact on bats which are present in the building.
- g) Impact on privacy
- h) Damage to nearby land.
- i) Condition to restrict working hours and vehicle access should be attached.

13 letters of support were received which have been summarised below;

- a) Bring old buildings back into use – derelict and would enhance the appearance of the area.
- b) Bring business and people to the village.

- c) Changes sympathetic to historic area and canal close by.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), and INF10 (Tourism Development).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside), BNE10 (Heritage Assets),

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

Planning assessment

Principle of the Development

Policy S1 (Sustainable Growth Strategy) of the Local Plan seeks to support and encourage tourism that makes an important contribution to the local economy within the District.

Policy INF10 Tourism Development (Part A) of the Local Plan Part 1 states that tourism development, including overnight accommodation, will be permitted:

- i) Within or adjoining the urban area or the Key Service Villages or;
- ii) In other appropriate location where, identified needs are not met by existing facilities.

Policy INF10 Tourism Development (Part C) of the Local Plan Part 1 states that in all cases the District Council will expect new tourism development to be

- i) Provided through the conversion or re-use of existing buildings or;
- ii) Accommodation of a reversible and temporary nature, or
- iii) Sustainable and well-designed new buildings where identified needs are not met by existing facilities, subject to all the other relevant policies in the Local Plan.

The proposed change of use to the holiday let would be provided through the conversion and re-use of an existing building. The conversion is considered to be an appropriate use for the building that prevents further degradation of the building and restores its integrity through a viable use.

Design and impact on the Conservation Area.

Policy BNE1 states that new development should be well designed, visually attractive, appropriate, respect important landscape, townscape and historic views and vistas, contribute to achieving continuity and enclosure within the street scene and possess a high standard of architectural and landscaping quality.

The site also lies within the designated Conservation Area. Policy BNE2 of LP1 states that development is expected to protect, conserve and enhance heritage assets and their settings. Policy BNE10 of LP2 states that development affecting heritage assets should be determined in accordance with the NPPF.

The outbuilding is in bad state of repair and remedial work is required in order for it to be fit for occupation. Apart from repairs and the small enlargement of the building next to the archway it would remain the same size and style and would be sympathetic to the surrounding buildings and wider Conservation area. The Conservation Officer has reviewed the proposal and raises no objection from a design point of view which would have a negligible impact on the Conservation Area.

It is considered that the proposal accords with the aims of policies BNE1 and BNE2 of LP1 in terms of scale and design and would not impact negatively on the special character of the wider Conservation Area.

The impact on the amenity of neighbouring occupiers

Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers. Policy BNE1 requires development to not cause demonstrable harm to neighbouring amenity.

The existing building would be converted and would not extend in height at all resulting in no overbearing impact to the neighbouring properties directly behind the building. Some concerns have been raised on privacy issues from the rear window and the rooflight window added to the rear elevation/roof slope. The rear window would replace a door opening and would serve the kitchen area. The rooflight window would again serve the kitchen and would allow some light into the area. Given the small size of the kitchen window and its ground floor location, it is not considered to result in such a loss of privacy to No. 21 to justify a refusal in this instance. Furthermore, the nature of the Airbnb would arguably mean limited time spent in the kitchen area when guests are there. The rooflight would be located at such a position in the roof that overlooking from this window would be minimal and not so intrusive to justify a refusal in this instance.

In terms of potential noise to arise from the conversion it is unlikely one single building would result in such significant on-going noise that would warrant a refusal of the application. The owner of the holiday let will manage and deal with any noise issues to arise and make guests aware it is a residential area.

Highways

Policy INF2 sets the policy framework for sustainable transport and states that planning permission will be granted for development where appropriate provision is made for safe and convenient access to and within the development for users of the private car and other modes of transport. The Design Guide SPD states that the Council '*strongly encourages developers to provide at least two spaces for dwelling*'.

There is no specific standard for tourism parking in the local planning policies and originally 2 car parking spaces were proposed. The Highway Authority raised concerns with this over the potential intensification of vehicle trips to the site. Following discussions with the Highway Authority, the agent amended the layout to provide 1 parking space for the development which is considered sufficient for the holiday let conversion and would also not intensify the use of the existing access to the site. The Highway Authority have raised no objections and on this basis, it is considered that the proposal would comply with policy INF2.

Ecology

The application is supported with a Bat Survey undertaken by in June 2022. The report concluded that the buildings have negligible roost opportunities for bats with no further surveys recommended. It also found 2 active robin nests so has advised site clearance is undertaken outside of the bird breeding season. It has recommended mitigation in the form of bird and bat boxes.

Derbyshire Wildlife Trust have reviewed the proposal and recommend a further nocturnal survey is carried out to identify any presence of occasionally used day roosts. They also recommended conditions relating to the protection of breeding birds, the submission of a Biodiversity Enhancement Plan and a Lighting Scheme to safeguard bats and nocturnal wildlife.

In this instance it is considered reasonable to condition the Nocturnal Survey as a pre -commencement condition and to attach the other suggested conditions. With these in place, the proposed development does not raise any issues regarding wildlife and protected species and overall would comply with BNE4 of the LP1.

Other Matters

Addressing the comments relating to too many Airbnb's in the area, there is no policy restricting the number of holiday lets within an area and as this is a conversion and not a new building and is bringing back into use a derelict building, it is deemed acceptable under local policy and guidance. There are no drainage objections from the LLFA, and property ownership is not a material planning consideration. Acceptable access arrangements are available to the property and the parking arrangements can be conditioned.

Conclusion

The principle of development would be in accordance with the Development Plan and material considerations indicate that the proposal would be acceptable. Accordingly, the application is recommended for approval.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

APPROVE subject to the following conditions

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

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

2. The development hereby permitted shall be carried out in accordance with the application form, Location Plan, Block Plan and Proposed Plans & Elevations Dr No. 2111-BC01-P01 B received 18th April 2023, Cover Letter – Update received 18th April 2023, Flood Risk Assessment received 20th September 2022, Inspection Report – ASP Consulting received 20th September 2022, Bat Survey received 20th September 2022 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) revoking and re-enacting either or both Order(s), with or without modification, the building(s) hereby permitted shall be used for the purpose of holiday accommodation only and for no other purpose, including any other purpose within Class C3 of the Order, without the prior grant of planning permission by the Local Planning Authority pursuant to an application made in that regard, and:

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

- (ii) the accommodation shall not be occupied by a person or group of persons for a continuous period of more than 28 days, and it shall not be re-occupied by the same person(s) within 3 months following the end of that period; and
- (iii) the site operator shall maintain an up-to-date register of the names of all occupiers of the building(s), and of their main home addresses, and shall make that information available at all reasonable times to the Local Planning Authority.

Reason: The development hereby approved is expressed to be overnight accommodation, and as such, is permitted by virtue of its accordance with INF10 Tourism Development which supports the provision of overnight accommodation where identified needs are not met by existing facilities. The permitted development is, therefore, considered to be contributing to an identified need, and should be retained as such.

4. The parking provision, 1 car parking space, shown on the approved plans shall be constructed and the space be available for use prior to the first use of the proposed holiday let, and thereafter the approved facilities together with the means of access thereto shall be maintained as approved, and be reserved for the benefit of the development hereby permitted. No additional car parking spaces should be provided unless details have first been submitted to and approved in writing by the Local Planning Authority

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway and to ensure that the facilities provided are reserved for the benefit of the development for which they are specifically required.

5. No work should be undertaken on either of the buildings between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced. If any active nests are discovered, then these should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest.

Reason: In order to safeguard protected and/or priority species from undue disturbance and impacts, noting that initial preparatory works could have unacceptable impacts.

6. Prior to building works, a Biodiversity Enhancement Plan should be submitted to, and approved in writing by, the Local Planning Authority. Approved measures could include those listed below and shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include (but are not limited to) the following:
 - bird nest boxes.
 - integrated bat boxes.

Photographs of these features in situ shall be submitted to the LPA to discharge this condition and the features shall be maintained in perpetuity.

7. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations, and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

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

Item No. 1.7

Ref. No. [DMPA/2021/0394](#)

Valid date: 06/04/2021

Applicant: James Robert Hall

Proposal: Retention of detached garage/outbuilding for change of use to a personal training studio/gym at Shortwood Farm, Green Lane, Overseal, Swadlincote, DE12 6JP

Ward: Seales

Reason for committee determination

This item is presented to the Committee at the request of Councillor Wheelton as local concern has been expressed about a number of issues.

Site Description

The site is accessed off Green Lane, and then Sealwood Lane, which are situated to the south-west of Burton Road (A444) outside of the settlement of Overseal, and geographically close to Linton Heath (no access from Linton Heath itself). Shortwood Farm is at the end of the narrow track and is surrounded by mature trees and hedgerows. The single-storey outbuilding subject to the application is existing and lies within the site boundary.

The proposal

The proposal is for the retention of a personal training studio and gym within a detached single storey-outbuilding on the site constituting a change of use. The submitted details state there would be a maximum of three classes per day on weekdays with most of the classes running outside of normal working hours to allow clients to attend before/after work. Classes are also held on Saturday mornings. The applicant has stated that the group sessions are limited to up to ten people. There is an area of hardstanding for parking for up to ten cars.

Applicant's supporting information

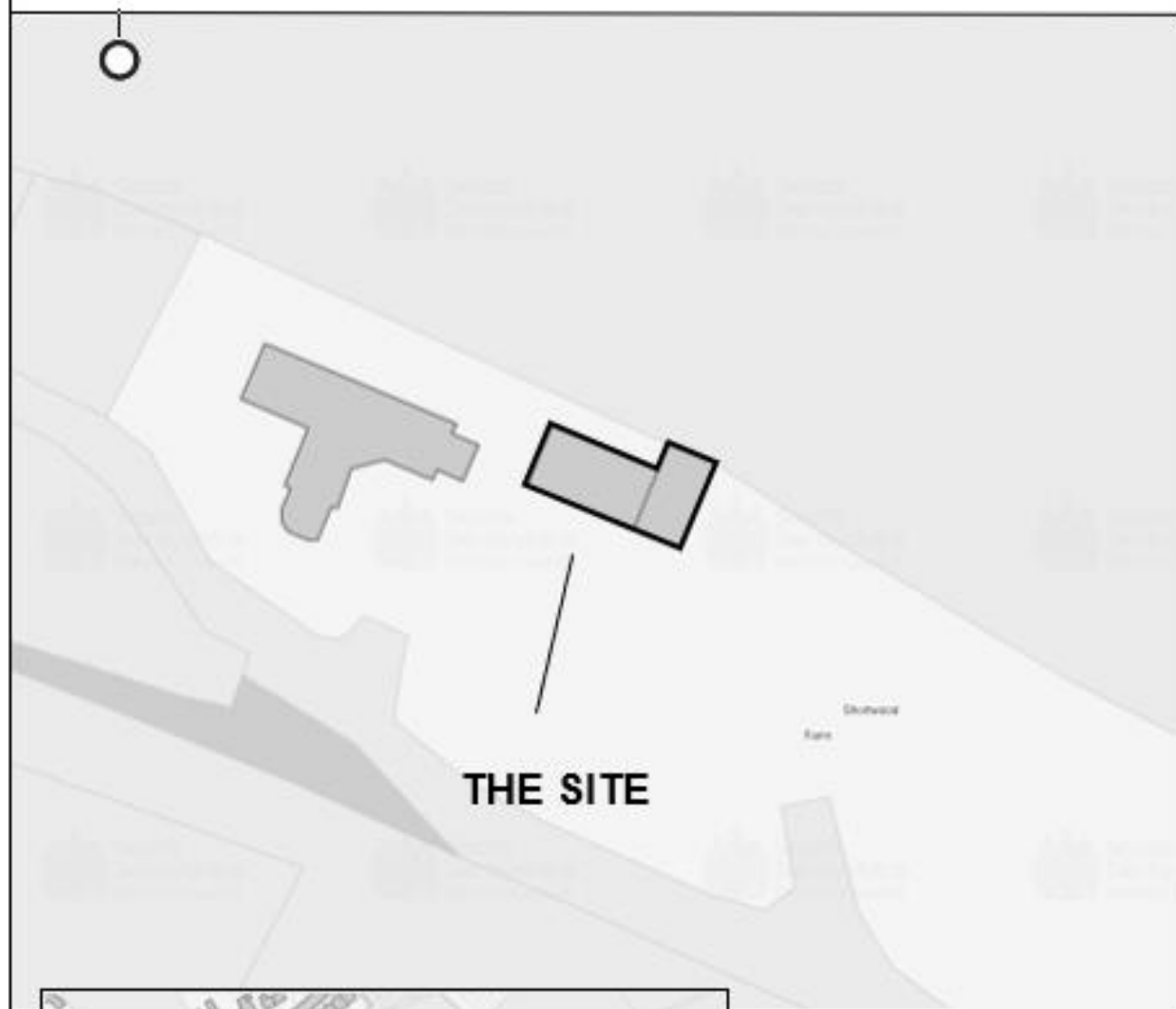
- Business Statement (email) 2022 – stating booking systems and operational details as well as justification for the rehabilitation use itself.
- Fitness Class Brochure
- Traffic times and movements information – log from 2022.
- Highway Statement – stating the expected number of vehicle movements, parking and access arrangements, and condition of the access.

Relevant planning history

DMPN/2022/0971 – Certificate of lawfulness for existing kennels for racing greyhounds at Shortwood Farm, Green Lane, Overseal, Swadlincote, DE12 6JP – Pending consideration

DMPN/2022/0970 - Certificate of Lawfulness for existing dog enclosure at Shortwood Farm, Green Lane, Overseal, Swadlincote, DE12 6JP – Pending consideration

DMPA/2022/0968 – Certificate of Lawfulness for residential use at Shortwood Farm, Green Lane, Overseal, Swadlincote, DE12 6JP – Pending consideration.



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South Derbyshire District Council, LA 100018401, 2020

Responses to consultations and publicity

County Highway Authority – During the consideration of the application the Highway Authority requested further information from the applicant with regard to a number of matters including clarification of the proposed use, details of the parking layout and turning space and how the number of people using the site would be controlled. The applicant submitted a Highways Statement to clarify these issues. Subsequently, the Highway Authority have confirmed that the additional traffic likely to be generated by the proposed development will not have a material impact on the operation of the local adopted road network or on road and pedestrian safety. In addition, the Highway Authority confirmed that the passing places along Sealwood Road, as well as the proposed access, parking and turning arrangements are acceptable.

Environmental Health – The Environmental Health Officer highlights that the key issue associated with the proposed development is the impact of noise of the amenity of neighbouring occupiers. Given the distance to nearest noise sensitive receptors, all of these operational noises are capable of being controlled to ensure that the development does not have an adverse impact on local residential amenity. However, given the proposed early morning nature of the activities, appropriate controls will need to be considered to prevent adverse impact on local amenity.

Overseal Parish Council – The Parish Council have highlighted a number of concerns about the application. This includes the business hours of operation and the impact of noise on neighbouring residents. It also includes reference to the suitability of the access road and in particular, concerns about the number of vehicles using the access road and danger to pedestrians.

Public responses: The application have received a number of public responses this includes 9 letters of support and 10 letters of objection in relation to the proposed development. A summary of the key themes raised in these responses include:

Support

- a) The value of the proposed gym on the mental health and well-being of users and the surrounding community
- b) The proposed gym offers a specialised service that users would not find at a conventional gym.
- c) The gym provides a safe and supportive environment for people to exercise, rehabilitate following injury or overcome mental health issues.
- d) The proposed gym is a valued part of the community that should be retained.
- e) The gym offers a versatile timetable that meets the needs of user's busy lifestyles.

Objections

- a) The increase in the amount of vehicles using Sealwood Lane and impact on the local road network.
- b) Sealwood Lane is very narrow, there is no speed limit and no give way.
- c) The inadequacy of the junction on Green Lane to accommodate the level of traffic.
- d) The impact on highway safety and increase potential for an accident or fatality.
- e) The noise impact on the neighbouring amenity as a result of early morning outdoor gym sessions including boot camps, and noise from vehicles accessing the site.
- f) The business operates in unsociable hours that has an impact on the amenity of neighbouring residents.
- g) The increase in commercial activity in a rural location alongside other businesses including a building contractor, dog kennels and a dog racing business.

Relevant policy, guidance and/or legislation

The relevant Development Plan 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), E7 (Rural Development), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness).

2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas); INF2 (Sustainable Transport)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle of development;
- Highways; and
- Amenity of neighbouring occupiers

A key consideration in determining this application has also been the cumulative impact of the proposed development and the neighbouring planning application for the change of use of land from agricultural use to a dog exercise park at Middle Hayes Farm, Green Lane (ref: DMPA/2021/0651).

Planning assessment

Principle of development

The application seeks the retention and change of use of the detached garage/outbuilding at Shortwood Farm, Green Lane, Overseal, Swadlincote to a personal training studio/gym. This is a retrospective application, and it is understood that an established business 'Farmhub Fitness Facility' has operated from the site since at least 2020.

The site is located outside of the settlement boundary to the north of the 'key service village' of Overseal, and therefore, for the purpose of determining this planning application the site is considered to be within the 'rural area'. In rural areas the provision of new development is limited to that which is considered acceptable inter alia by Policy BNE5. In particular, Policy BNE5 allows for development that accords with other policies in the development plan. This includes Policy E7, which is of most relevance to the proposals.

Policy E7 states: "The Council will support proposals for the re-use, conversion and replacement of existing buildings where:

- i) It is supported by a sound business case;
- ii) The local highway network is capable of accommodating the traffic generated;
- iii) Development will not give rise to any undue impacts on neighbouring land;
- iv) It is well design and of a scale commensurate to the proposed use;
- v) Visual intrusion and the impact on the character of the locality is minimised."

The applicant has provided a statement that sets out the nature of the business, the number of members and the opening times of the gym. The Council have also received letters in support of the application from users of the gym. There is also clear evidence from the businesses social media accounts that gym is successful and in operation. However, for the purposes of planning policy consideration it is debatable whether this information constitutes a 'sound business case' in accordance with limb i). of Policy E7.

Notwithstanding the above, in determining the full degree of conformity with Policy E7, and therefore, the weight that should be afforded to the less than fully robust business case in the decision-making process, consideration must be given to the other limbs contained within the policy. These are

assessed against the proposals as follows:

As considered in further detail in the following section, the local highway network is considered to be capable of accommodating that traffic generated and the junction with A444/Green Lane junction is considered to be appropriate. Indeed, this has been assessed by the Local Highway Authority who have no objection to the proposals, nor have they recommended any mitigation to the local highway network. On that basis, it is not considered that there is a conflict with limb ii) of Policy E7.

It is noted that there are a number of complaints received from neighbouring residents with regard to noise from the activities that take place at the gym. However, it is considered that these issues can be addressed through appropriately worded planning conditions. Moreover, the application has been assessed by the Environmental Health Officer who has no objection to the application subject to a condition controlling the noise emanating from the site. These matters are again considered in further detail below. The planning application is, therefore, not considered to be in conflict with limb iii) of Policy E7.

It should be noted that this is an application for a change of use of a small outbuilding located within an existing farm estate. The application does not propose any external alterations to the building itself, which would result in an increase in scale, massing or change to the appearance of the building. As such, it is not considered that the proposals will result in a visual intrusion in the surrounding landscape, and it is considered that impact on the character of the locality will be minimal. It is also considered that the scale of the outbuilding is commensurate to the proposed use. The planning application is, therefore, not considered to be in conflict with limb iv) and v) of Policy E7.

It is noted that there is concern from local residents objecting to the application that the business may expand, which would exacerbate potential issues regarding traffic on the local highway and impacts on the amenity of neighbouring occupiers. However, any further expansion of the outbuilding is beyond the scope of this planning application and would need to be secured through a separate application, which would be considered on its own merits in future.

Finally, it is considered that the provision of gym in this rural location would be a useful facility for the community. The proposed gym reduces the need for local residents to travel to Swadlincote to access conventional gym facilities. Indeed, this is also recognised by the letters of support that have been received in relation to the application.

In taking into account the above, the application proposals are considered to be in accordance with Policy E7 when taken as a whole.

Highways

Policy INF2 of the Local Plan Part 2 states: "Planning permission will be granted for development where:

- a) Travel generated by development should have no undue impact on local amenity, the environment, highway safety, the efficiency of transport infrastructure and the efficiency and availability of public transport; and
- b) Appropriate provision is made for safe and convenient access to and within the development for pedestrians, cyclists, public transport users and the private car; and
- c) Car travel generated by the development is minimised relative to the needs of the development."

The site has been visited by Officer's and it is observed that the site is accessed via a narrow private road, Sealwood Lane, that runs off Green Lane and serves a number of residential properties and the other farm estates in the nearby area. It is also observed that the site access is based on a one-way system with an entrance to the west and exit to the east. This also includes a parking area to the front and side of the outbuilding providing space for a total of 10 vehicles. The access is considered appropriate and can be retained for the lifetime of the development.

It is noted that the application has received a number of objections from neighbouring residents who have raised concerns with the impact of the proposed development on traffic levels and highway safety on Sealwood Lane and Green Lane. The Local Highway Authority have assessed the application and

have confirmed that they have no objection to the application, nor have they recommended any mitigation measures to make the development appropriate.

Indeed, in their response on 24th February 2022 the Highway Authority state:

“The proposals will inevitably attract a number of visitors to the site; however, this needs to be considered in context of the existing traffic using this private road (Sealwood Lane) and the public highway (Green Lane). Whilst no specific baseline traffic count data has been submitted as part of the application, both Sealwood Lane and Green Lane already serve a number of properties and established farms / businesses, however, the Highway Authority is not aware of any recorded accident statistics involving vehicles or pedestrians on these routes over the last 5 years, which would indicate an inherent highway safety issue. Increases in levels of traffic alone are not considered to be sufficient grounds for objection, only where the consequences arising from any increase is likely to exacerbate an existing highway safety issue.”

Whilst Sealwood Lane is a narrow private road, it was observed as part of the site visit that there are a number of potential passing places. It is also recognised that site is effectively a working farm, whilst it is not currently used as such, it would not be unusual for the site to generate a certain level of traffic movement along Sealwood Lane. It is, therefore, considered that the additional traffic likely to be generated by the proposed development will not have a material impact on the operation of the local adopted network or on road and pedestrian safety.

It is acknowledged that the location of the application site, and the lack of provision for pedestrian and cyclists means that users of the gym will rely on using their cars to access the site. However, it is accepted that in rural areas there is often less scope for the use of non-car modes, as recognised by Policy INF2 limb iii) and paragraph 85 of the NPPF.

In addition to the above, it is noted that there is a separate application for a change of use of land from agricultural use to a dog exercise park at Middle Heyes Farm on Green Lane (ref: DMPA/2021/0651). There are concerns that the increase in commercial activity in the area will lead to a cumulative increase in traffic and overall impact on the local highway network. The key issue in relation to the application for the dog exercise park is, however, the increase in use of a substandard access rather than the impact on the surrounding highway network. This issue will be resolved separately as part of the consideration of application ref: DMPA/2021/0651.

It was also observed as part of the site visit that there is significant distance between the junction onto Sealwood Lane and the access onto the lane that serves the dog exercise park, such that there would not be any unnecessary impact in terms of traffic waiting on the highway to access either of the proposed developments.

On the basis of the above, there is no empirical data or evidence that would suggest that the proposed development will lead to an unacceptable impact on highway safety, and nor is there any evidence that the development would it result in a residual cumulative impact on the road network that would be severe (NPPF paragraph 111). The proposed development is, therefore, considered to be in accordance with Policy INF2 of the Local Plan Part 2.

Amenity of neighbouring occupiers

Policy SD1 of the Local Plan Part 1 states that the Council will support development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.

It is noted that this planning application has received a number of objections from neighbouring residents who highlighted issues of noise emanating from the gym, which includes early morning noise from megaphones and shouting on the bootcamp, as well as noise from vehicles access the gym in the early morning.

As part of the site visit, it was observed that the nearest noise sensitive receptors area located outside of the red line approximately 310m to the south east of the development, although there are holiday caravans approximately 150m to the west. The relatively large distances between the development and

the nearest noise sensitive receptors will provide some level of mitigation.

It is considered that given the distances all of the operational noises emanating from the gym are capable of being controlled to ensure that the development does not have an adverse impact on the local residential amenity. This would include limiting any outdoor activity to specific times of the day, as well as limiting the use of any amplified noise including speakers or use of megaphones. It is also considered appropriate to limit the number of people attending to reduce the number of cars accessing the site in the early hours.

On the basis of the above, it is considered that subject to the implication of appropriate planning conditions that the proposed development would be in accordance with Policy SD1 of the Local Plan Part 1.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

APPROVE subject to the following conditions:

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

Reason: To conform with Section 91 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 not be occupied until such time as the access, parking and turning facilities have been implemented in accordance with approved drawing number 2021-59-01. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework.

3. The gym facility hereby permitted shall only operate between the hours of 5:30am to 8:00am and 5.30pm to 7:00pm Monday to Friday, and 9am to 11am on Saturday. The gym shall not operate Sundays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Policies E7, SD1 and BNE1 of the Local Plan Part 1.

4. The gym facility hereby permitted will only operate for a maximum of 10 people at any given time, and only during the hours of operation as set out in Condition 3 of this permission.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with policies E7, SD1 and BNE1 of the Local Plan Part 1.

5. Between the hours of 5.30am – 8.00am Monday to Saturday the use of any amplified noise equipment is not permitted, and all activities associated with the gym will take place indoors within the outbuilding at Shortwood Farm.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with policies E7, SD1 and BNE1 of the Local Plan Part 1.

Item No. 1.8
Ref. No. [DMPA/2021/0651](#)
Valid date: 07/05/2021
Applicant: Karen Wood **Agent:** Dunwoody Developments
Proposal: Change of use of land from agricultural use to dog exercise park including customer parking area at Middle Hayes Farm, Green Lane, Overseal, Swadlincote, DE12 6JP
Ward: Seales

Reason for committee determination

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

Site Description

The site is located off Green Lane, which is a single-track road, accessed off the main Burton Road (A444) with no through route beyond the application site. The site lies to the north-west of Overseal surrounded by agricultural land, with the exception of Middle Hayes Farm to the north-east of the site, and a number of residential properties further north-east towards where Green Lane meets Burton Road. The site itself is a rectangular plot of approximately 0.58ha. The area is characterised by divided agricultural fields with low hedges and post and rail fencing. The site itself is relatively flat, however the land and surrounding land slopes gently to the west.

The proposal

The applicant is seeking retrospective planning permission to change the use of the land to a dog exercise park. This also includes the retention of 1.8m green security fencing on all sides, the retention of a timber tack room (as a shelter for owners), and the retention of a car parking area in the south-west corner of the site. The applicant states that the use is operated with 15-minute intervals between bookings so there is no overlap of users on the site.

Applicant's supporting information

Design and Access Statement – Detailing photographs of the site (fencing, site access and tack room), and information regarding the booking system and anticipated vehicle movements.

Waste Transfer Note (2021) – detailing the arrangement with a private company to dispose of waste from the site.

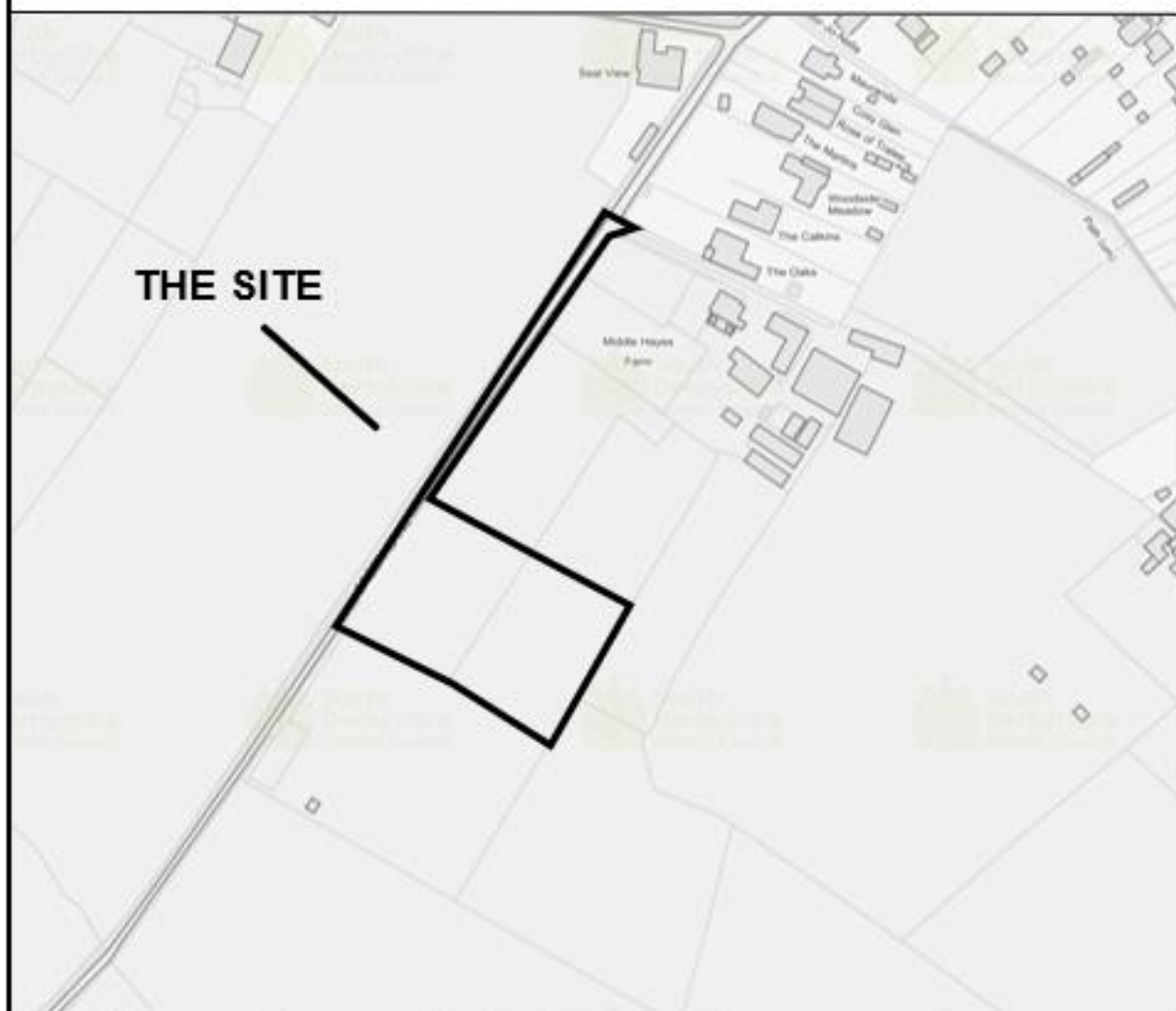
Relevant planning history

No relevant planning history.

Responses to consultations and publicity

Highway Authority: The Highway Authority highlight that the site is accessed via a track off Green Lane which forms the route for Public Right of Way Footpath FP7. The site was last used as horse stables, as such the proposed use may increase the use of a single-track road which is not wide enough for two-way movement.

Environmental Health: The Environmental Health Officer advises that the application be granted temporary approval in the first instance. A number of conditions are also recommended, which includes the control of waste management on site.



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South Derbyshire District Council, LA 1000194651.2020

DCC Rights of Way: No objection subject to conditions. The proposals will result in additional vehicular traffic along Footpath No.7 which runs along Green Lane. The Rights of Way Section requires more information regarding any measures that the applicant intends to put in place to mitigate those risk, before being in a position to make any further comments on this matter.

SDDC Landscape Officer: No objection subject to conditions. The conditions proposed include reference to a Landscape Planting Plan, a 5 Year Landscape and Ecology Management Plan (LEMP). Enhancement of the biodiversity on site is required to mitigate for the increased development of the site.

Public Responses: There have been a total of 104 letters in support and 7 letters of objection on the application.

A summary of the key points in the letters of support are:

- a) The value of the business for the well-being of dogs in the area to enable them to be exercised in a safe and secure environment.
- b) Rise in dog thefts in the area make it a better place for people to exercise their dogs.
- c) Great location for training puppies
- d) The site is a great facility for dogs who can't be left off their leads in open spaces.
- e) The dog park is an asset to the local community.
- f) The site is accessible for those with mobility issues due to ability to park at the facility.
- g) Supportive of a small rural business.

A summary of the key points in the letter of objection are:

- a) Increase in traffic along Green Lane a single-track road that isn't suitable.
- b) Increased business in the area further exacerbating issues to the local highway network.
- c) Impact on amenity from noise associated with the proposed use.
- d) Change of use to business use would affect the tranquil setting.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), H1 (Settlement Hierarchy), E7 (Rural Development), SD2 (Flood Risk), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness).

Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas); INF2 (Sustainable Transport)

The relevant national policy and guidance is:

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

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document

Planning considerations

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle of development;
- Highways; and
- Amenity of neighbouring occupiers

A key consideration in determining this application has also been the cumulative impact of the proposed development and the neighbouring planning application for the retention of detached garage/outbuilding for change of use to a personal training studio/gym at Shortwood Farm, Sealwood Lane (ref: DMPA/2021/0394).

Planning assessment

Principle of development

This application seeks a change of use of the land at Middle Hayes Farm, Green Lane, Overseal, Swadlincote from agricultural use to a dog exercise park including customer parking area. This is a retrospective application, and it is understood that an established business 'Fields of Dreams' has been operating from the site since April 2021.

The site is located to the north and beyond the settlement boundary of the 'key service village' of Overseal and is, therefore, considered to be in the rural area. Indeed, in rural areas development will be limited to that considered acceptable inter alia by Policy BNE5. It should be noted that purpose of Policy BNE5 is to support sustainable development and preserve and protect the countryside. Of most relevance to the proposals, Policy BNE5 states that within the rural areas of the district planning permission will be granted for development that is "unavoidable outside settlement boundaries".

The nature of the proposals mean that a large area of private open space is required. It is considered that there is limited opportunity and space for this within the settlement boundary of the village. As such, it is accepted that the development is unavoidable outside settlement boundaries, and therefore, in accordance with limb iii) of Policy BNE5.

It should be noted that the proposed change of use from agricultural to a dog exercise park will not lead to the introduction of any new built form on the site. The site will remain as an open field for use by dogs rather than farm animals. As such, the proposed development will not unduly impact on the landscape character and quality of the area. In addition, the site is not known to be best and most versatile agricultural land. The development is, therefore, considered to be in accordance with Policy BNE5 iv) and v).

Overall, the proposed development is considered to be in accordance with Policy BNE5 of the Local Plan Part 2.

Highways

The Highway Authority have highlighted that the site is accessed via a track off Green Lane, which forms the route for Public Right of Way Footpath (ref: FP7). It is considered, therefore, that the proposed use may increase the use of this track, which is not wide enough for two-way vehicle movement. These concerns have also been raised by objectors to the application.

The site has been visited by Officers and it is observed that whilst the track is narrow and not wide enough for two-way vehicle movement, there would be clear visibility of any oncoming vehicles by virtue of the length and straightness of the lane. In addition, given the nature of the lane it is not possible to drive at high speeds that would cause highway safety concern. The narrow nature of the lane means that it would also not be possible for users to park on the lane without blocking the access.

It is understood that the applicants operate a controlled booking system for the use of the site, which limits its use to 1 person every 75 minutes. This would, therefore, restrict additional traffic at the site to 2 vehicles every 75 minutes. It is also noted that the applicants have a 15-minute separation time between bookings which eliminates the change of vehicles meeting on the track.

It is also noted that the site forms part of a working farm. As such, it is normal for a modest level of vehicular movement to take place on the site. The applicant has also highlighted that the proposed dog exercise park is the only field accessed by the track off Green Lane, all of the other fields are accessed via the farm yard.

In light of the above, it is considered that vehicle movements at the site will be relatively limited. Whilst there will be an increase in the use of a substandard access track, this will only be used twice every 75 minutes.

It is also noted that the applicant will provide appropriate space for parking, the proposed hours of operation will be limited to 0700-2000 (and even less in winter due to limited visibility), the applicants will also reduce the hedgerows to allow for ample visibility when exiting the field. Taking these into consideration, it is considered that the impact on highways will be further reduced.

In addition to the above, it is noted that there is a separate application for the retention of detached garage/outbuilding for change of use to a personal training studio/gym at Shortwood Farm, Sealwood Lane (ref: DMPA/2021/0394). There are concerns that the increase in commercial activity in the area will lead to a cumulative increase in traffic and overall impact on the local highway network. It should be noted, however, that as part of the gym application the highway authority have confirmed the proposed change of use would not lead to an unacceptable impact on highway safety and nor would the development result in a residual cumulative impact on the road network that would be severe.

It was also observed as part of the site visit that there is significant distance between the land that serves the proposed development and the junction onto Sealwood Lane that serves the proposed gym, such that there would not be any unnecessary impact in terms of traffic waiting on the highway to access either of the proposed developments.

The proposed development is, therefore, considered to be in accordance with Policy INF2 of the Local Plan Part 2.

Amenity of neighbouring occupiers and landscaping

The Environmental Health Officer advises that the application be granted temporary approval in the first instance to enable the impact of the new use to be monitored to ensure it does not have an adverse impact on the existing residential community. However, given that the site is substantially distanced away from the existing residential areas and that the operation of the site is proposed to be limited to 0700-2000 it is not considered that this is necessary.

The Environmental Health Officer also recommended a condition requiring the submission of details of a management scheme for the storage and disposal of animal waste. The applicants have submitted details of their waste collection and disposal agreement with Veolia UK Ltd, and provided a copy of their certification which is displayed within the shelter located on the site.

The applicant's planning statement contains details of the existing landscaping to be retained, and also to be reinforced along the access lane which is considered to be adequate landscaping of the site from both a visual appearance and ecological standpoint.

On the basis of the above, it is considered that the proposed development would be in accordance with Policy SD1 of the Local Plan Part 1.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

APPROVE subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the Application form and Planning Statement received 19th April 2021 and the Site Location Plan received 7th May 2021 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. The dog exercise park hereby permitted shall not operate other than from 0700 hours to 2000 hours Mondays to Sunday.

Reason: To safeguard the amenities of nearby occupiers.

4. In accordance with the Planning Statement submitted in support of the application, the facility shall only be used by one customer at any one time. Customers shall pre-book use of the facility and a diary, which shall be available for inspection at the request of the Local Planning Authority, shall be kept showing customer booking details.

Reason: In the interests of protecting the amenities of the area and in the interests of highway safety.

Item No. 1.9

Ref. No. [DMPA/2022/0318](#)

Valid date: 15/03/2022

Applicant: Derbyshire County Council

Agent: Planning and Design Practice Ltd

Proposal: **Listed building consent for the conversion and extension of buildings to provide commercial, recreational and educational uses, and the demolition of a section of retaining wall Elvaston Castle Country Park, Borrowash Road, Elvaston, Derby, DE72 3EP**

Ward: Aston

Reason for committee determination

This item is presented to the Committee at the discretion of the Head of Planning and Strategic Housing due to the public interest in the application. Previously there was an unresolved objection from Historic England. This issue is now resolved and a formal consultation response from Historic England confirms **no objection**.

There are two concurrent applications for the site; a Planning Application, being determined by Derbyshire County Council, and a Listed Building Consent application, being determined by South Derbyshire District Council.

This report, and subsequent decision, is for the Listed Building Consent only.

There has been a level of public interest in the Planning Application, and comments have been submitted to this case reference that do not necessarily relate to the matters for decision by South Derbyshire District Council. The matter is brought to Committee to clarify the extent of the Listed Building Consent and the decision required by the Local Planning Authority.

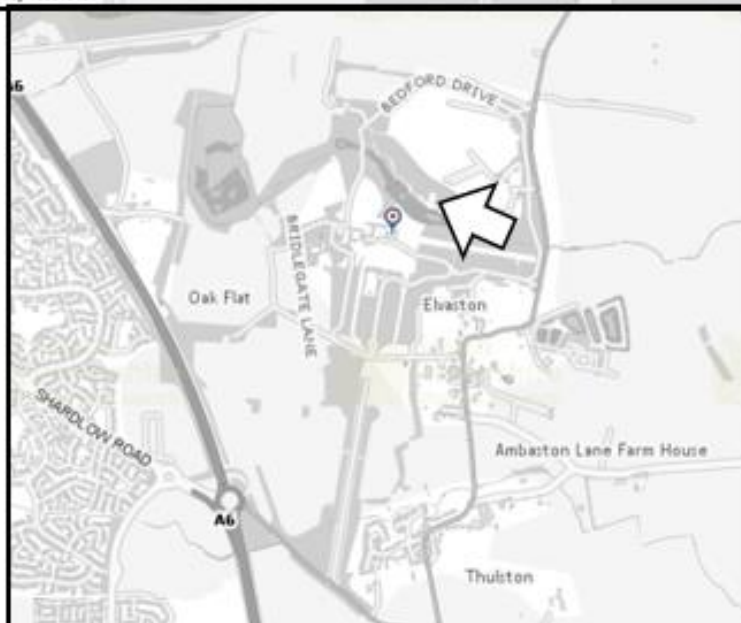
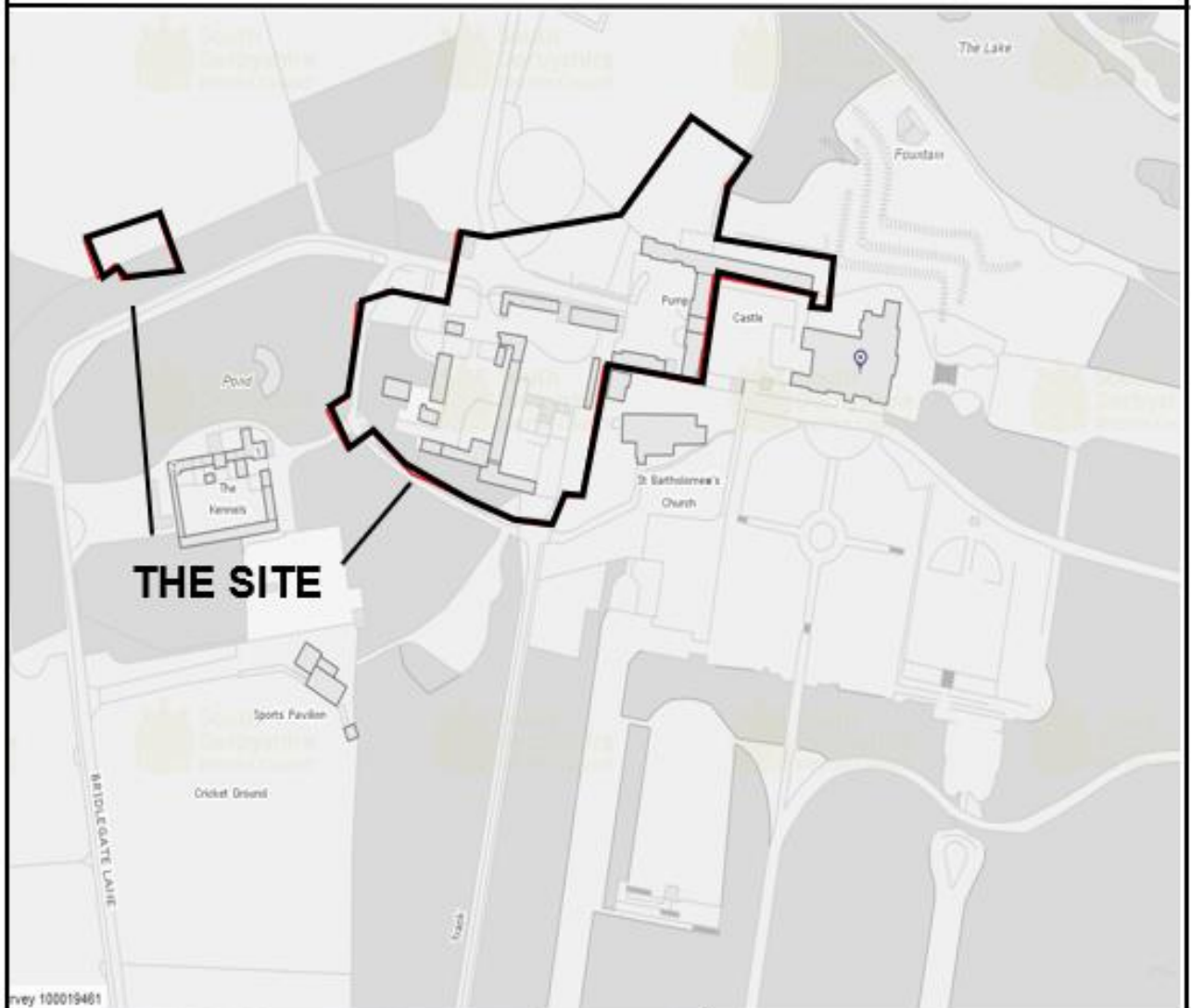
Works to repair the Listed Buildings can take place by the applicant on receipt of an approval decision on this application. However, any new development, including the proposed new build café, also requires a decision on the Planning Application reference CD9/0222/34, being determined by Derbyshire County Council.

Update report

The application was deferred at the October Committee meeting to facilitate a site visit, which has since taken place. The Planning Committee are presented with an application for Listed Building Consent (LBC) and the application seeks consent for the repair and reinstatement works to the following Listed Buildings on the site:

- Springthorpe Cottage
- The Upper Stable Yard
- The North Range of the Upper Stable Yard
- The East Range of the Upper Stables Yard
- The South Range of the Upper Stable Yard

DMPA/2022/0318 ELVASTON CASTLE COUNTRY PARK, BORROWASH ROAD, ELVASTON, DERBY, DE72 3EP



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South Derbyshire District Council. LA 100019461.2020

- The remains of the Racket Court
- The former Gas House
- The Lower Stables Yard
- The Gardener's Cottage
- The former Saw Yard
- The Workshop Buildings
- The former Blacksmith Shop

The information provided in the application includes matters that relates to the Planning Permission and Listed Building Consent. Works for the determination by SDDC relate to the physical changes to the heritage assets, to secure their condition and integrity. The intervention required to facilitate a change of use or new development requires both Planning Permission and Listed Building Consent. However, the change of the land use is a Planning Permission decision.

In addition to the works applied for, the project will include repair and restoration work considered as general repairs/maintenance to the historic fabric, that may not require Listed Building Consent; including like-for-like roof repairs, patch repointing with lime mortar, repairs to windows and doors, reglazing, replacement cast iron rainwater goods and masonry repairs.

Additional matters for consent

- The application also seeks LBC for alteration to a boundary wall
- The extension of a Listed Building to create a new café.

It is the physical attachment of an extension to the Listed Building that requires Listed Building Consent. The development of the new café also requires Planning Permission.

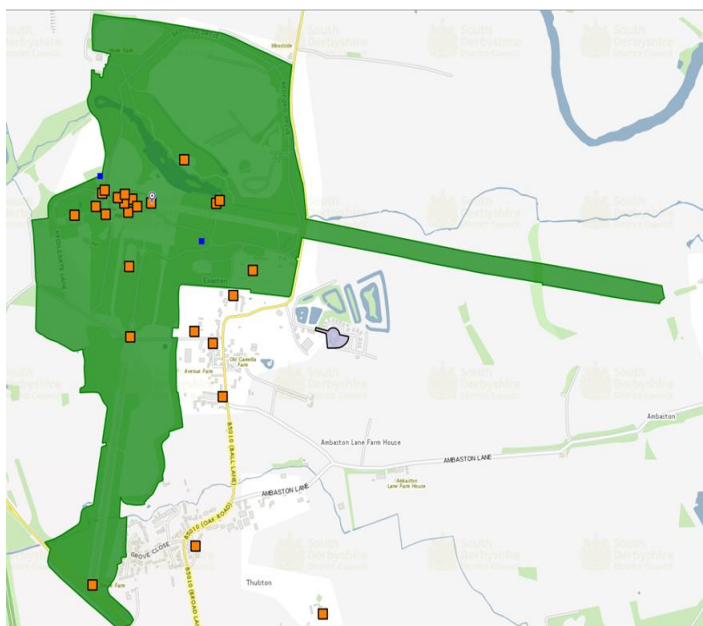
Site Description

Elvaston Castle Country Park is located approximately 6km southeast of Derby City centre and sits in close proximity to the villages of Thulston and Elvaston. The Castle estate comprises Elvaston Castle itself and associated core buildings, formal gardens, parkland, and lake, the existing visitor car park, and surrounding arable and grazing land and outlying estate buildings.

Elvaston Castle Country Park encompasses approximately 321 acres of open parkland, woodland and more formal historical gardens. At the heart of the estate lies Elvaston Castle, a gothic revival masterpiece designed by James Wyatt in the early 1800s based on the original house dating back to 1633. The gardens are locally renowned for their rockwork structures and fine examples of topiary, originally introduced and designed by William Barron in the 19th century. Both the buildings and gardens are registered as being of special architectural and historical interest.

The site was historically accessed via the southern avenue, which now adjoins the B5010, but the site is now primarily accessed from the visitor car park which is situated approximately 350m northeast of the Castle. The visitor car park is accessed via Ball Lane (B1050). It is a Grade II* Listed Registered Park and Garden, described by Historic England as a “unique Victorian fantasy” and designed by influential garden designer William Barron. It is a remarkably well preserved and complete historic country house estate, comprising the Grade II* Listed castle (remodelled in the early 19th century to the designs of James Wyatt around a still surviving Elizabethan core), the Grade I Listed Church of St Bartholomew and 17 other Grade II Listed buildings including stable block and coach house ranges, garden structures, farm buildings and kennels.

The mapping below indicates the extent of the Registered Park and Garden (green), the designated heritage assets/Listed Buildings (orange) and non-designated heritage assets (blue).



The Listed Buildings are on the Derbyshire County Council Buildings at Risk Register. The risk is measured as follows:

- Risk Grade 1** Repair scheme in progress and (where applicable) end use or user identified; functionally redundant buildings with new use agreed but not yet implemented.
- Risk Grade 2** Under repair or in fair to good repair, but no user identified; or under threat of vacancy with no obvious new user (applicable only to buildings capable of beneficial use).
- Risk Grade 3** Slow decay; solution agreed but not yet implemented.
- Risk Grade 4** Slow decay; no solution agreed.
- Risk Grade 5** Immediate risk of further rapid deterioration or loss of fabric; solution agreed but not yet implemented.
- Risk Grade 6** Immediate risk of further rapid deterioration or loss of fabric; no solution agreed.

Listed Buildings at risk included in this LBC application include:

Building: Elvaston Castle, Coach House and outbuildings

Status: II

Description: EC19 in Tudor style, ashlar sandstone and brick, green slate roofs. Park offices, workshops, study centre, storage.

Risk Grade: 2

Building: Elvaston Castle, Farm buildings to west of St Bartholomew's Church, (former museum buildings)

Status: II

Description: Single and two storey brick and tile workshops.

Risk Grade: 4

Building: Elvaston Castle, Former Kennels

Status: II

Description: C19. Red brick; clay tiles and slate roofs.

Risk Grade: 4

Building: Elvaston Castle, Former Stables, Now Information Centre, and Storage

Status: II

Description: EC19 in Tudor style, red brick with stone dressings, green slate roofs.

Risk Grade: 2

Building: Elvaston Castle, Riding Stables

Status: II

Description: C19. Red brick; clay tile and slate roofs.

Risk Grade: 4

Building: Elvaston Castle, Stable block to east of The Kennels

Status: II

Description: Red brick with slate roofs dated 1870. Built to house the gas plant for heating and lighting the castle. Later converted to stable and pig sty.

Risk Grade: 6

Building: Springthorpe Cottage, Elvaston Castle

Status: II

Description: C1840. Red brick gatehouse.

Risk Grade: 4

The proposal

To support the exploration of new ways of attracting more visitors, increasing income and protecting Elvaston's heritage in the years to come, a 10-year vision for the estate and gardens was developed to manage the estate. In 2018 Derbyshire County Council, working alongside the Elvaston Castle and Gardens Trust progressed the vision to produce the Elvaston Castle Masterplan, which sets out the joint ambitions for the future of the estate. The Masterplan tackles the legibility of the estate with the aim to restore and regenerate the historic castle and county park.

This application seeks Listed Building Consent for the conversion and extension of buildings to provide commercial, recreational and educational uses, and the demolition of a section of retaining wall.

Key proposals include relocating the car park adjacent to the historic buildings at the core of the estate (**not part of this LBC application**). These buildings will be restored and converted to accommodate uses to enhance visits to Elvaston. Uses will include visitor welcome and interpretation; visitor facilities such as toilets; a new café/restaurant; retail and craft units and an adventurous play facility. In combination with this, some spaces and buildings will be managed for 'pop-up' retail. The proposals are intended to ensure a sustainable future for the estate, attracting more visitors, increasing income to help with the high running costs and protecting the heritage of the site.

The first part of the Elvaston Castle Masterplan to be implemented will be the Core Buildings, to the west of the castle and consisting of Springthorpe Cottage; the Upper and Lower Stable Yard Buildings; the former Workshop Building, Gardener's Cottage; and former Gas House. Many of these former service buildings are now redundant and sit empty and their condition is actively deteriorating. Through this regeneration project, the historic courtyards will become the vibrant heart of the estate, from which visitors set out to explore the castle and grounds.

Springthorpe Cottage, the first building most visitors will encounter on their way into the estate from the new car park, will be restored and opened to the public to provide a friendly welcome, introduce visitors to both the history and amenities of the estate and show them how they can explore the grounds.

Further interpretation will be provided in an exhibition space proposed in the East Range of the Upper Stables Yard, and elsewhere in the estate using innovative methods. Elsewhere in the Core Buildings

area, a mixture of new retail and studio style workshop space is proposed in the existing stables and workshop buildings which surround the two stable yards.

The existing buildings will be restored and converted whilst retaining and enhancing their original charm and historic details.

A new garden plant sales area is proposed to the south and west of the former Workshop Building, with the original features of the engine and saw rooms in these spaces being retained as display areas.

The former museum shop (built around 1970) will be renovated, reclad and extended to provide additional covered display space and a shop for the plant sales area.

A new purpose-built café is proposed in an extension to the north range of the Upper Stable Yard, and the former Gardener's Cottage, with its walled garden, will be restored and converted into a tearoom.

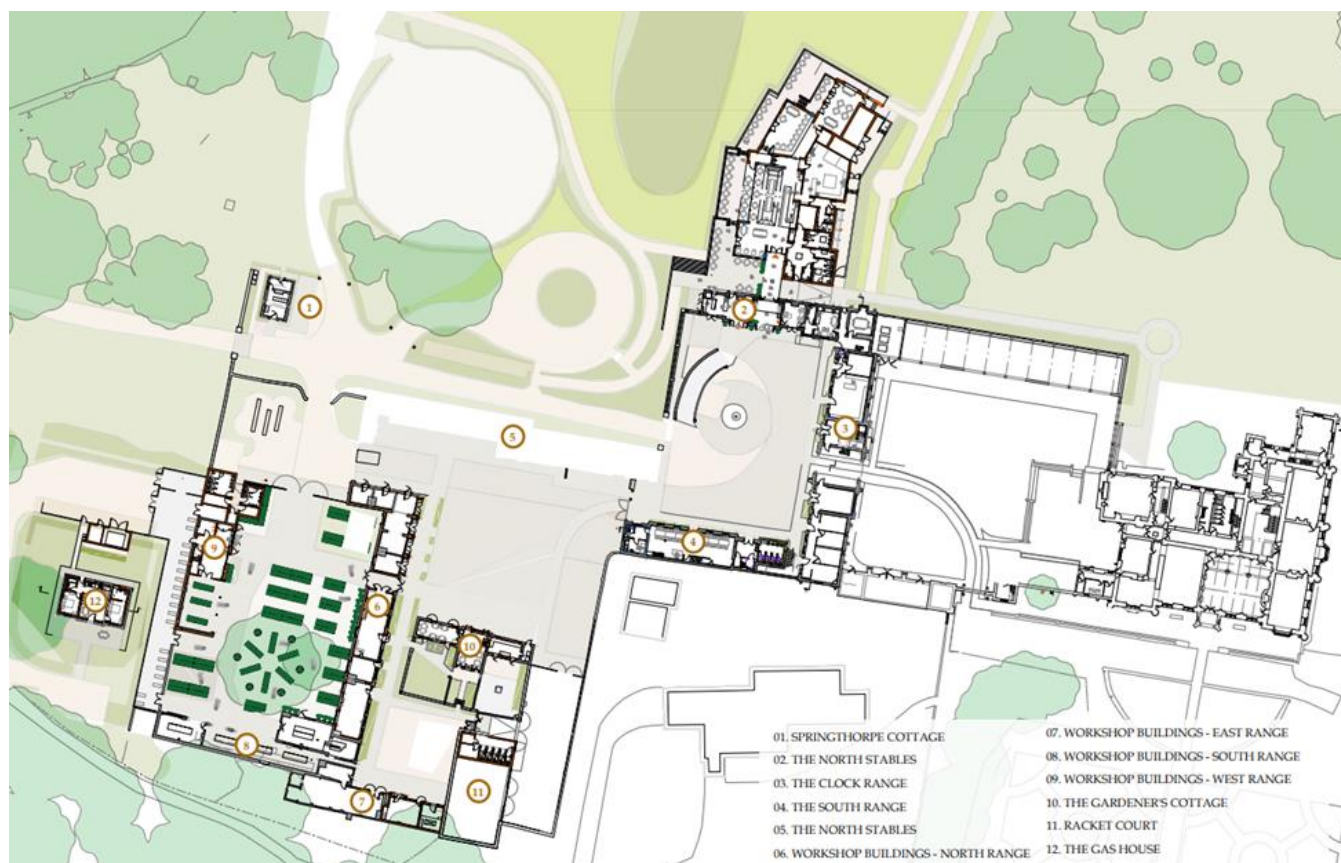
New public toilets, including accessible WCs and a Changing Places room, for people with severe disabilities, will also be provided within the Core Buildings area.

Education will be an important part of the regenerated estate. As well as using the stable yards and parkland as informal outdoor classrooms, a dedicated education centre has been proposed in the South Range of the Upper Stable Yard Buildings for use by school and community groups.

The Elvaston Castle Masterplan identified several parts of the estate where holiday-let accommodation could be developed. Within the first phase of the masterplan it is proposed that the former Gas House, in the south-west corner of the Core Buildings area will be converted into a two bedroom self-catering guest house.

It is also proposed that lettable office space will be provided in parts of the Upper and Lower Stable Yard buildings.

The Proposed Works



Springthorpe Cottage will be restored and opened to the public as a welcome and information centre. Visitors will be introduced to the history of the estate, activities taking place and the facilities available to them during their visit. It will be one of the first buildings that visitors to the estate will engage with during their visit.



Springthorpe Cottage is a Grade II listed brick gate lodge, situated adjacent to the former entrance gates to the stable yards. The cottage is located to the south-west of the Lower Stable Yard, at the junction of the main access route between the new car park and the castle, and the public bridle way leading to the north. The cottage is in the Moorish style with its distinctive ogee form, and was built c.1840 for the Earl of Harrington probably by William Barron. It was built as one of a series of similar buildings on the estate.

The cottage is currently unoccupied and has no identified use. The building is unheated and has no mains services. It is generally watertight, but significant repairs are required to restore it to its original condition and prevent further deterioration of the historic fabric.

As an important part of the regeneration masterplan, it is proposed that Springthorpe Cottage will become an orientation and welcome point for visitors. As the first building that visitors to the estate will encounter, the cottage will be a natural meeting point and provide guests with information about the castle and estate, and any events or activities taking place. The building will be open during daylight hours and staffed at peak-times.

The cottage will be repaired fully using appropriate materials and traditional techniques. In line with the conservation plan, there are no alterations proposed to the exterior of the building, other than glazing the windows, and the only alterations internally will be the introduction of new electrical and water

supplies and freestanding furniture for displays and interpretation. The lean-to at the rear of the cottage will be converted into a small staff room and store.

The Upper Stable Yard will be another key location for visitors as it will be one of the first spaces they enter after exiting the new car park. Here it is proposed to locate a mix of uses, including café, gift shop, interpretation spaces and education centre.



The restored yard will become an attractive public space where people can walk around the retail spaces, while enjoying a drink from the café or attend a public event taking place in the courtyard. The Upper Stable Yard buildings are part of a significant ensemble of other listed buildings which are all listed individually - Elvaston Castle; the Coach House and Clock Tower (the 'North and East Ranges'); the Information Centre and Shop (the 'South Range'); the Carriage Wash and Courtyard; and the Churchyard Walls. They are built in a similar Tudor Gothic style as the castle and were probably designed by Samuel Wyatt in the early part of the 19th century for the 3rd Earl of Harrington.

It is proposed that improvements will be made to the existing historic paving in the Upper Stable Yard to provide everyone with safer and smoother access.

The North Range of the Upper Stable Yard will be restored, and a new 150 cover café created, which will replace the 50-cover café operating from the ground floor of the Castle. The new café building will consist of a main and lower café, and service block, which will extend to the Paddock at the rear of the North Range. The North Range will serve as the main entrance to the café, as well as a small ice cream parlour / coffee shop and accommodation for staff. Outside the café, a new adventurous play space will be created.



In order to adapt the north range to form a cafe and entrance space a series of sensitive alterations are proposed that also restore the building closer to its original concept as a symmetrically elevated range.

The main changes are the removal of the non-original timber screens and windows within the four arched openings. These later screens are likely to have been formed in the early twentieth century and do not relate to the building's original use. The removal of these screens creates a generous opening to the new 150 cover cafe to the rear, whilst also returning the elevation to an appearance more closely aligned with the original coach house, enhancing its historical legibility as a carriage shed with carriage wash adjacent. The screen to both large and smaller arched openings will be replaced with painted timber panelled bifold shutter doors, to match the original doors, mouldings and proportions of the joinery elsewhere in the Upper Stables Yard. A contemporary glazed screen with slim metal frames is proposed within the larger west openings, behind the new shutter doors to the new ice-cream parlour/ coffee shop. The non-matching or original windows and brick infill to the two-side openings in the wings will be replaced by panelled door with fanlights above to match the doorways to the south range of the Upper Stable Yard. Further alterations include the removal of the non-original north extension and the formation of a large opening to the north in line with the east carriage arch. The new opening will be detailed in a contemporary style to be legible as a modern intervention, connecting directly to a new covered walkway leading to into the main cafe.

The East Range of the Upper Stables Yard a mix of retail, office and exhibition space is proposed. The ground floor of the southern stable will be repurposed with minor alterations as a retail unit. On the ground floor of the north East Range a further retail unit is proposed, which will be used as a gift shop. On the first floor, 4 new commercial offices to let are proposed.



Significant repairs were undertaken on the East Range in 2019 - 2020. As well as replacing the clock tower, the roofs of the building were re-slatted and rainwater goods were renewed. The external stone and brick elevations were also repaired. Externally, the building is therefore in a good condition of repair.

It is proposed to use the ground floor of the southern stable, where the original features are retained, as a retail unit, with minimal alteration. The original character of the room will be retained by keeping, and where necessary repairing, the historic features. The original stalls will be retained and the retail display units fitted between, respecting the historic features. It will be possible for up to four different retailers to rent spaces, each operating from their own stall in a 'pop up' market style. A second retail unit, intended to be operated by ECGT as a gift shop, is proposed on the ground floor to the north of the East Range. The historic stable interior was lost when it was previously converted to a classroom / office space. It is therefore considered appropriate to subdivide this room to accommodate a staff room and storage space, in the proposed scheme, without impacting on the significance of the room.

Four new commercial offices are proposed on the first floor. Two of these units (Unit 28 and 29) will be accessed from a new staircase and lift that will be built within the former northern coach house. Various locations for a new lift and staircase were considered, however this part of the building currently houses exhibition displays and has been heavily altered in the past. This location means that the interventions and alterations can be introduced without impacting on the historic and architectural significance of the building, but improve access for all. The southern office is self-contained and will be accessed from the existing external staircase. The northern office is accessed from the existing staircase in the north east corner of the building.

To improve the thermal performance of the building, it is proposed that the internal face of some of the existing walls will be insulated and that further ceilings will be insulated in addition to those already carried out. Wall insulation will be installed only where there are no significant historical features that would be lost through insulating them. The type and level of insulation used will be carefully selected to ensure the existing structures will not be damaged by changes in moisture movement once the building is insulated.

The South Range of the Upper Stable Yard, which is currently an information centre and shop, will become an education centre. The centre will play an important role in educating children and adults about the importance of conservation and the preservation of the built and natural environment. Accessible toilet facilities and a calm room for individuals who require this space, will also be provided.



The existing building has been used as an information centre and shop since it was converted by the council after 1970. Prior to or during the conversion, the existing stable stalls were removed and the upper floor was altered to create a mezzanine space which is currently used as a store due to limited head room below the roof ties. This mezzanine is accessed by a new stair, probably fitted as part of the 1970's works. Public toilets were added to the eastern and western wings. The original grooms accommodation on the upper floor of the east wing now accommodates the watertanks and is only accessible through a ceiling hatch.

The building is generally in a reasonable condition, but significant repair is required in the short to medium term to ensure the building remains weathertight. The toilets are functional but the partitions and fittings are outdated.

Because most of the original features in the South Range have been removed previously, with the exception of the upper floor and roof structures, the internal faces of the walls will be insulated, to improve the thermal efficiency of the building. The roof will also be insulated by fitting insulation between the existing rafters and lining the underside. Very little alterations are proposed to the external

elevations of the building. The existing, non-original door opening to the female toilets at the eastern end of the building will be removed and blocked up as it was originally intended and it is proposed that the existing painted metal bars fitted in front of the ground floor windows will be removed to prevent further damage caused by corrosion, to the stone surrounds.

The remains of the Racket Court located on the south side of the Upper Stable Yard will be redeveloped to provide a new public toilet for those using the Gardener's Cottage or attending outdoor events hosted in the Stable Yard.



This space has been identified as a back of house service area with a new public toilet block at the north end. The toilets will service the Gardener's Cottage, and provide facilities for special events such as outdoor cinema nights (within Forge Court) or food and drink festivals within the Lower Stable Yard. The simple lean to structure will accommodate 5 unisex toilets plus an accessible toilet and store. The circulation space is covered but not enclosed. A new fence and gate will secure the south side of former Racket Court creating lockable external storage for the site.

The former Gas House is a two-bedroom holiday let cottage, which will have its own car parking area, accessible via the new road which leads from the proposed new carpark.



The industrial building has a double height central bay with pitched slate roof, flanked by two single story monopitch wings. The building is predominantly red brick with features picked out in other coloured brickwork. The main south elevation features arched openings detailed with blue/black and pale buff brick. The coloured brick is repeated in the roundel window and the decorative projecting brick verge detail. The north elevation is more modest with evidence of later alterations and no decorative brickwork, with the exception of a central roundel at high level and a later arched niche that is in poor repair and was not well built. Internally a mezzanine floor remains over half the central bay, supported by substantial timber beams. There is no existing stair access to this level. There are various items of industrial equipment on display within the space, however it is understood that many of these may have been installed when the building was part of the agricultural museum.

The proposed use for the Gas House is as a holiday let cottage. The ground floor proposals include two bedrooms set either side of a spacious double height kitchen and dining area with a mezzanine snug accessed by a new stair. The later kennel extension to the west of the original building will be removed to return the building to its original symmetrical form. The new kitchen and bathrooms are located to the north of the existing plan, with the main living area and bedrooms taking advantage of the existing openings to the south. The existing mezzanine floor structure will be carefully lowered to provide headroom for a new snug area.

Other physical alterations to the existing fabric include:

- New painted half glazed timber back door.
- 2 new painted timber windows to the north elevation.
- New central ridge roof light.
- Conservation style, opening roof lights to bedrooms and bathrooms.
- Internally the outer walls will be lined and insulated.

Where practical, the internal brickwork will be exposed – between the main room and the wings. The later concrete floor will be broken out and renewed with a new insulated slab. Where appropriate the industrial equipment will be salvaged and displayed as decorative features within the spaces. Where possible the roof trusses will be carefully repaired and retained and the rafters, slates and battens renewed. The roof will be fully insulated with a new timber boarded lining to the ceiling. A new driveway, parking and small private garden is proposed to the south of the building.

The Lower Stables Yard will be repurposed to provide a mix of retail, studio, and commercial workspace. The proposed plan will create six commercial units in the North Stables, which will each have their own direct access from the stable yard. The outside space will be used for holding pop-up events or markets.





The North Stables are currently leased by a tenant to Derbyshire County Council and most of the range is used as stables or associated storage. The condition of the building is gradually deteriorating, and significant maintenance and repair is required on the roofs and exterior of the building to prevent further decay and the loss of historic fabric.

As part of the scheme for the redeveloped building, it is proposed that the existing timber stable doors will be retained and overhauled where possible or replaced with new doors to match the original detailing. The stable doors will act as shutters with new dark coloured slim profiled metal framed glazed doors fitted behind the original door positions to provide a discrete weather protection whilst providing glimpses into the units and additional light.

The historic details and fittings in some of the spaces in this building should not be altered or removed because it would affect the significance and character of the listed buildings. This means that some of the spaces will be quite 'rustic' in appearance with minimal alterations; the bare brick walls will be retained, and the roof structure will remain exposed internally. Insulating these spaces is not considered appropriate as it would result in the loss of some of historic detailing, such as feeding troughs.

The roof, which will be replaced as part of the works will be insulated.

The Gardener's Cottage will be converted to a new tearoom within the former Gardener's Cottage and its grounds.



To the south elevation brick infill will be removed, and a central door reinstated – allowing much better flow and access to the building to and from its charming south facing garden. To the south elevation of the west wing there are two large arched openings, both with a central door flanked by half height glazed lights with stone cills and brickwork below. The existing stable doors will be removed and new door and windows fitted to match the original vertical glazing pattern. The new internal access from the central room to the west wing of the building is relatively narrow to allow for the existing fireplaces to be retained and refurbished. The northern elevation low door openings will be fully reinstated and timber shutters added to both wings.

The east wing will accommodate a small new kitchen, sized to operate independently of the main café. To the north elevation of the kitchen, as with the opposite wing, blocked up openings are to be opened up and shutters reinstated. An additional canopy will be fitted to the south elevation of the east range to accommodate barbeques and outdoor catering. The garden walls and paving will be repaired to allow for outdoor dining. A new bin store is located to the eastern end of the building, with a new access door formed in the north wall. The existing south facing garden is a sheltered suntrap, a tranquil haven within the larger estate, and will be restored as a traditional English cottage garden with extra seating being provided in the adjacent courtyards. The upper floor has a non-original window to the south. The proportion of this window is not in keeping with the traditional aesthetic of the lower stable yard and will be replaced in a style to match other windows within the area, a shallow brick arched opening with timber window and vertical glazing bars.

The former Saw Yard and its associated buildings will also be used as a plant sales area.



The Saw Shop within the south range, housing the original rack saw bench, also dates from the mid-19th century and is described in the 2003 Pace Conservation Plan as “a fine range of buildings incorporating the Forestry Shop, and Rack Saw bench with the lapped framed windows, pantile roof and large span to open north side and early stonework; [the Saw Shop] represents a very important farm vernacular building type”

Because of its historical importance, careful consideration has been given to the use of the Machine Shop and Saw Shop. The importance of the historical fittings in these rooms is recognised and removing the features would greatly reduce the significance of the spaces. The original fittings in these

two rooms will therefore be retained and the spaces will be repurposed as display areas for the plant sales centre, which can be accessed by the public.

The industrial equipment will create an interesting backdrop to the plants that are on display. Interpretation will be provided explaining the history of the space and the important part the buildings played in the development of the estate. The external fabric of the Machine Shop and Saw Shop range will be repaired and overhauled and no significant interventions are proposed that would alter the appearance of the original fabric. These spaces will be unheated and uninsulated. The derelict pigsty to the west of the saw shop will be removed and bricks salvaged for use as in repairs.

Since the closure of the agricultural museum in 2001, the Saw Yard has been used as a service and storage yard by the council's estates department, and the former museum shop has been used by the estate's security team. The yard is currently unpaved and overgrown in places. It often becomes muddy and churned up in bad weather. The modern 1980s west range is in a fairly poor condition. There is significant ivy growth on the west and north elevations and roof and, where inspection allows, some structural movement evident on the north gable. The fibre cement roof covering is intact and there is little evidence of water ingress. Insulation and painted timber cladding will be added externally to improve the appearance of the building and greatly improve its thermal performance. The existing corrugated cement fibre roof will be removed and replaced with a new pitched zinc roof, in keeping with the new toilet block proposed next to the Gardener's Cottage, with roof lights along the apex to provide natural lighting to the space. The existing building will be extended northwards to create new toilet facilities close to the new arrival gate to the south of Springthorpe Cottage.

The Workshop Buildings which are comprised of a range of former workshops situated along the western edge of the Lower Stable Yard will be used to create ten additional commercial units.



The Workshop Buildings are Grade II listed brick buildings with slate pitched roofs and timber casement windows and doors. They are generally single storey except at the south end where hay lofts have been included. The main north-south range was built by the mid-19th century, whilst the southern and northern ranges were added later, between 1852 and 1880. The buildings served as workshops for the estate but were converted into an agricultural museum by Derbyshire County Council in 1980/81. During the conversion some of the workshops were heavily altered and although the majority of the extant fittings inside the buildings are authentic, many are not original to Elvaston having been curated for the museum from elsewhere.

The northern range was originally built as cart sheds, with large arched openings. These openings have been partially blocked up and the units are now used for stables. The significance of the buildings derives from their survival as a complete group of estate workshop buildings that have remained relatively unchanged over the years. The blacksmith shop, machine shop, saw mill and forestry shop are of particular note but all have merit. There are many interesting features within this range and the proposal aims to retain as much of the original fabric and character as possible.

The existing timber doors into the units will be retained and overhauled where possible or replaced with new doors to match the original detailing. The timber doors will act as shutters with new dark coloured slim profiled metal framed glazed doors fitted behind the original door positions to provide a discrete weathertight envelope. Metal framed secondary glazing will be fitted behind existing timber windows to improve thermal performance. The windows in the southern range and in the machine shop are made from lapped panes of glass set in vertical timber glazing bars. It is proposed that this feature, which is a critical element to the character of the south-east yard and Saw Yard, will be retained but, for safety reasons and also because many of the panes have already been damaged, they will be renewed with clear toughened glass.

The former Blacksmith Shop will be brought back into its historic use and host live demonstrations to the Estate's visitors.





It is understood that whilst the forge in the blacksmith shop is largely original, many of the other elements have been altered or replaced. The blacksmith workshop however still gives a true impression of an original working interior with its hardwood block flooring, (for safety), and open vented roof. It plays an important part in understanding the functions and layout of the estate's ancillary buildings.

The Blacksmith Shop will not be insulated, partly because of the nature of its use, but also because of the architectural significance of the space and structure should be celebrated. The other historic but non-original features in the Blacksmith Shop such as the timber block flooring will be repaired and retained.

Delivery drive, spurring from the car park to the core buildings. This will plot a careful path through existing woodland, and will require the removal of a short section of retaining wall.



Area proposed for new café, a new building to the rear of the courtyard, including the restoration of the North Range of the Upper Stable Yard. A new 150 cover café created, which will replace the 50-cover café operating from the ground floor of the Castle. The new café building will consist of a main and lower café, and service block, which will extend to the Paddock at the rear of the North Range. The North Range will serve as the main entrance to the café, as well as a small ice cream parlour / coffee shop and accommodation for staff. Outside the café, a new adventurous play space will be created.



Visuals of the proposed café building

SOUTH ELEVATION



The North Range as existing





Proposed West Elevation

VIEW FROM SOUTH WEST



VIEW FROM NORTH WEST

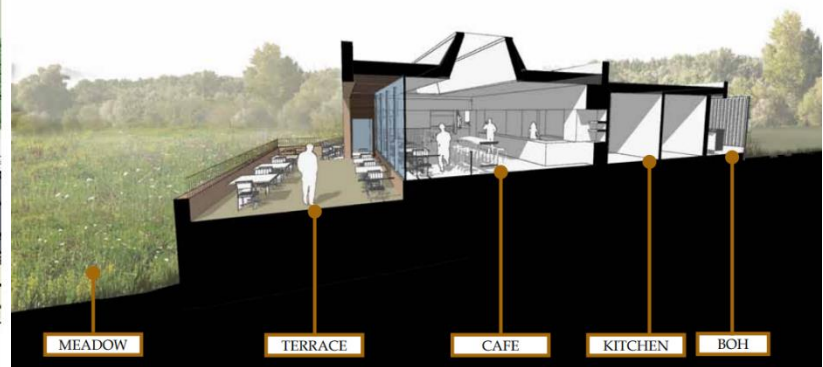


The new main cafe building sits outside the curtilage of the formal castle and connecting courtyards. The architectural approach for the new extension references the language of the garden and estate buildings that also sit outside the curtilage, both in terms of the selection of brick as the primary material and the building form. Through adopting this more informal architectural style the new building will remain both subservient to the castle and form a more natural connection to the landscape it extends into. In order to reduce the impact of the building and relate it to the adjacent buildings, the overall mass is broken down into three elements:

1. The Main Café The largest central form is the main cafe. The proportions and height aligning with the central bay of the North Range.
2. Service Block This lower linear block to the east accommodates the plant room, kitchen and WCs with a private hire space to the north, and abuts the main block.
3. The Lower Café The third volume sits 1.2m below than the main café floor level and opens out onto the lower terrace. The existing topography allows this terrace to link into the existing landscape to the east via a step free path.



Concept Sketch



Illustrative Section

The diversity of the brick detailing throughout the estate demonstrates the flexibility of the material. Be it in the contrasting coloured arched of Gas House, the beautiful moulded openings in Springthorpe cottage or the detail brick coursing of the Gardeners Bothy, every era demonstrates how bricks can be

used in a multitude of architectural styles and techniques. For the newest building on the estate, this tradition will be extended. Taking inspiration from the simple dentil course on the north elevation of the north range, a decorative brick parapet is proposed, with Flemish bond below it. The string course separating the parapet with the wall below, aligns with the same detail on the North Range. Copes will be formed as brick soldier courses. Lintels will be formed as brick soldier courses supported by Catnic lintels or, in the case of the large openings, discrete fixings into steel beams.

In addition to brickwork there are smaller areas of horizontally boarded, stained timber cladding. These areas have been carefully positioned to allow for discreet integration of air intake louvres, as part of an integrated approach to building services. Downpipes will be kept to the east elevation where possible and be formed in painted black cast iron to match the existing downpipes within the yard. All windows and doors will be double glazed with slim metal frames. The parapet roof will be flat with liquid plastic roof covering. Solar panels will be positioned on the roof discretely below the line of the parapet. The terraces will be paved with brick, with potential for polychromatic patterning to define steps.

Applicant's supporting information

The proposal will also deliver public benefits. The provision of a new access drive in close proximity to the A6 will provide better connection to the strategic road network – increasing the attractiveness of Elvaston as a visitor destination and place to invest and negating the need to drive through the villages of Elvaston and Thulston to access the park. A Green Travel Plan has been prepared as part of the scheme, which will promote and facilitate sustainable travel options into the future. A pedestrian link with the proposed sports facility to the south, and new housing to the southwest, will be provided.

The scheme includes a designated education space and a visitor information hub. Hitherto inaccessible historic buildings and spaces will be opened to the public, their historic significance revealed and interpreted. The William Barron gardens will be restored and better protected through reduced foot fall pressures around the existing car park. Events spaces will be created to help increase the range and depth of public engagements – with the intention of reaching 'hard to reach' groups. Increased public engagement with Elvaston and improved visitor facilities will enable more people to benefit from its cultural and recreational opportunities – with the associated benefits to physical and mental wellbeing that this will bring.

The conversion and re-use of the many of the historic buildings at Elvaston will facilitate their repair and restoration, as well as their long-term upkeep into the future. The spaces around them will be sensitively landscaped – to improve their appearance, accessibility and usability, whilst protecting and restoring historic surfacing. Whilst the restoration and re-use of the castle itself does not form part of this particular application, it does form part of the second phase of the masterplan, and the first phase will act as an 'enabler' by providing the infrastructure, footfall and inward investment needed to facilitate the redevelopment of the castle.

Our market appraisal analysis has indicated that for the Castle to be sustainable as a standalone events space, the entirety of the ground floor needs to be re-used. Therefore, it is not possible to keep the café in the castle and achieve the Council's future reuse aspirations for the Castle which are critical to its longer-term financial sustainability.

It is envisioned that the existing kitchen will be retained to serve the event space. Removing the café will unlock the potential of the Castle to be used as an events venue by allowing circulation between key rooms without needing to restrict access by virtue of part of the building being used as a café. This will also make public tours easier to facilitate.

The applicants also need an enhanced café offer and feel the Castle would be too sensitive to withstand an expansion of the current facility, particularly as this would involve additional kitchen and extraction equipment which can be damaging to historic buildings. The structure to the north of the castle courtyard was also previously considered as a possible location for a new café but it is too small to accommodate the required number of covers and also very close to the highly sensitive formal gardens to the north, making interaction with greenspace/a children's play area very difficult to achieve. Furthermore, the area is earmarked as an additional events space in combination with the ground floor

of the castle and castle courtyard, as is explained in the market appraisal report. For these reasons, it would be unsuitable as an alternative location for the café.

Key to the Masterplan are six 'guiding principles'. These principles will direct all future management decisions, whoever is responsible for Elvaston Castle and Estate:

1. Freehold of the Estate will be retained by Derbyshire County Council;
2. A competent single management body will control the overall governance of the Estate with the balance of conservation, heritage and access at its core;
3. Financial sustainability will be fundamental to the delivery of the vision, facilitated by a business model that provides on-going reinvestment in the long term stewardship of the Estate without eroding its significance;
4. The historic, landscape and biodiversity significance will be protected, conserved and, where sustainable, enhanced;
5. Public access to the gardens, parkland and house will be provided and maintained; the parkland at least will be free at the point of entry on foot. The stories and rich heritage will be understood, shared and celebrated;
6. People, community involvement and partnership working will be at the heart of all activities.

Documents submitted supporting the application included:

- Planning Statement
- Heritage Statement
- Design & Access Statement
- Materials - outline specification
- Desk based Archaeological Assessment
- Submitted existing & proposed elevations and floorplans, plus roof plan where applicable of:
 1. Springthorpe Cottage
 2. The Upper Stable Yard
 3. The North Range of the Upper Stable Yard
 4. The East Range of the Upper Stables Yard
 5. The South Range of the Upper Stable Yard
 6. The remains of the Racket Court
 7. The former Gas House
 8. The Lower Stables Yard
 9. The Gardener's Cottage
 10. The former Saw Yard
 11. The Workshop Buildings
 12. The former Blacksmith Shop
- Plans provided to illustrate
 1. Proposed alteration to the boundary wall
 2. Proposed café building
- Additional information was provided for the wider context of the Planning Application
 1. Landscape Proposals - car park
 2. Illustrative landscape mitigation
 3. Detail proposal plan - adventurous play
 4. Proposed roundabout arm
 5. Landscaping materials - outline specification
 6. Landscape proposals - core project
 7. Estate landscape - proposed site plan
 8. Detail proposals plan - Rookery Wood

The applicant has also provided market appraisal and proposals for the Castle building (which is in excess of requirements for consideration of the Listed Building Consent application, as the Castle is outside of the red boundary application line.) The details were requested by Historic England to provide reassurance that the Castle would remain a key focus to the owner and that funding would be assigned for its repair. In addition, it was seen as a fundamental requirement that new and continued uses of the Castle were proposed as part of the wider Masterplan. This information was provided, and no further requests for information have been made by Historic England.

Relevant planning history

None

Reconsultation with Historic England

Following from the deferred decision in October, the applicant provided further information and amended drawings for the café development. Historic England was reconsulted, with additional supporting information requested. Prior to the most recent comments being submitted Historic England maintained a level of concern. Having provided additional information, explanation, analysis and detail to Historic England, their most recent comments are included verbatim below, which conclude **no objection**.

The final comments from Historic England were received on 22 March 2023.

ELVASTON CASTLE COUNTRY PARK, BORROWASH ROAD, ELVASTON, DERBY, DE72 3EP

Application No. DMPA/2022/0318

Thank you for your letter of 13 March 2023 regarding further information on the above application for listed building consent. On the basis of this information, we offer the following advice to assist your authority in determining the application.

We refer you to the advice in our letters dated 8 December 2022 and 23 December 2023. We note the further information submitted by the applicant, which provides additional assurances on the interim use of the Castle, and planned repairs and maintenance, pending the implementation of future phases of the masterplan.

Recommendation: Historic England has **no objection** to the application on heritage grounds.

Elvaston Castle is of very high national importance as an exceptional and influential example of an imaginative mid 19th century reworking of the Castle and its designed landscape, currently on the Heritage at Risk Register. The proposals seek to underpin a sustainable future for the site, with sensitive repair and reuse of existing buildings, alongside a substantial new cafe building.

While heritage benefits would be delivered by some aspects of the proposals, some interventions would result in a degree of less than substantial harm to the significance the Castle and other key listed buildings derive from their setting. Designs for the proposed cafe have been amended to improve its integration with the surrounding landscape. Further information has been provided on the market appraisal for the scheme, landscape visual and heritage impacts, and the interim use and conservation of the Castle pending the implementation of future phases of the masterplan.

Your authority will need to be satisfied that there is clear and convincing justification for any harm to heritage significance, and that harm is outweighed by public benefits, in line with the requirements of the National Planning Policy Framework (NPPF).

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess. Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

Additional representations

All previous comments are covered in the officer report appended to this application.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), BNE1 (Design Excellence), BNE2 (Heritage Assets), INF6 (Community Facilities), INF10 (Tourism Development), Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas), BNE10 (Heritage)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) 2021

Planning Practice Guidance (PPG)

The relevant legislation is:

Planning (Listed Buildings and Conservation Areas) Act 1990

Planning considerations

Taking into account the application made, the documents submitted and the site and its environs; the main issues central to the determination of this application are:

- will the proposal result in a level of harm to the historic environment
- if harm will result, is it less than substantial harm, and is that harm outweighed by the public benefit; and
- does the proposal result in preservation and/or enhancement of the designated heritage assets.

Planning assessment

Will the proposal result in a level of harm to the historic environment

This application seeks Listed Building Consent for the conversion and extension of buildings to provide commercial, recreational and educational uses, and the demolition of a section of retaining wall. Having assessed the application, it is considered that the proposal results in less than substantial harm (low level).

If harm will result, is it less than substantial harm, and is that harm outweighed by the public benefit

It is the officer's view that the level of harm is outweighed by the public benefits arising from the proposed project. Alterations are subject to the Listed Building Consent application; the design, methodology, materials and conservation principles having been considered as part of the LBC assessment. The principle of reuse and repair of the existing Listed Buildings is supported, as is the principle of a contemporary extension and new build to facilitate visitor requirements.

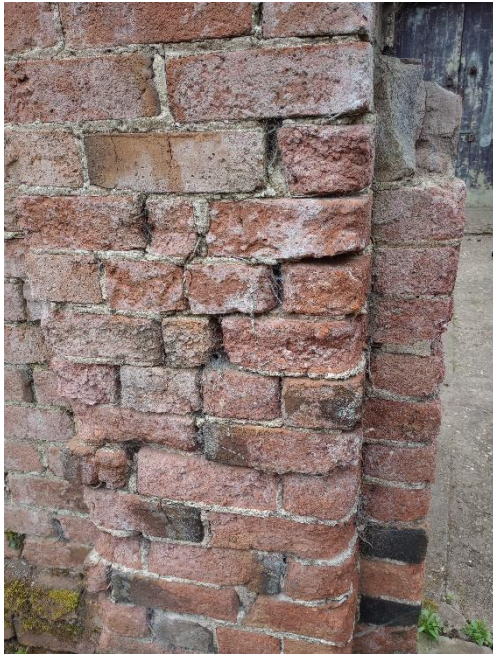
Does the proposal result in preservation and/or enhancement of the designated heritage assets.

The officer assessment is that the principle of adaptation, alteration and extension to the built form within the application site is acceptable, having taking into account the site, and the At Risk status. It is considered that the proposal results in both preservation and enhancement of the historic environment and designated heritage assets.

The application seeks to address the repair, reinstatement and reuse of redundant designated heritage assets. The historic buildings are key to the redevelopment of the site. The images in this report

illustrate the condition of the buildings, and details below provide an indication of the level of repair to be addressed at this site to remove the at risk status.







Historic sites are best conserved when they are either used for their original purpose, or sensitively adapted for a new economic use.

Pertinent guidance from Historic England

86. Keeping a significant place in use is likely to require continual adaptation and change; but, provided such interventions respect the values of the place, they will tend to benefit public (heritage) as well as private interests in it. Many places now valued as part of the historic environment exist because of past patronage and private investment, and the work of successive generations often contributes to their significance. Owners and managers of significant places should not be discouraged from adding further layers of potential future interest and value, provided that recognised heritage values are not eroded or compromised in the process.

87. The shared public and private interest in sustaining significant places in use demands mutual co-operation and respect between owners or managers and regulators. The best use for a significant place – its ‘optimum viable use’ is one that is both capable of sustaining the place and avoids or minimises harm to its values in its setting. It is not necessarily the most profitable use if that would entail greater harm than other viable uses.

138. New work or alteration to a significant place should normally be acceptable if: a. there is sufficient information comprehensively to understand the impacts of the proposal on the significance of the place; b. the proposal would not materially harm the values of the place, which, where appropriate, would be reinforced or further revealed; c. the proposals aspire to a quality of design and execution which may be valued now and in the future; d. the long-term consequences of the proposals can, from experience, be demonstrated to be benign, or the proposals are designed not to prejudice alternative solutions in the future.

Source: [Conservation Principles, Policies and Guidance | Historic England](#)

1.4 A small proportion of buildings – whether protected through listing or within the curtilage of a listed building, unlisted but set within designated landscapes or simply unlisted buildings – will have little or no capacity for adaptive reuse. This may be because of their scale, a difficult access, a form that is not readily adaptable or they are of such intrinsic importance that a new use cannot be absorbed without serious compromise to their fabric or the wider landscape setting.

1.5 When taking planning decisions involving farm buildings, local authorities should consider all relevant matters listed in the NPPF, including wider rural policy, and the need to take account of the

desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

Source: [The Adaptive Reuse of Traditional Farm Buildings | Historic England](#)

The purpose of this advice is to help secure sustainable development and the conservation of traditional farmsteads and their buildings through the planning and design process. Traditional farmsteads and buildings are assets which make an important contribution to landscape character and local distinctiveness. They do so through a diversity of uses which are of benefit to local communities and economies. Without appropriate uses to fund their long-term maintenance and repair, they will disappear from the landscape. Whilst poor adaptation poses a threat, new commercial, residential or other uses that enhance their historic character and significance are to be encouraged.

Source: [Adapting Traditional Farm Buildings | Historic England](#)

Conservation of the historic environment brings together an appreciation of our social, economic and architectural heritage, allowing a greater appreciation for our past, providing access to previously isolated sites, whilst managing sensitive change to the historic fabric. When preservation in the original purpose is no longer feasible, conservation and management of the assets can result in a successful outcome for the future of the At Risk buildings.

The application requires new build, in part an enabler to the next phase of the Masterplan, to provide a fit for purpose café, and allow for grander plans for the reuse of the Castle.

At the core of the Masterplan, and not considered as part of this application, is the proposed vehicular approach to the built form by creating a new access driveway and parking facility. As is often the case with adaptation to historic buildings, there is a compromise required to provide facilities for new users, especially in a setting which would have originally had little or no requirement to manage such large numbers of visitors. Car parking and the associated change to the natural landscape is the most contentious aspect of many applications. The rationale is to improve the visitor experience, guide visitors to the commercial aspects of the site, and direct visitors around the site to minimise the immediate access and pressure upon the gardens.

Having considered the application it is concluded that the proposed scheme of work outlined in the LBC would result in less than substantial harm to the historic fabric, character and appearance, and the setting of Listed Buildings. The proposed plans and annotated drawings clearly demonstrate there is a collective understanding by the application team for the appropriate conservation approach to the historic environment. Repair, redecorate, reinstate damaged/defective/missing architectural detail, removal of derelict/redundant later additions, secondary glazing - detail that reassures that the approach is appropriate for the level of significance this site deserves.

The use of natural materials, matching like-for-like, and incorporating sensitive materials such as zinc for newly introduced elements of the building is the appropriate conservation and redevelopment principles, which is supported. The level of harm (less than substantial) is considered to be outweighed by the public benefit, and will result in preserving and enhancing the historic environment and the designated heritage assets. The proposal complies with the relevant legislation and policies outlining development of a Listed Building.

The application has been examined by Historic England and the applicant has provided additional information to clarify the rationale for the detail contained in the proposals. The final consultation with Historic England concluded with **no objection**.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and

Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

GRANT CONSENT subject to the following conditions

1. The works hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The works hereby permitted shall be carried out in accordance with plans/drawings ref. below unless as otherwise required by condition attached to this consent.

DRAWING NUMBER DRAWING TITLE

SITE PLAN

ECR_SAB_XX_XX_LP_A_01 10 Proposed Site Plan - Planning Application Boundary
ECR_SAB_XX_XX_LP_A_01 11 Proposed Site Plan - LBC Application Boundary
ECR_SAB_XX_XX_LP_A_01 12 Proposed Site Plan - Phase 1 Development Boundary

UPPER STABLES

ECR_SAB_US_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_US_01_SU_A_01 01 Existing First Floor Plan
ECR_SAB_US_RP_SU_A_01 01 Existing Roof Plan
ECR_SAB_US_00_SU_A_02 01 South Range - Existing Elevations
ECR_SAB_US_00_SU_A_02 11 East Range - Existing Elevations
ECR_SAB_US_00_SU_A_02 21 North Range - Existing Elevations
ECR_SAB_US_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_US_01_GA_A_01 01 Proposed First Floor Plan
ECR_SAB_US_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_US_XX_GA_A_02 01 South Range - Proposed Elevations
ECR_SAB_US_XX_GA_A_02 11 East Range - Proposed Elevations
ECR_SAB_US_XX_GA_A_03 01 South Range - Proposed Section A-A
ECR_SAB_US_XX_GA_A_03 11 East Range - Proposed Section B-B and C-C

NORTH STABLES

ECR_SAB_NS_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_NS_01_SU_A_01 01 Existing First Floor Plan
ECR_SAB_NS_RP_SU_A_01 01 Existing Roof Plan
ECR_SAB_NS_XX_SU_A_02 01 Existing Elevations
ECR_SAB_NS_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_NS_01_GA_A_01 01 Proposed First Floor Plan
ECR_SAB_NS_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_NS_XX_GA_A_02 01 Proposed Elevations

WORKSHOPS

ECR_SAB_WB_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_WB_01_SU_A_01 01 Existing First Floor Plan
ECR_SAB_WB_RP_SU_A_01 01 Existing Roof Plan
ECR_SAB_WB_XX_SU_A_02 01 Existing North Elevations
ECR_SAB_WB_XX_SU_A_02 02 Existing East and West Elevations
ECR_SAB_WB_XX_SU_A_02 03 Existing South Elevations
ECR_SAB_WB_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_WB_01_GA_A_01 01 Proposed First Floor Plan
ECR_SAB_WB_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_WB_XX_GA_A_02 01 Proposed North Elevations

ECR_SAB_WB_XX_GA_A_02 02 Proposed East & West Elevations
ECR_SAB_WB_XX_GA_A_02 03 Proposed South Elevations

GARDENERS COTTAGE

ECR_SAB_GC_XX_SU_A_01 01 Existing Plans
ECR_SAB_GC_XX_SU_A_02 01 Existing Elevations
ECR_SAB_GC_XX_GA_A_01 01 Proposed Plans
ECR_SAB_WS_XX_GA_A_02 01 Proposed Elevations

GAS HOUSE

ECR_SAB_GH_XX_SU_A_01 01 Existing Floor Plans
ECR_SAB_GH_RP_SU_A_01 01 Existing Roof Plan

ECR_SAB_GH_XX_SU_A_02 01 Existing Elevations
ECR_SAB_GH_00_GA_A_01 01 Proposed Ground Floor & First Floor Plans
ECR_SAB_GH_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_GH_XX_GA_A_02 01 Proposed Elevations & Section AA

SPRINGTHORPE COTTAGE

ECR_SAB_SC_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_SC_RP_SU_A_01 01 Existing First Floor Plan
ECR_SAB_SC_XX_SU_A_01 01 Existing Elevations
ECR_SAB_SC_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_SC_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_GH_XX_GA_A_02 01 Proposed Elevations

PLANT SALES

ECR_SAB_PS_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_PS_RP_SU_A_01 01 Existing Roof Plan
ECR_SAB_PS_XX_SU_A_02 01 Existing Elevations
ECR_SAB_PS_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_PS_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_PS_XX_GA_A_02 01 Proposed Elevations

CAFÉ

ECR_SAB_CA_00_GA_A_01 01 Ground Floor Plan Café
ECR_SAB_CA_RP_GA_A_01 02 Roof Plan
ECR_SAB_CA_XX_GA_A_02 01 (rev p04) West Elevations
ECR_SAB_CA_XX_GA_A_02 02 (rev p02) North Elevations
ECR_SAB_CA_XX_GA_A_02 03 East Elevations
ECR_SAB_CA_XX_GA_A_02 04 South Elevations
ECR_SAB_CA_XX_GA_A_03 01 Sections AA & BB

Reason: For the avoidance of doubt.

3. Other than where specified on the approved plans/drawings, all external materials used in the development 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 are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

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

4. Prior to any pointing commencing, a sample panel of pointed brickwork/stonework no less than 1 sq. m shall be prepared for inspection and approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved sample, with the approved sample retained on site throughout the duration of construction works.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

Item No. 1.1

Ref. No. [DMPA/2022/0318](#)

Valid date: 15/03/2022

Applicant: Derbyshire County Council

Agent: Planning and Design Practice Ltd

Proposal: Listed building consent for the conversion and extension of buildings to provide commercial, recreational and educational uses, and the demolition of a section of retaining wall Elvaston Castle Country Park, Borrowash Road, Elvaston, Derby, DE72 3EP

Ward: Aston

Reason for committee determination

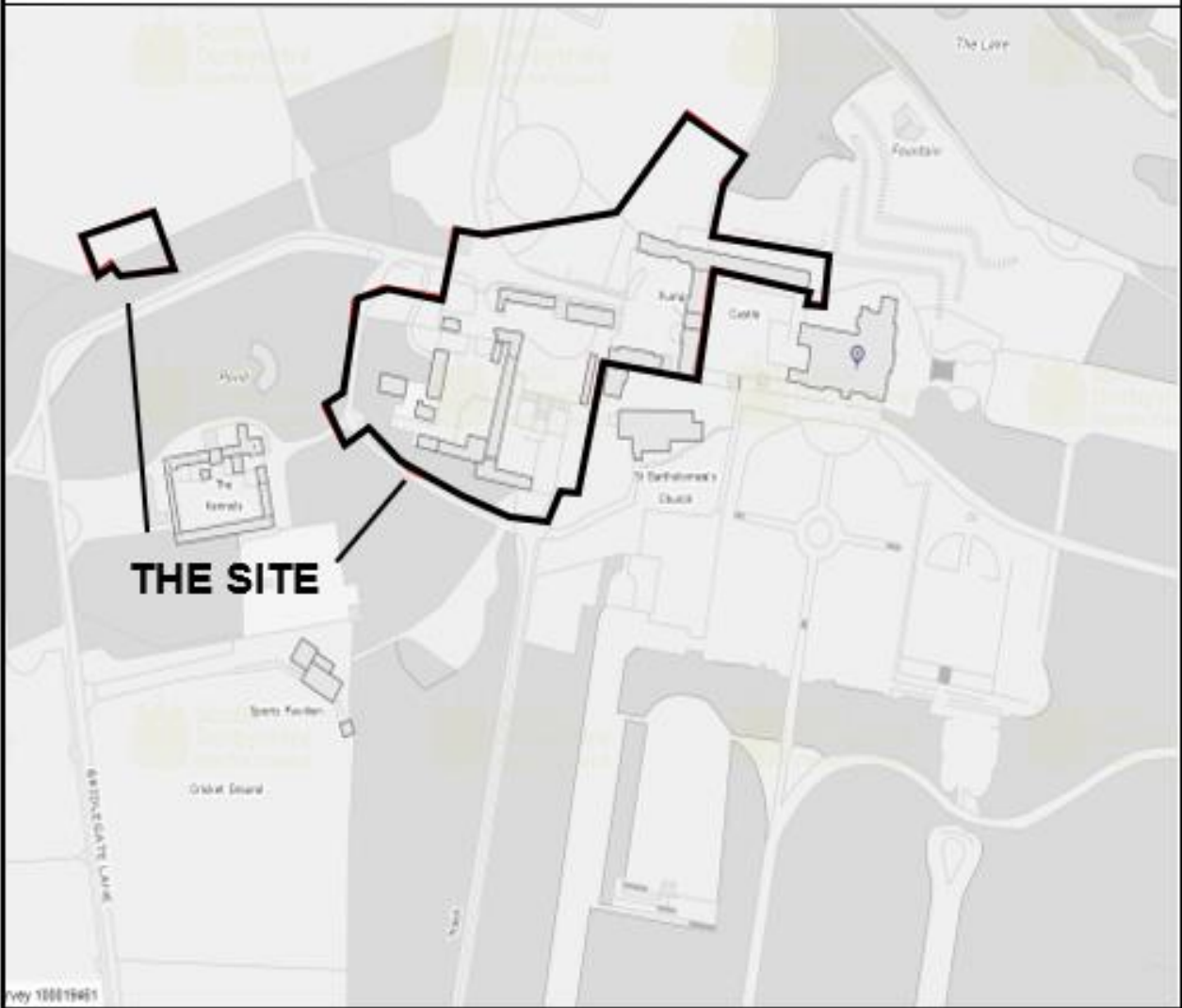
This item is presented to the Committee at the discretion of the Head of Planning and Strategic Housing due to the public interest in the application, and that an application for redevelopment at Elvaston Castle submitted to Derbyshire County Council was previously considered by committee.

There are two concurrent applications for the site; a Planning Application, being determined by Derbyshire County Council, and a Listed Building Consent application, being determined by South Derbyshire District Council. This report, and subsequent decision, is for the Listed Building Consent only. There has been a level of public interest in the Planning Application, and comments have been submitted to this case reference. The matter is brought to Committee to clarify the extent of the Listed Building Consent and the decision required by the Local Planning Authority.


Update report

The application was deferred at the October Committee meeting to facilitate a site visit. The Planning Committee are presented with an application for Listed Building Consent (LBC) only.

DMPA/2022/0318 ELVASTON CASTLE COUNTRY PARK, BORROWASH ROAD,
ELVASTON, DERBY, DE72 3EP



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South Derbyshire District Council. LA 100019461.2020

The area under consideration is clarified in this Update Report as there is a concurrent Planning Application under consideration by Derbyshire County Council, to which the red application site line includes the whole of Elvaston Castle Country Park boundary.

As per the Listed Buildings and Conservation Area Act 1990, LBC considers an alteration or extension to the Listed Buildings specified in the application. This application concerns the courtyard and outbuildings within the grounds of Elvaston Castle Country Park. These buildings are:

- Springthorpe Cottage
- The Upper Stable Yard
- The North Range of the Upper Stable Yard
- The East Range of the Upper Stables Yard
- The South Range of the Upper Stable Yard
- The remains of the Racket Court
- The former Gas House
- The Lower Stables Yard
- The Gardener's Cottage
- The former Saw Yard
- The Workshop Buildings
- The former Blacksmith Shop

The application also seeks LBC for alteration to a boundary wall, and the extension of a Listed Building to create a new café.

It is the physical attachment of an extension to the Listed Building that requires LBC. The development of the new café also requires Planning Permission.

The Listed Buildings are on the Derbyshire County Council Buildings at Risk Register. The risk is measured as follows:

Risk Grade 1 Repair scheme in progress and (where applicable) end use or user identified; functionally redundant buildings with new use agreed but not yet implemented.

Risk Grade 2 Under repair or in fair to good repair, but no user identified; or under threat of vacancy with no obvious new user (applicable only to buildings capable of beneficial use).

Risk Grade 3 Slow decay; solution agreed but not yet implemented.

Risk Grade 4 Slow decay; no solution agreed.

Risk Grade 5 Immediate risk of further rapid deterioration or loss of fabric; solution agreed but not yet implemented.

Risk Grade 6 Immediate risk of further rapid deterioration or loss of fabric; no solution agreed.

Listed Buildings at risk included in this LBC application include:

Building: Elvaston Castle, Coach House and outbuildings

Status: II

Description: EC19 in Tudor style, ashlar sandstone and brick, green slate roofs. Park offices, workshops, study centre, storage.

Risk Grade: 2

Building: Elvaston Castle, Farm buildings to west of St Bartholomew's Church, (former museum buildings)

Status: II

Description: Single and two storey brick and tile workshops.

Risk Grade: 4

Building: Elvaston Castle, Former Kennels

Status: II

Description: C19. Red brick; clay tiles and slate roofs.

Risk Grade: 4

Building: Elvaston Castle, Former Stables, Now Information Centre, and Storage

Status: II

Description: EC19 in Tudor style, red brick with stone dressings, green slate roofs.

Risk Grade: 2

Building: Elvaston Castle, Riding Stables

Status: II

Description: C19. Red brick; clay tile and slate roofs.

Risk Grade: 4

Building: Elvaston Castle, Stable block to east of The Kennels

Status: II

Description: Red brick with slate roofs dated 1870. Built to house the gas plant for heating and lighting the castle. Later converted to stable and pig sty.

Risk Grade: 6

Building: Springthorpe Cottage, Elvaston Castle

Status: II

Description: C1840. Red brick gatehouse.

Risk Grade: 4

Reconsultation with Historic England

Following from the deferred decision in October, the applicant provided further information and amended drawings for the café development. Historic England was reconsulted twice and provided the following feedback, received 13.01.23:

Historic England Advice

Further information submitted by the applicant includes the Addendum to the Heritage Statement, with a set of photographs towards the location of the proposed new café taken from positions on the roof, as well as within the Orchid House and upper storey windows of Elvaston Castle. We are content that the analysis contained in the Addendum addresses our concerns regarding views from the Castle and potential impacts on heritage significance.

Floor plans have also been submitted of the Castle showing proposed future uses. It is not clear from the information provided whether these proposed future uses are those intended to be delivered as part of Phase 2 of the masterplan. The use of the Castle after the proposed relocation of the café to a new building, but before Phase 2 is secured and implemented remains unclear. Our concerns remain, therefore, regarding the use and conservation of the Castle following the implementation of Phase 1, but prior to future phases of the masterplan being secured and implemented.

Recommendation

Historic England has concerns regarding the application on heritage grounds.

Elvaston Castle is of very high national importance as an exceptional and influential example of an imaginative mid 19th century reworking of the Castle and its designed landscape, currently on the Heritage at Risk Register. The proposals seek to underpin a sustainable future for the site, with sensitive repair and reuse of existing buildings, alongside a substantial new café building. While heritage benefits would be delivered by some aspects of the proposals, some interventions would result in a degree of less than substantial harm to the significance the Castle and other key listed buildings derive from their setting. Your authority will need to be satisfied that there is clear and

convincing justification for any harm to heritage significance, and that harm is outweighed by public benefits, in line with the requirements of the National Planning Policy Framework (NPPF).

Designs for the proposed cafe have been amended to improve its integration with the surrounding landscape. Further information has been provided on the market appraisal for the scheme, landscape visual and heritage impacts. A lack of clarity remains, however, on the proposed use of the Castle following the implementation of the proposed new development included in Phase 1 of the masterplan, but before the proposed new uses of the Castle under Phase 2 are secured and implemented. Your authority should be satisfied that the conservation of the Castle will be maintained until its sustainable long-term future use is secured.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 200 and 202 of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Planning Assessment

The application presents one phase of a Masterplan for Elvaston Castle Country Park. The Masterplan includes proposed development and restoration of the entire site, and applications for appropriate consents will be required for phased development as the scheme progresses.

The ownership of the entire site will remain consistent; the obligation to and liability of the Heritage Assets will continue to be the responsibility of Derbyshire County Council. The future use, condition and opportunities for the Castle remain at the forefront of the Masterplan and project team.

Historic England has been consulted for both the LBC and the Planning Permission applications. It should be noted that the comments provided by Historic England include reference to buildings outside the LBC application red line.

The Planning Committee are advised that matters relating to the wider site are being considered as part of the Planning Application and should not be included in this assessment of LBC.

New development on the site can only be implemented once a change of use and planning application has been approved by the relevant Planning Authority.

The consultation response from Historic England refers to the Castle building, which will be addressed in future phases of the Masterplan. The LBC application does not include the Castle building, and therefore the Castle should not be a consideration in determining this application.

Historic England provide no objection to the proposal for LBC. The consultation response clearly states that the previous concerns have been addressed through resubmission of drawings and photographs providing context to the application. "We are content that the analysis contained in the Addendum addresses our concerns regarding views from the Castle and potential impacts on heritage significance."

The consultation response also refers to the heritage benefits derived from Phase One, in protecting the outbuildings, which are currently redundant, and in a declining condition. The LBC seeks to address the condition of these buildings and provide new purpose and use to generate income to enable further phase delivery of the regeneration Masterplan.

Therefore, the Committee is asked to resolve that Listed Building Consent be granted in accordance with the recommendation below.

Recommendation

Approve subject to the following conditions:

1. The works hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The works hereby permitted shall be carried out in accordance with plans/drawings ref. below unless as otherwise required by condition attached to this consent.

DRAWING NUMBER DRAWING TITLE

SITE PLAN

ECR_SAB_XX_XX_LP_A_01 10 Proposed Site Plan - Planning Application Boundary
ECR_SAB_XX_XX_LP_A_01 11 Proposed Site Plan - LBC Application Boundary
ECR_SAB_XX_XX_LP_A_01 12 Proposed Site Plan - Phase 1 Development Boundary

UPPER STABLES

ECR_SAB_US_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_US_01_SU_A_01 01 Existing First Floor Plan
ECR_SAB_US_RP_SU_A_01 01 Existing Roof Plan
ECR_SAB_US_00_SU_A_02 01 South Range - Existing Elevations
ECR_SAB_US_00_SU_A_02 11 East Range - Existing Elevations
ECR_SAB_US_00_SU_A_02 21 North Range - Existing Elevations
ECR_SAB_US_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_US_01_GA_A_01 01 Proposed First Floor Plan
ECR_SAB_US_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_US_XX_GA_A_02 01 South Range - Proposed Elevations
ECR_SAB_US_XX_GA_A_02 11 East Range - Proposed Elevations
ECR_SAB_US_XX_GA_A_03 01 South Range - Proposed Section A-A
ECR_SAB_US_XX_GA_A_03 11 East Range - Proposed Section B-B and C-C

NORTH STABLES

ECR_SAB_NS_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_NS_01_SU_A_01 01 Existing First Floor Plan
ECR_SAB_NS_RP_SU_A_01 01 Existing Roof Plan
ECR_SAB_NS_XX_SU_A_02 01 Existing Elevations
ECR_SAB_NS_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_NS_01_GA_A_01 01 Proposed First Floor Plan
ECR_SAB_NS_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_NS_XX_GA_A_02 01 Proposed Elevations

WORKSHOPS

ECR_SAB_WB_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_WB_01_SU_A_01 01 Existing First Floor Plan
ECR_SAB_WB_RP_SU_A_01 01 Existing Roof Plan
ECR_SAB_WB_XX_SU_A_02 01 Existing North Elevations
ECR_SAB_WB_XX_SU_A_0202 Existing East and West Elevations
ECR_SAB_WB_XX_SU_A_0203 Existing South Elevations
ECR_SAB_WB_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_WB_01_GA_A_01 01 Proposed First Floor Plan
ECR_SAB_WB_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_WB_XX_GA_A_02 01 Proposed North Elevations

ECR_SAB_WB_XX_GA_A_02 02 Proposed East & West Elevations
ECR_SAB_WB_XX_GA_A_02 03 Proposed South Elevations

GARDENERS COTTAGE

ECR_SAB_GC_XX_SU_A_01 01 Existing Plans
ECR_SAB_GC_XX_SU_A_02 01 Existing Elevations
ECR_SAB_GC_XX_GA_A_01 01 Proposed Plans
ECR_SAB_WS_XX_GA_A_02 01 Proposed Elevations

GAS HOUSE

ECR_SAB_GH_XX_SU_A_01 01 Existing Floor Plans
ECR_SAB_GH_RP_SU_A_01 01 Existing Roof Plan

ECR_SAB_GH_XX_SU_A_02 01 Existing Elevations
ECR_SAB_GH_00_GA_A_01 01 Proposed Ground Floor & First Floor Plans
ECR_SAB_GH_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_GH_XX_GA_A_02 01 Proposed Elevations & Section AA

SPRINGTHORPE COTTAGE

ECR_SAB_SC_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_SC_RP_SU_A_01 01 Existing First Floor Plan
ECR_SAB_SC_XX_SU_A_01 01 Existing Elevations
ECR_SAB_SC_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_SC_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_GH_XX_GA_A_02 01 Proposed Elevations

PLANT SALES

ECR_SAB_PS_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_PS_RP_SU_A_01 01 Existing Roof Plan
ECR_SAB_PS_XX_SU_A_02 01 Existing Elevations
ECR_SAB_PS_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_PS_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_PS_XX_GA_A_02 01 Proposed Elevations

CAFÉ

ECR_SAB_CA_00_GA_A_01 01 Ground Floor Plan Café
ECR_SAB_CA_RP_GA_A_01 02 Roof Plan
ECR_SAB_CA_XX_GA_A_02 01 (rev p04) West Elevations
ECR_SAB_CA_XX_GA_A_02 02 (rev p02) North Elevations
ECR_SAB_CA_XX_GA_A_02 03 East Elevations
ECR_SAB_CA_XX_GA_A_02 04 South Elevations
ECR_SAB_CA_XX_GA_A_03 01 Sections AA & BB

Reason: For the avoidance of doubt.

3. Other than where specified on the approved plans/drawings, all external materials used in the development 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 are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

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

4. Prior to any pointing commencing, a sample panel of pointed brickwork/stonework no less than 1 sq. m shall be prepared for inspection and approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved sample, with the approved sample retained on site throughout the duration of construction works.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

Item No. 1.2
Ref. No. [DMPA/2022/0318](#)
Valid date: 15/03/2022
Applicant: Derbyshire County Council **Agent:** Planning and Design Practice Ltd
Proposal: **Listed building consent for the conversion and extension of buildings to provide commercial, recreational and educational uses, and the demolition of a section of retaining wall Elvaston Castle Country Park, Borrowash Road, Elvaston, Derby, DE72 3EP**
Ward: Aston

Reason for committee determination

This item is presented to the Committee at the discretion of the Head of Planning and Strategic Housing due to the public interest in the application, and that an application for redevelopment at Elvaston Castle submitted to Derbyshire County Council was previously considered by committee.

There are two concurrent applications for the site; a Planning Application, being determined by Derbyshire County Council, and a Listed Building Consent application, being determined by South Derbyshire District Council. This report, and subsequent decision, is for the Listed Building Consent only. There has been a level of public interest in the Planning Application, and comments have been submitted to this case reference. The matter is brought to Committee to clarify the extent of the Listed Building Consent and the decision required by the Local Planning Authority.

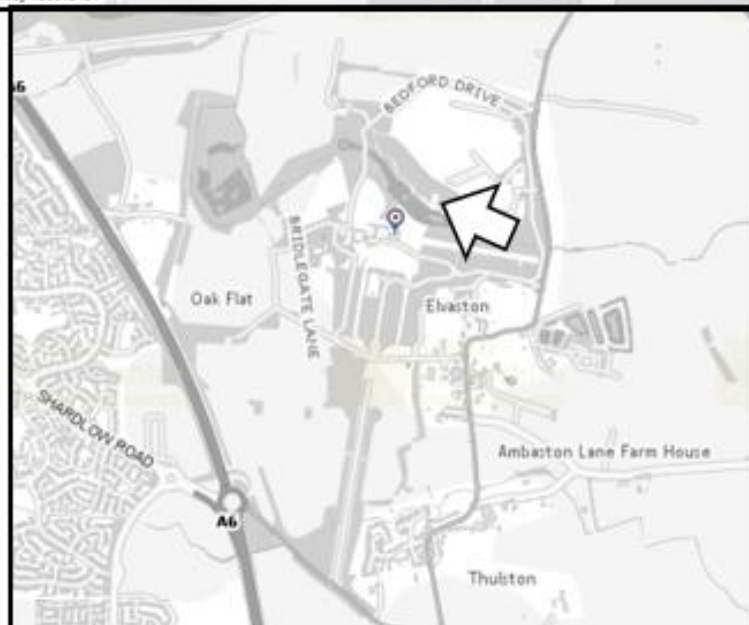
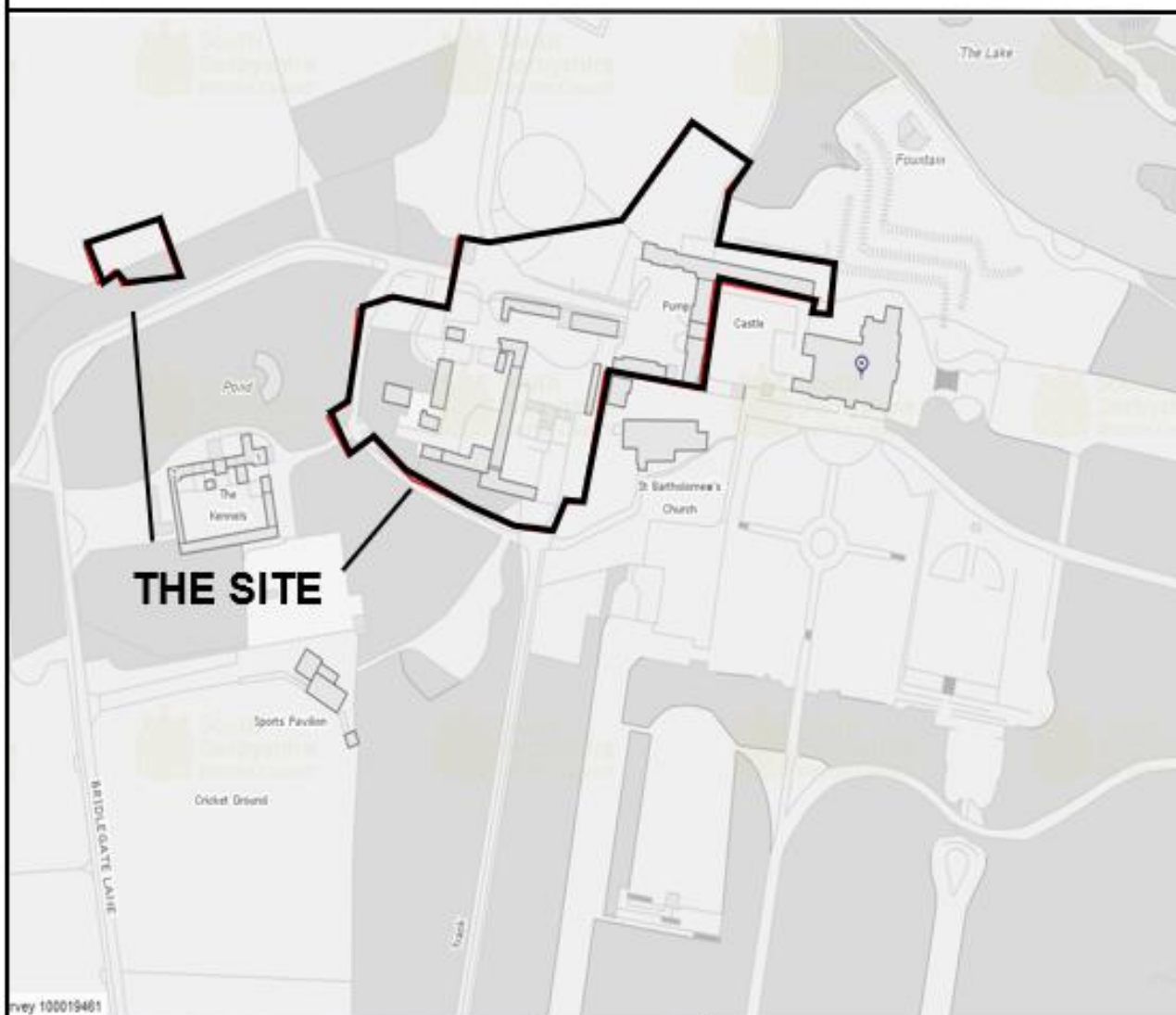
Site Description

Elvaston Castle Country Park is located approximately 6km southeast of Derby City centre and sits in close proximity to the villages of Thulston and Elvaston. The Castle estate comprises Elvaston Castle itself and associated core buildings, formal gardens, parkland, and lake, the existing visitor car park, and surrounding arable and grazing land and outlying estate buildings.

Elvaston Castle Country Park encompasses approximately 321 acres of open parkland, woodland and more formal historical gardens. At the heart of the estate lies Elvaston Castle, a gothic revival masterpiece designed by James Wyatt in the early 1800s based on the original house dating back to 1633. The gardens are locally renowned for their rockwork structures and fine examples of topiary, originally introduced and designed by William Barron in the 19th century. Both the buildings and gardens are registered as being of special architectural and historical interest.

The site was historically accessed via the southern avenue, which now adjoins the B5010, but the site is now primarily accessed from the visitor car park which is situated approximately 350m northeast of the Castle. The visitor car park is accessed via Ball Lane (B1050). It is a Grade II* Listed Registered Park and Garden, described by Historic England as a “unique Victorian fantasy” and designed by influential garden designer William Barron. It is a remarkably well preserved and complete historic country house estate, comprising the Grade II* Listed castle (remodeled in the early 19th century to the designs of James Wyatt around a still surviving Elizabethan core), the Grade I Listed Church of St Bartholomew and 17 other

DMPA/2022/0318 ELVASTON CASTLE COUNTRY PARK, BORROWASH ROAD, ELVASTON, DERBY, DE72 3EP



MAPS ARE NOT TO SCALE

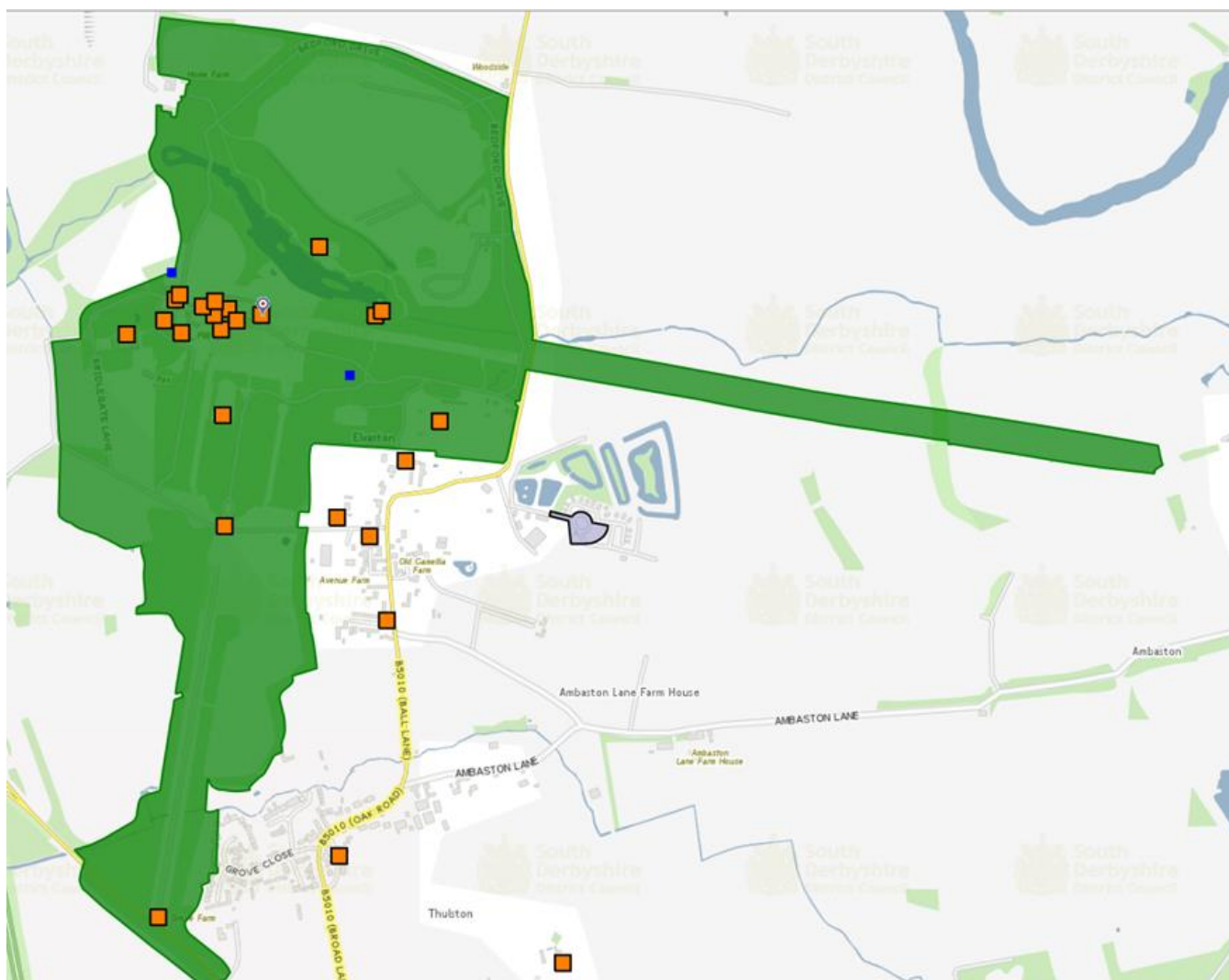
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South Derbyshire District Council, LA 100019461.2020

Grade II Listed buildings including stable block and coach house ranges, garden structures, farm

buildings and kennels.

The mapping below indicates the extent of the Registered Park and Garden (green), the designated heritage assets/Listed Buildings (orange) and non-designated heritage assets (blue).



The proposal

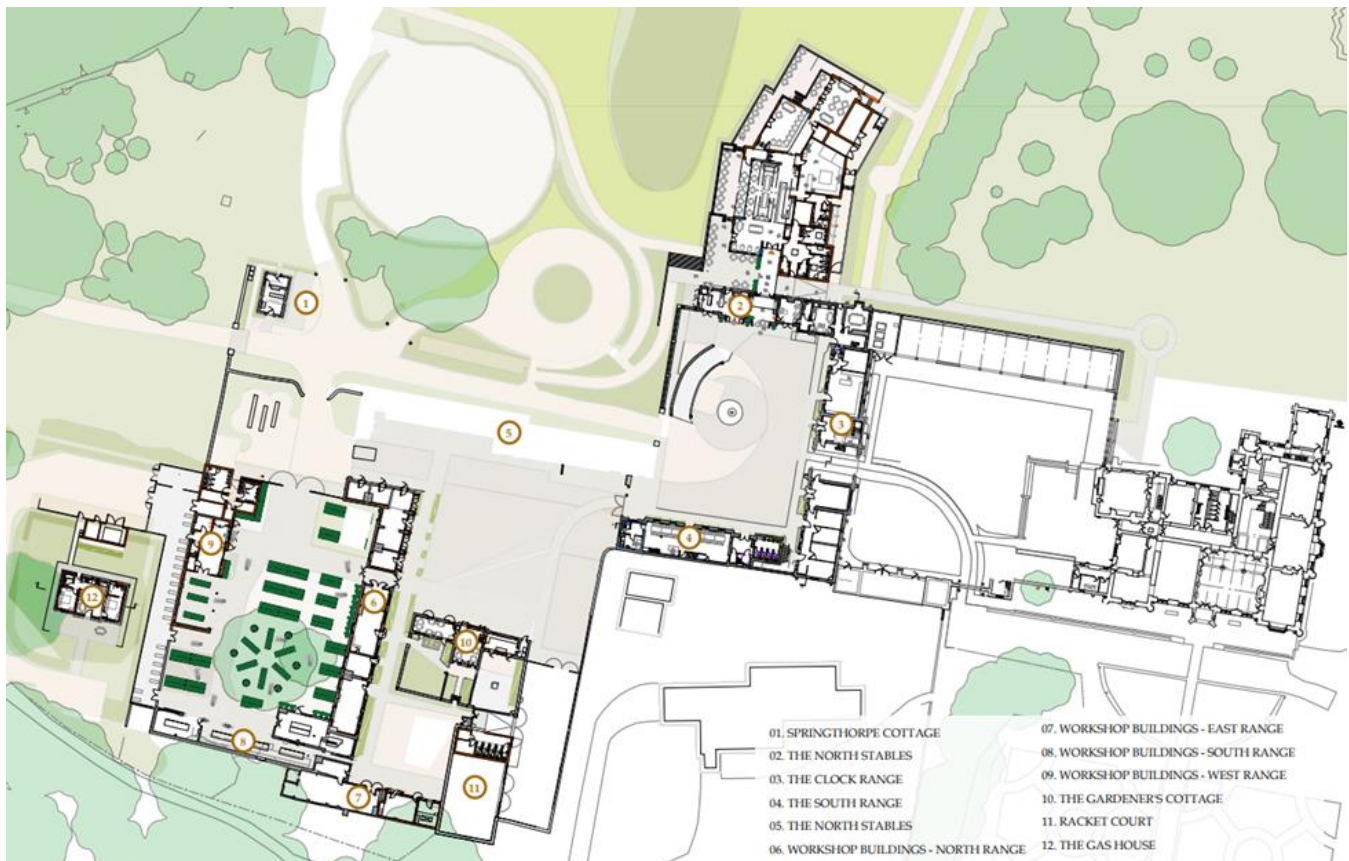
To support the exploration of new ways of attracting more visitors, increasing income and protecting Elvaston's heritage in the years to come, a 10 year vision for the estate and gardens was developed to manage the estate. In 2018 Derbyshire County Council, working alongside the Elvaston Castle and Gardens Trust progressed the vision to produce the Elvaston Castle Masterplan, which sets out the joint ambitions for the future of the estate. The Masterplan tackles the legibility of the estate with the aim to restore and regenerate the historic castle and county park.

This application seeks Listed Building Consent for the conversion and extension of buildings to provide commercial, recreational and educational uses, and the demolition of a section of retaining wall.

Key proposals include relocating the car park adjacent to the historic buildings at the core of the estate (**not part of this LBC application**). These buildings will be restored and converted to accommodate uses to enhance visits to Elvaston. Uses will include visitor welcome and interpretation; visitor facilities such as toilets; a new café/restaurant; retail and craft units and an adventurous play facility. In combination with this, some spaces and buildings will be managed for 'pop-up' retail. The proposals are intended to ensure a sustainable future for the estate, attracting more visitors, increasing income to help with the high running costs and protecting the heritage of the site.

The first part of the Elvaston Castle Masterplan to be implemented will be the Core Buildings, to the west of the castle and consisting of Springthorpe Cottage; the Upper and Lower Stable Yard Buildings; the former Workshop Building, Gardener's Cottage; and former Gas House. Many of these former service buildings are now redundant and sit empty and their condition is actively deteriorating. Through this regeneration project, the historic courtyards will become the vibrant heart of the estate, from which visitors set out to explore the castle and grounds.

Springthorpe Cottage, the first building most visitors will encounter on their way into the estate from the new car park, will be restored and opened to the public to provide a friendly welcome, introduce visitors to both the history and amenities of the estate and show them how they can explore the grounds. Further interpretation will be provided in an exhibition space proposed in the East Range of the Upper Stables Yard, and elsewhere in the estate using innovative methods. Elsewhere in the Core Buildings area, a mixture of new retail and studio style workshop space is proposed in the existing stables and workshop buildings which surround the two stable yards. The existing buildings will be restored and converted whilst retaining and enhancing their original charm and historic details. A new garden plant sales area is proposed to the south and west of the former Workshop Building, with the original features of the engine and saw rooms in these spaces being retained as display areas. The former museum shop (built around 1970) will be renovated, reclad and extended to provide additional covered display space and a shop for the plant sales area. A new purpose-built café is proposed in an extension to the north range of the Upper Stable Yard, and the former Gardener's Cottage, with its walled garden, will be restored and converted into a tearoom. New public toilets, including accessible WCs and a Changing Places room, for people with severe disabilities, will also be provided within the Core Buildings area. Education will be an important part of the regenerated estate. As well as using the stable yards and parkland as informal outdoor classrooms, a dedicated education centre has been proposed in the South Range of the Upper Stable Yard Buildings for use by school and community groups. The Elvaston Castle Masterplan identified several parts of the estate where holiday-let accommodation could be developed. Within the first phase of the masterplan it is proposed that the former Gas House, in the south-west corner of the Core Buildings area will be converted into a two bedroom self-catering guest house. It is also proposed that lettable office space will be provided in parts of the Upper and Lower Stable Yard buildings.



Springthorpe Cottage will be restored and opened to the public as a welcome and information centre. Visitors will be introduced to the history of the estate, activities taking place and the facilities available to them during their visit. It will be one of the first buildings that visitors to the estate will engage with during their visit.

The Upper Stable Yard will be another key location for visitors as it will be one of the first spaces they enter after exiting the new car park. Here it is proposed to locate a mix of uses, including café, gift shop, interpretation spaces and education centre.

The North Range of the Upper Stable Yard will be restored, and a new 150 cover café created, which will replace the 50-cover café operating from the ground floor of the Castle. The new café building will consist of a main and lower café, and service block, which will extend to the Paddock at the rear of the North Range. The North Range will serve as the main entrance to the café, as well as a small ice cream parlour / coffee shop and accommodation for staff. Outside the café, a new adventurous play space will be created.

The East Range of the Upper Stables Yard a mix of retail, office and exhibition space is proposed. The ground floor of the southern stable will be repurposed with minor alterations as a retail unit. On the ground floor of the north East Range a further retail unit is proposed, which will be used as a gift shop. On the first floor, 4 new commercial offices to let are proposed.

The South Range of the Upper Stable Yard, which is currently an information centre and shop, will become an education centre. The centre will play an important role in educating children and adults about the importance of conservation and the preservation of the built and natural environment. Accessible toilet facilities and a calm room for individuals who require this space, will also be provided.

The remains of the Racket Court located on the south side of the Upper Stable Yard will be redeveloped to provide a new public toilet for those using the Gardener's Cottage or attending outdoor events hosted in the Stable Yard.

The former Gas House is a two-bedroom holiday let cottage, which will have its own car parking area, accessible via the new road which leads from the proposed new carpark.

The Lower Stables Yard will be repurposed to provide a mix of retail, studio, and commercial workspace. The proposed plan will create six commercial units in the North Stables, which will each have their own direct access from the stable yard. The outside space will be used for holding pop-up events or markets.

The Gardener's Cottage will be converted to a new tearoom within the former Gardener's Cottage and its grounds.

The former Saw Yard and its associated buildings will also be used as a plant sales area.

The Workshop Buildings which are comprised of a range of former workshops situated along the western edge of the Lower Stable Yard will be used to create ten additional commercial units.

The former Blacksmith Shop will be brought back into its historic use and host live demonstrations to the Estate's visitors.

Delivery drive, spurring from the car park to the core buildings. This will plot a careful path through existing woodland, and will require the removal of a short section of retaining wall.

Applicant's supporting information

The proposal will also deliver public benefits. The provision of a new access drive in close proximity to the A6 will provide better connection to the strategic road network – increasing the attractiveness of Elvaston as a visitor destination and place to invest, and negating the need to drive through the villages of Elvaston and Thulston to access the park. A Green Travel Plan has been prepared as part of the scheme, which will promote and facilitate sustainable travel options into the future. A pedestrian link with the proposed sports facility to the south, and new housing to the south west, will be provided.

The scheme includes a designated education space and a visitor information hub. Hitherto inaccessible historic buildings and spaces will be opened to the public, their historic significance revealed and interpreted. The William Barron gardens will be restored and better protected through reduced foot fall pressures around the existing car park. Events spaces will be created to help increase the range and depth of public engagements – with the intention of reaching 'hard to reach' groups. Increased public engagement with Elvaston and improved visitor facilities will enable more people to benefit from its cultural and recreational opportunities – with the associated benefits to physical and mental wellbeing that this will bring.

The conversion and re-use of the many of the historic buildings at Elvaston will facilitate their repair and restoration, as well as their long term upkeep into the future. The spaces around them will be sensitively landscaped – to improve their appearance, accessibility and usability, whilst protecting and restoring historic surfacing. Whilst the restoration and re-use of the castle itself does not form part of this particular application, it does form part of the second phase of the masterplan, and the first phase will act as an 'enabler' by providing the infrastructure, footfall and inward investment needed to facilitate the redevelopment of the castle.

Key to the Masterplan are six 'guiding principles'. These principles will direct all future management decisions, whoever is responsible for Elvaston Castle and Estate:

1. Freehold of the Estate will be retained by Derbyshire County Council;
2. A competent single management body will control the overall governance of the Estate with the balance of conservation, heritage and access at its core;
3. Financial sustainability will be fundamental to the delivery of the vision, facilitated by a business model that provides on-going reinvestment in the long term stewardship of the Estate without eroding its significance;
4. The historic, landscape and biodiversity significance will be protected, conserved and, where

sustainable, enhanced;

5. Public access to the gardens, parkland and house will be provided and maintained; the parkland at least will be free at the point of entry on foot. The stories and rich heritage will be understood, shared and celebrated;

6. People, community involvement and partnership working will be at the heart of all activities.

Documents submitted supporting the application included:

Planning Statement

Heritage Statement

Design & Access Statement

Materials - outline specification

Desk based Archaeological Assessment

Submitted existing & proposed elevations and floorplans, plus roof plan where applicable of:

- Springthorpe Cottage
- The Upper Stable Yard
- The North Range of the Upper Stable Yard
- The East Range of the Upper Stables Yard
- The South Range of the Upper Stable Yard
- The remains of the Racket Court
- The former Gas House
- The Lower Stables Yard
- The Gardener's Cottage
- The former Saw Yard
- The Workshop Buildings
- The former Blacksmith Shop

Plans provided to illustrate

1. Proposed alteration to the boundary wall
2. Proposed café building

Additional information was provided for the wider context of the Planning Application

- Landscape Proposals - car park
- Illustrative landscape mitigation
- Detail proposal plan - adventurous play
- Proposed roundabout arm
- Landscaping materials - outline specification
- Landscape proposals - core project
- Estate landscape - proposed site plan
- Detail proposals plan - Rookery Wood

Relevant planning history

None

Responses to consultations and publicity

Historic England

Initial Comments May 2022: Historic England has concerns regarding the application on heritage grounds.

While heritage benefits would be delivered by some aspects of the proposals, some interventions would result in a degree of less than substantial harm to the significance of the registered park and garden, and the significance, derived from their setting, of the registered park, Castle and other key listed buildings. Your authority will need to be satisfied that there is clear and convincing justification for any harm to heritage significance, and that these are outweighed by public benefits, in line with the requirements of the National Planning Policy Framework. We have identified aspects of the proposals that we believe would benefit from further exploration and review, and have concerns about the application on heritage grounds. We would be happy to engage in further discussion and provide further advice.

In particular, in our view the proposed café would not sit happily within the historic landscape and in relation to the historic buildings. We recommend that both materials and design are revisited and that your authority is satisfied that there is a clear and convincing justification for its size and scale. We have also identified areas that we believe would benefit from further exploration and review, including likely demand for commercial uses such as office space. Clarity is also needed on the use of the Castle following the implementation of the proposed new development, to ensure the conservation of the registered park and Castle is secured. We would be happy to engage in further discussion and to provide further advice.

Subsequent on site meeting: June 2022

On site meeting with Historic England, architects, heritage consultant, DCC & SDDC.

All matters addressed from Historic England's previous comments. There was a request for minor adjustment to the design of the café building which was submitted to Historic England, and informal comments received. No further formal comments were received for the LBC application, and conversations on site enabled the concerns to be clarified by the development team. The comments state that the LPA should be satisfied that the level of harm is outweighed by the proposed outcome, and the scale of new build is justified. The Conservation Officer participated in the site visit, no further concerns were raised, and the planning assessment below confirms the support at Conservation Officer level.

Elvaston Parish Council

The Parish Council are supportive of the plans to convert and extend current historical buildings to provide recreation and educational facilities as outlined, with the caveat that this is completed utilising current access arrangements and the plans for the new access road are not accepted.

Friends of Elvaston Castle

The Friends of Elvaston Castle wish to object to the proposals for a number of reasons;

The scale and massing of the proposals is incongruous in comparison to the Castle and core buildings, especially when approaching from the western end of the lake.

A number of views of the setting of the Castle will be compromised by the size and structure of the proposed changes, completely destroying any possible historical interpretation of the significance of the setting of the house and, in particular, its relationship to the Grade I Listed St. Bart's Church.

The Friends of Elvaston believe that reason for the proposals is to support a hidden agenda of Derbyshire County Council's and, as such, our complete objection is as follows;

On behalf of The Friends of Elvaston Castle, a voluntary community group containing approximately 2,500 members an official objection by the Friends Group, to the new road and car parks aspects of the latest development proposals by Derbyshire County Council for Elvaston Castle and Country Park, on

the grounds that they are;

Detrimental to the future of the Estate as a country park and are unwanted by the majority of the community, as proven by a 10,510 signature public petition against them, which was ignored by the County Council in favour of its development proposals contrary to at least two of the Six Guiding principles which are supposed to drive the Council's masterplan in respect of Elvaston Castle Country Park;

Number 4: The historic, landscape and biodiversity significance will be protected, conserved and, where sustainable, enhanced

Number 6: People, community involvement and partnership working will be at the heart of all activities

Plus additional comments and concerns raised on the public consultation, the local nature reserve, the green belt, flood zone, maintenance of water course, drainage, job creation figures, and loss of visual amenity.

Public Comments

In total 43 comments were submitted to SDDC in response to this application. However, the comments largely focussed on the proposed driveway. a summary of comments is below:

- a) Objection to on the provision of the driveway, highway development and new car parking
- b) Objection to the felling of trees
- c) Objection to the use of public money to fund the development
- d) Objection to the impact to environment, ecosystem & flooding
- e) Objection to the new build café
- f) Objection to the impact on bridle ways
- g) Support the redevelopment of the existing buildings

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

Local Plan Part 1 (LP1): BNE2 (Heritage Assets)

Local Plan Part 2 (LP2): BNE10 (Heritage)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF) 2021

Planning Practice Guidance (PPG)

The relevant legislation is:

Planning (Listed Buildings and Conservation Areas) Act 1990

Planning considerations

Taking into account the application made, the documents submitted and the site and its environs; the main issues central to the determination of this application are:

- the extent to which the proposal will result in a level of harm to the historic environment
- if harm will result, whether it is less than substantial harm, and is that harm outweighed by the public benefit; and
- the extent to which the proposal will result in preservation and/or enhancement of the designated heritage assets.

Planning assessment

The extent to which the proposal will result in a level of harm to the historic environment

This application seeks Listed Building Consent for the conversion and extension of buildings to provide commercial, recreational and educational uses, and the demolition of a section of retaining wall. Having assessed the application, it is considered that the proposal results in less than substantial harm (low level).

If harm will result, whether it is less than substantial harm, and is that harm outweighed by the

public benefit

It is the officer's view that the level of harm is outweighed by the public benefits arising from the proposed project and in particular securing a long term viable investment into the historic site. Alterations are subject to the Listed Building Consent application; the design, methodology, materials and conservation principles having been considered as part of the LBC assessment. The principle of reuse and repair of the existing Listed Buildings is supported, as is the principle of a contemporary extension and new build to facilitate visitor requirements.

The extent to which the proposal will result in preservation and/or enhancement of the designated heritage assets.

The officer assessment is that the principle of adaptation, alteration and extension to the built form within the application site is acceptable, having taking into account the site, and the At Risk status. It is considered that the proposal results in both preservation and enhancement of the historic environment and designated heritage assets.

Historic sites are best conserved when they are either used for their original purpose, or sensitively adapted for a new economic use. Conservation of the historic environment brings together an appreciation of our social, economic and architectural heritage, allowing a greater appreciation for our past, providing access to previously isolated sites, whilst managing sensitive change to the historic fabric. When preservation in the original purpose is no longer feasible, conservation and management of the assets can result in a successful outcome for the future of the At Risk buildings. Historic England did raise a concern regarding the new build element of the proposal, and the potential underutilisation of the existing buildings on the site. This was discussed in detail at the site visit in June, and clarity was provided on the reasons for the new café facility, and the next step proposals (subject to a future LBC application) for the Castle. The application requires new build, in part an enabler to the next phase of the Masterplan, to provide a fit for purpose café, and allow for grander plans for the reuse of the Castle.

At the core of the Masterplan, and not considered as part of this application, is the proposed vehicular approach to the built form by creating a new access driveway and parking facility. As is often the case with adaptation to historic buildings, there is a compromise required to provide facilities for new users, especially in a setting which would have originally had little or no requirement to manage such large numbers of visitors. Car parking and the associated change to the natural landscape is the most contentious aspect of many applications. The rationale is to improve the visitor experience, guide visitors to the commercial aspects of the site, and direct visitors around the site to minimise the immediate access and pressure upon the gardens.

Having considered the application it is concluded that the proposed scheme of work outlined in the LBC would result in less than substantial harm to the historic fabric, character and appearance, and the setting of Listed Buildings. The proposed plans and annotated drawings clearly demonstrate there is a collective understanding by the application team for the appropriate conservation approach to the historic environment. Repair, redecorate, reinstate damaged/defective/missing architectural detail, removal of derelict/redundant later additions, secondary glazing - detail that reassures that the approach is appropriate for the level of significance this site deserves. The use of natural materials, matching like-for-like, and incorporating sensitive materials such as zinc for newly introduced elements of the building is the appropriate conservation and redevelopment principles, which is supported. The level of harm (less than substantial) can be outweighed by the public benefit, and will result in preserving and enhancing the historic environment and the designated heritage assets. The proposal complies with the relevant legislation and policies outlining development of a Listed Building.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

1. The works hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The works hereby permitted shall be carried out in accordance with plans/drawings ref. below unless as otherwise required by condition attached to this consent.

DRAWING NUMBER DRAWING TITLE

SITE PLAN

ECR_SAB_XX_XX_LP_A_01 10 Proposed Site Plan - Planning Application Boundary

ECR_SAB_XX_XX_LP_A_01 11 Proposed Site Plan - LBC Application Boundary

ECR_SAB_XX_XX_LP_A_01 12 Proposed Site Plan - Phase 1 Development Boundary

UPPER STABLES

ECR_SAB_US_00_SU_A_01 01 Existing Ground Floor Plan

ECR_SAB_US_01_SU_A_01 01 Existing First Floor Plan

ECR_SAB_US_RP_SU_A_01 01 Existing Roof Plan

ECR_SAB_US_00_SU_A_02 01 South Range - Existing Elevations

ECR_SAB_US_00_SU_A_02 11 East Range - Existing Elevations

ECR_SAB_US_00_SU_A_02 21 North Range - Existing Elevations

ECR_SAB_US_00_GA_A_01 01 Proposed Ground Floor Plan

ECR_SAB_US_01_GA_A_01 01 Proposed First Floor Plan

ECR_SAB_US_RP_GA_A_01 01 Proposed Roof Plan

ECR_SAB_US_XX_GA_A_02 01 South Range - Proposed Elevations

ECR_SAB_US_XX_GA_A_02 11 East Range - Proposed Elevations

ECR_SAB_US_XX_GA_A_03 01 South Range - Proposed Section A-A

ECR_SAB_US_XX_GA_A_03 11 East Range - Proposed Section B-B and C-C

NORTH STABLES

ECR_SAB_NS_00_SU_A_01 01 Existing Ground Floor Plan

ECR_SAB_NS_01_SU_A_01 01 Existing First Floor Plan

ECR_SAB_NS_RP_SU_A_01 01 Existing Roof Plan

ECR_SAB_NS_XX_SU_A_02 01 Existing Elevations

ECR_SAB_NS_00_GA_A_01 01 Proposed Ground Floor Plan

ECR_SAB_NS_01_GA_A_01 01 Proposed First Floor Plan

ECR_SAB_NS_RP_GA_A_01 01 Proposed Roof Plan

ECR_SAB_NS_XX_GA_A_02 01 Proposed Elevations

WORKSHOPS

ECR_SAB_WB_00_SU_A_01 01 Existing Ground Floor Plan

ECR_SAB_WB_01_SU_A_01 01 Existing First Floor Plan

ECR_SAB_WB_RP_SU_A_01 01 Existing Roof Plan

ECR_SAB_WB_XX_SU_A_02 01 Existing North Elevations

ECR_SAB_WB_XX_SU_A_0202 Existing East and West Elevations

ECR_SAB_WB_XX_SU_A_0203 Existing South Elevations

ECR_SAB_WB_00_GA_A_01 01 Proposed Ground Floor Plan

ECR_SAB_WB_01_GA_A_01 01 Proposed First Floor Plan

ECR_SAB_WB_RP_GA_A_01 01 Proposed Roof Plan

ECR_SAB_WB_XX_GA_A_02 01 Proposed North Elevations

ECR_SAB_WB_XX_GA_A_02 02 Proposed East & West Elevations

ECR_SAB_WB_XX_GA_A_02 03 Proposed South Elevations

GARDENERS COTTAGE

ECR_SAB_GC_XX_SU_A_01 01 Existing Plans
ECR_SAB_GC_XX_SU_A_02 01 Existing Elevations
ECR_SAB_GC_XX_GA_A_01 01 Proposed Plans
ECR_SAB_WS_XX_GA_A_02 01 Proposed Elevations

GAS HOUSE

ECR_SAB_GH_XX_SU_A_01 01 Existing Floor Plans
ECR_SAB_GH_RP_SU_A_01 01 Existing Roof Plan

ECR_SAB_GH_XX_SU_A_02 01 Existing Elevations
ECR_SAB_GH_00_GA_A_01 01 Proposed Ground Floor & First Floor Plans
ECR_SAB_GH_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_GH_XX_GA_A_02 01 Proposed Elevations & Section AA

SPRINGTHORPE COTTAGE

ECR_SAB_SC_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_SC_RP_SU_A_01 01 Existing First Floor Plan
ECR_SAB_SC_XX_SU_A_01 01 Existing Elevations
ECR_SAB_SC_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_SC_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_GH_XX_GA_A_02 01 Proposed Elevations

PLANT SALES

ECR_SAB_PS_00_SU_A_01 01 Existing Ground Floor Plan
ECR_SAB_PS_RP_SU_A_01 01 Existing Roof Plan
ECR_SAB_PS_XX_SU_A_02 01 Existing Elevations
ECR_SAB_PS_00_GA_A_01 01 Proposed Ground Floor Plan
ECR_SAB_PS_RP_GA_A_01 01 Proposed Roof Plan
ECR_SAB_PS_XX_GA_A_02 01 Proposed Elevations

CAFÉ

ECR_SAB_CA_00_GA_A_01 01 Ground Floor Plan Café
ECR_SAB_CA_RP_GA_A_01 02 Roof Plan
ECR_SAB_CA_XX_GA_A_02 01 (rev p04) West Elevations
ECR_SAB_CA_XX_GA_A_02 02 (rev p02) North Elevations
ECR_SAB_CA_XX_GA_A_02 03 East Elevations
ECR_SAB_CA_XX_GA_A_02 04 South Elevations
ECR_SAB_CA_XX_GA_A_03 01 Sections AA & BB

Reason: For the avoidance of doubt.

3. Other than where specified on the approved plans/drawings, all external materials used in the development 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 are first submitted to and approved in writing by the Local Planning Authority pursuant to an application made in that regard, whereafter the approved alternative details shall be incorporated into the development.

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

4. Prior to any pointing commencing, a sample panel of pointed brickwork/stonework no less than 1 sq. m shall be prepared for inspection and approval in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved sample, with the approved sample retained on site throughout the duration of construction works.

Reason: In the visual interest of the building(s), the significance of the heritage asset(s) and the surrounding area.

Item No. 1.10

Ref. No. [DMPA/2023/0351](#)

Valid date: 16/03/2023

Applicant: Mark Amritt

Agent: Studio Charrette

Proposal: **Change of Use of part of the amenity land at Eggington Road to allow for an access driveway and dropped kerb to houses 77, 79 and 81 Eggington Road to facilitate vehicle parking**

Ward: Hilton

Reason for committee determination

This item is presented to the Committee at the request of Councillor Lemmon as there are special personal circumstances of the applicant and unusual site circumstances that should be considered by the committee. The committee should debate the issues in the case which are very finely balanced.

Site Description

The Site is amenity land on the north side of Eggington Road. The land is an open area of grass with bollards along the rear of the pavement to restrict vehicular access. There is a removable bollard to allow for emergency access to the properties at 77, 79 and 81 Eggington Road. Numbers 83, 85 and 87 can be accessed via a private track to the east of number 89.

The Site is within the defined settlement boundary of Hilton Village as referred to in policy SDT1 and shown on the Settlement Boundary Maps in Appendix A to LP2. It is also a designated area of local green space within the Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan.

The proposal

The application seeks consent for the change of use of part of the amenity land at Eggington Road to allow for an access driveway and dropped kerb to houses 77, 79 and 81 Eggington Road to facilitate vehicle parking to the front of these properties.

Applicant's supporting information

The applicant has submitted information in the form of photographs, a sketch plan demonstrating the extent of the loss public open green space lost and a statement referring to various national and local planning policies.

The applicant is of the opinion that the proposals address issues of parking and highway safety highlighted in the Hilton, Marston on Dove & Hoon Neighbourhood development plan.

Regarding the designation of the land as a local green space they argue the loss is minimal (approximately ten percent) and that there is no lack of alternative green spaces or amenity space within the Hilton Village boundary.

The applicant is also of the view that, due to the national move towards electric vehicles, that the proposals would facilitate the owner/occupiers of 77, 79 and 81 Eggington Road to install charging points at their properties and that national policy supports this.

Relevant planning history

None relevant.



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South Derbyshire District Council, LA 100019461.2020

Responses to consultations and publicity

Derbyshire County Council Highway Authority - object

Detrimental impact on road and pedestrian safety as well as loss of communal parking to the detriment of adjacent residents.

Hilton Parish Council - object

Contrary to Policy E1 of the Neighbourhood Plan (Local Green Spaces). Unlikely to be any net gain in parking spaces.

Two representations have been received from local residents in support the application as it will improve parking and allow them to install electric vehicle charging points at their properties.

Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017 together with the Hilton, Marston-on-Dove and Hoon Neighbourhood Plan (NP) made in November 2021. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with South Derbyshire Design Guide Supplementary Planning Document (SPD).

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S2 Presumption in Favour of Sustainable Development; SD1 Amenity and Environmental Quality; BNE1 Design Excellence; BNE7 Trees, Woodland & Hedgerows; INF2 Sustainable Transport; INF9 Open Space, Sport and Recreation

2017 Local Plan Part 2 (LP2): BNE8 Local Green Space; SDT1 Settlement Boundaries and Development; H27 Residential Extensions and other Householder Development

Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan: E1 Local Green Spaces; H3 Requirements of housing: residential car parking; H4 Requirements of housing: homes designed for energy efficiency; H6 Housing design

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document
South Derbyshire Local Green Spaces Plan 2020

The relevant national policy and guidance is:

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

Planning considerations

In taking account of the application documents submitted and amended and the site and its environs; the main issues central to the determination of this application are:

- Principle
- Loss of open space
- Impact upon the character and appearance of the area
- Residential amenity
- Adequacy of parking provision and highway safety

Planning assessment

Principle of the proposed development

Policy SDT1 supports development provided it accords with the development plan. Policy INF2 under the heading of parking provides that development should include appropriate car parking provision having regard to, in part, the development not having an undue detrimental impact on highway safety. Whereas policy SD1 supports in principle development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers within or around proposed developments.

The application site is open space in Council ownership. Local Plan Part 1 Policy INF9 (Open Space, Sport and Recreation), Part D, states that "Loss of open space...will only be permitted in exceptional circumstances where an assessment shows that existing open space and facilities exceed the required level of provision, the loss would be compensated for through equivalent or better provision or the development would involve the provision of alternative sport and recreation facilities for which there is a greater need". None of the circumstances referred to in this policy are met by the proposal.

Loss of open space

Policy INF9 (Open Space, Sport and Recreation) of the South Derbyshire Local Plan - Part 1 states:

The loss of open space, sport and recreational facilities will only be permitted in exceptional circumstances where an assessment shows that existing open space and facilities exceed the required level of provision, the loss would be compensated for through equivalent or better provision or the development would involve the provision of alternative sport or recreation facilities for which there is a greater need.

9.61 Existing open space, sports and recreational buildings and land should not be built on unless: an assessment shows that the open space, buildings or land are surplus to requirements; or the resulting loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the need for which outweighs the loss.

Policy E1 of the Neighbourhood Development Plan and BNE8 of the South Derbyshire Local Plan - Part 2 (Local Green Space) state:

Local Green Spaces will be protected from development except in very special circumstances or for the following limited types of development where they preserve the openness of the Local Green Space and do not harm the purpose for its designation:

- i) the construction of a new building providing essential facilities for outdoor sport, outdoor recreation, cemeteries, allotments or other uses of the open land;
- ii) the carrying out of an engineering or other operation.

The proposals will result in a loss of around ten percent of the open space which currently serves to create a break in the built form within the street scene and provides informal opportunities for leisure. Whilst the proposal would retain a significant proportion of the existing open grassed area, the creation of a vehicle access to serve three properties would result in some conflict with the use of the site for informal play and motorised vehicles. The conflict would make its overall use less attractive which would ultimately harm the purpose of its designation. The harm caused by this would not be outweighed by the parking spaces created as, due to the loss of spaces required to facilitate the proposals, overall there would be no net gain in parking provision.

Impact upon the character and appearance of the area and residential amenity

Whilst there are no benches or play equipment on the space which may limit recreation activities for

local residents, the opportunity to use this as an informal area of open space, providing relief to the built form should not be undervalued. The proposals are therefore considered to result in a loss of public open/green space that will be of the detriment to the character and appearance of the area and amenity of the local residents.

Adequacy of parking provision and highway safety

The proposal will involve the creation of a vehicular access off an existing parking lay by. This will result in a reduction in parking spaces within this lay by from 5 to 2. Overall, due to the loss of spaces required to facilitate the proposals, there would be no net gain in parking provision.

The county highway authority object on the grounds of a detrimental impact on road and pedestrian safety as well as loss of communal parking to the detriment of adjacent residents. The visibility splays shown on the plans also cross third party land. Visibility splays can only cross highway land or land under the control of the applicant and it is clear that appropriate visibility splays that are in accordance with the above criteria cannot be met which would result in road safety issues.

It is considered that the proposals would therefore not comply with policy INF2 (Sustainable Transport) of the South Derbyshire Local Plan – Part 1.

Other matters

Two local residents support the application as it will improve parking and allow them to install electric vehicle charging points at their properties.

Whilst the environmental benefits of electric vehicles are material planning considerations it is not considered that these benefits would carry such significant weight that a decision should be taken at variance to policy INF9 (Open Space, Sport and Recreation) of the South Derbyshire Local Plan – Part 1 or Policy E1 (Local Green Spaces) of the Hilton, Marston-on-Dove and Hoon Neighbourhood Development Plan.

Whilst the proposal would facilitate off street parking for individual householders, the transference of parked vehicles to the frontages of the dwellings around the green would have a significant effect on its desirability as a public open space and the character of the area. The benefits to householders of having private parking would not outweigh the Local Plan, or the adverse impact on local character.

The land is owned by the council who have not given any permissions for the applicant to use it as proposed. However, the correct certificates have been served by the applicant and the grant of planning permission does not override any land ownership rights.

For the reasons set out above it is considered that the proposal is contrary to the aforementioned policies of the Development Plan and it is therefore recommended that it be refused.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Refusal for the following reason:

1. The proposal would create a vehicle access through part of an area of local green space which would result in the physical loss of part of this space and conflict between users of the space and vehicular traffic to the detriment of the character and appearance of the area and amenity of the

local residents.

Policies INF9 of the Local Plan Part 1, BNE8 of the Local Plan Part 2 and E1 of the Hilton, Marston on Dove & Hoon Neighbourhood development plan seek to preserve public open and local green spaces and there are not considered to be any material considerations which would justify taking a decision at variance to these policies.

2. The proposed development would have a detrimental impact on road and pedestrian safety as well as loss of communal parking to the detriment of adjacent residents. Acceptable visibility splays cannot be achieved within the site or highway owned land which would result in road safety issues to the detriment of highway safety. The proposed development would therefore not accord with Policy INF2 of the Local Plan Part 1 and there is no reason to take a decision at variance to this Policy.

Item No. 1.11

Ref. No. [DMPA/2023/0454](#)

Valid date: 06/04/2023

Applicant: Jo Stevens

Agent: Andrew Bennett (SDDC)

Proposal: **Erection of a single storey side extension to house a shower room at Park Farm, Ash Lane, Etwall, Derby, DE65 6HT**

Ward: Etwall

Reason for committee determination

This item is presented to the Committee as the Council is the agent.

Site Description

Park Farm, (the Site) formed the main farm house in an agricultural complex of buildings that were converted to create an additional 6 dwellings around 2018-19. The farm buildings were present on the Derbyshire LIV.5 map surveyed in 1880 so pre-date this period.

The Site falls outside of the defined settlement boundaries as referred to in policy SDT1 and shown on the Settlement Boundary Maps in Appendix A to Local Plan Part 2.

The proposal

Condition 14 of the originating planning permission (9/2017/1138) for the conversion of agricultural outbuildings to dwellings stated that:

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

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

Allowing for the scope of the condition planning permission is sought for the erection of a single storey extension to the side of the property to create a ground floor shower room.

Applicant's supporting information

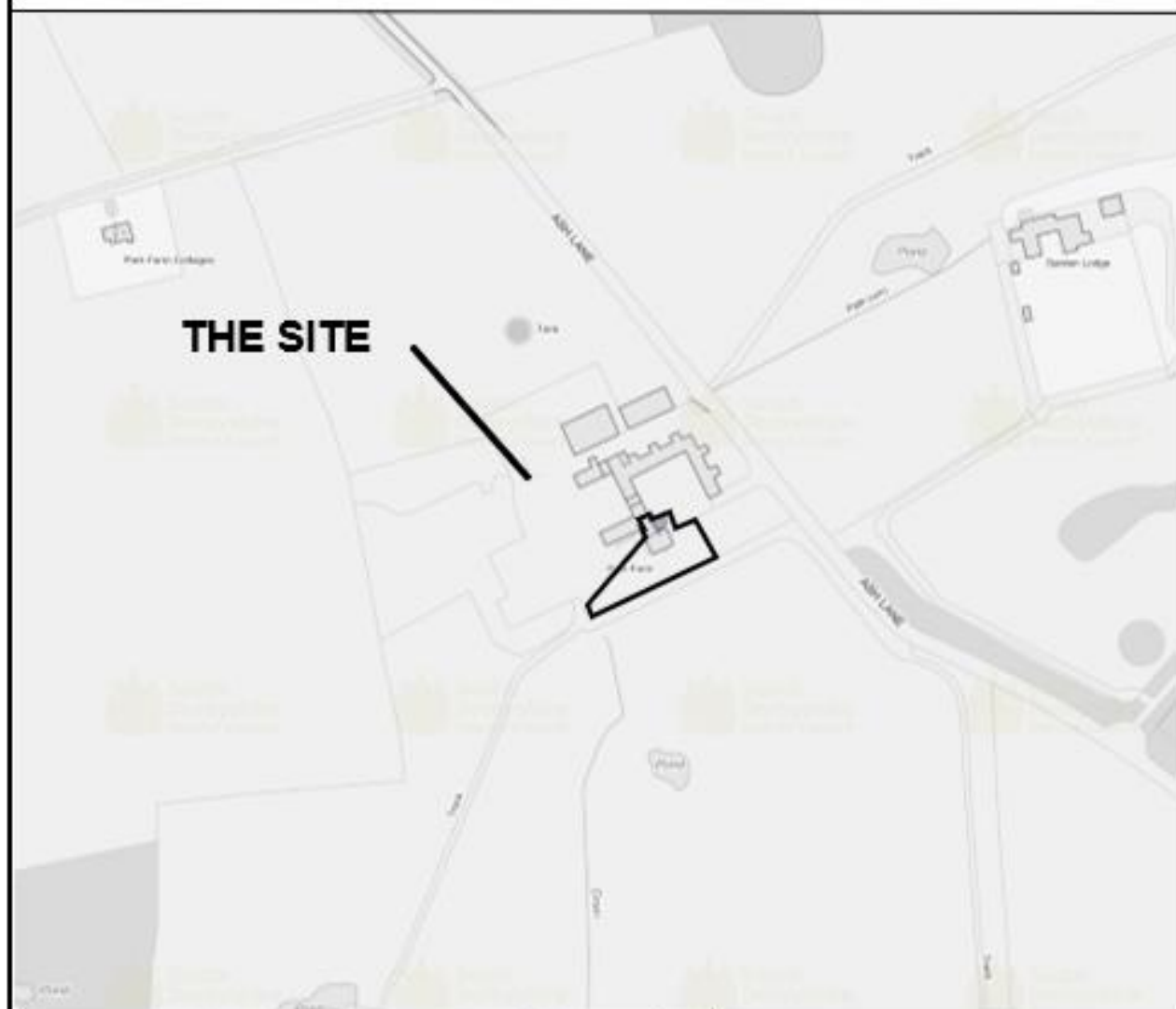
The applicant has submitted plans setting out their proposals.

Relevant planning history

9/2017/1138 - conversion of agricultural outbuildings to provide 6 dwellings along with extended living accommodation to the existing farmhouse and change of use of agricultural land to associated gardens
- Approved with conditions 12/10/2018

Responses to consultations and publicity

No comments were received in response to the publicity and consultation process.



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Relevant policy, guidance and/or legislation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications shall be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan for the purposes of this application comprises the South Derbyshire Local Plan Part 1 (LP1) adopted in June 2016 and the South Derbyshire Local Plan Part 2 (LP2) adopted in November 2017. Material considerations include, albeit not limited to, the National Planning Policy Framework (NPPF) Planning Practice Guidance (PPG), together with South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): S2 Presumption in Favour of Sustainable Development; SD1 Amenity and Environmental Quality; BNE1 Design Excellence; and INF2 Sustainable Transport

2017 Local Plan Part 2 (LP2): SDT1 Settlement Boundaries and Development; BNE5 Development in Rural Areas; and H27 Residential Extensions and other Householder Development

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

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

Planning considerations

In taking account of the application documents submitted and the site and its environs; the main issues central to the determination of this application are:

- Impact upon the host dwelling, character and appearance of the area
- Residential amenity

Planning assessment

Principle of the proposed development

Where an application site falls outside of a settlement boundary development plan policy SDT1 defers to policy BNE5. Policies SD1, BNE1, BNE5 and H27 of the development plan support in principle householder development, where it does not harm the character and appearance of the host building and the character of the area, is of an appropriate design quality and is not unduly detrimental to the living conditions of adjoining properties. It is therefore considered that the proposal is acceptable in principle subject to an assessment of impacts.

Impact upon the host dwelling, character and appearance of the area and residential amenity

At approximately 8.9sqm the extension does not add significantly to the footprint of the property and is considered proportionate. It will be constructed in bricks and tiles matching the host dwelling and the window will be a timber flush fitting casement which also matches those in the host dwelling.

In terms of the wider farm complex the proposed extension will have minimal impact as the design is in keeping with the style of the buildings. It is also only visible from the main courtyard, where the parking and entrances of the other dwellings are located rather than main living spaces.

One window is proposed to the extension which looks onto the garden of the host dwelling and so overall, due to the layout and orientation of surrounding properties and sufficient separation distances,

it is not considered that the proposed extension would cause any undue overbearing effects, or lead to an unacceptable loss of privacy, overshadowing, or loss of sunlight to neighbouring properties.

For the reasons set out above it is considered that the proposal will not have an adverse impact upon the host dwelling, character and appearance of the area or residential amenity and therefore the accords with SD1, BNE1, BNE5 and H27 of the development 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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

Approve subject to conditions.

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

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

2. The development hereby permitted shall be carried out in accordance with the application form and proposed planning drawings (Drawing No. 2) received 06/04/2023 and unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

Item No. 1.12

Ref. No. [DMPA/2023/0423](#)

Valid date: 09/05/2023

Applicant: Haynes

Agent: SDDC

Proposal: The erection of a single storey rear extension and access adaptations at 23 Arthur Street, Castle Gresley, Swadlincote, DE11 9HG

Ward: Linton

Reason for committee determination

South Derbyshire District Council Housing Adaptations Department are the applicant.

Site Description

23 Arthur Street is a demi-detached dwelling, dating to the early to mid 20th century and is situated at the end of a cul-de-sac (Arthur Street). The site is accessed via a private drive and is sited on a comfortable parcel of residential curtilage.

The proposal

The proposals are for the erection of a single storey rear extension and access adaptations to the west of that. The single storey extension will accommodate a reception room and wet room adjacent.

A storm water drainage channel will be installed adjacent to the access adaptation to allow surface run off water to discharge.

Applicant's supporting information

The application is supported with Proposed Elevation plans, Proposed Floor Plans, Site Plans and a Location Plan. No Planning Statement has been submitted here.

Relevant planning history

There is no relevant planning history here.

Responses to consultations and publicity

There have been no responses to consultations and publicity.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): Policy S2 (Presumption in Favour of Sustainable Development); Policy SD1 (Amenity & Environmental Quality); and Policy BNE1 (Design Excellence).

2017 Local Plan Part 2 (LP2): Policy STD1 (Settlement Boundaries and Development); and Policy H27 (Residential Extensions and Other Householder Development).

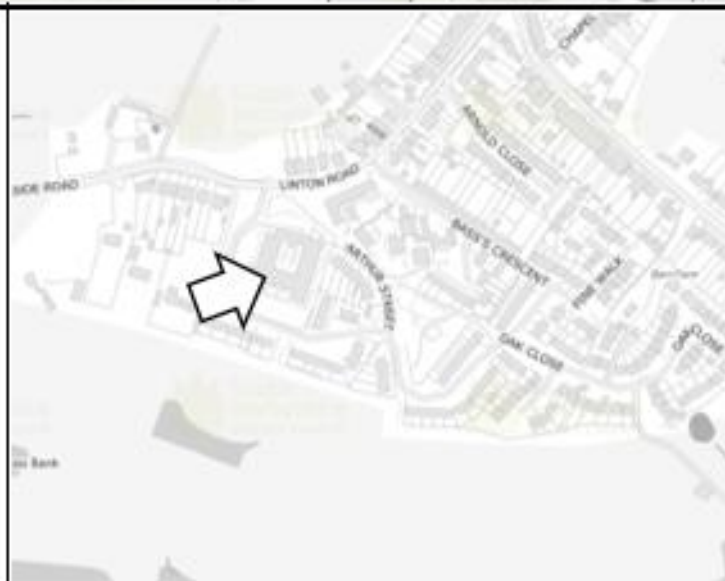
The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document

The relevant national policy and guidance is:

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

DMPA/2023/0423 - 23 Arthur Street, Castle Gresley, Swadlincote, DE11 9HG



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Planning considerations

- Principle of the proposed development
- Impact upon the host dwelling and the character and appearance of the area
- Residential amenity

Planning assessment

Principle of the proposed development

Development plan policy SDT1 supports development in principle in locations within the defined settlement boundaries, subject to compliance with the relevant policies of the development plan. Policy H27 considers householder development and supports such undertakings if they do not harm the host property and the character and appearance of the area, and is not unduly detrimental to the amenity afforded to nearby properties. The criteria associated with policy H27 is also reflected within policy BNE1 and advice within the SPD.

Therefore, the principle of the proposed development is deemed acceptable subject the qualifying criteria of policies H27, other relevant policies of the development plan and other material considerations.

Impact upon the host dwelling and the character and appearance of the area

Due to the siting, scale and context of the area, the proposed rear extension will not be out of keeping with the character and appearance of the area nor the dwelling. The proposals will be located on a the rear elevation (extension) and side and rear (disabled access ramp), neither of which will be visible from the public realm.

Residential amenity

Due to the small scale of the proposed development, and the distance from the boundary with the neighbouring property, it is considered that the proposed development will not unduly harm the amenity afforded the occupiers of the neighbouring property. The scheme therefore complies with policies of the development plan and advice within the SPD.

Conclusions and the planning balance

The proposed development is considered acceptable in terms of its scale, design, form and finish in the context of the existing dwelling and the area within which the application site lies. The proposal would not have an adverse impact on residential amenity of neighbouring properties and would provide benefit to the occupier of the property in making their living accommodation more accessible and able to address their daily needs. The proposal is deemed suitable, compliant with the aims of development plan policies, and with the Supplementary Planning Document on Design. There are no material considerations that would warrant refusal of planning permission in this instance.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

APPROVE subject to the following conditions

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

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

2. The development hereby permitted shall be carried out in accordance with the Proposed Ground Floor/Elevation Plans, The Location Plan/Block Plan and Application Form as amended and received on the 9th of May 2023, unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

Item No. 1.13

Ref. No. [DMPA/2022/0927](#)

Valid date: 29/06/2022

Applicant: J Worth

Agent: Andrew Bennett (SDDC)

Proposal: Installation of dropped kerb and hard standing including associated engineering works at 60 Coton Park, Linton, Swadlincote, DE12 6RE

Ward: Linton

Reason for committee determination

The Council is agent and it is recommended to grant approval with conditions that are not fully in accordance with those requested by the Highway Authority.

Site Description

The application site is one of a row of similar looking houses located northwest of Linton. Nos. 10-15 and Nos 16 -70 (evens) Coton Park are located on a section of classified road (west side), where the land slopes upward from the highway. Many of these already have vehicular access.

The application site presently provides disabled access via a pedestrian lift adjacent to the highway, which exits onto a level path. This is about 17 metres from the front door.

The proposal

The proposal seeks to form a surfaced driveway and parking area, terminating close to the front of the house.

Applicant's supporting information

- The occupier has a disabled parking bay at the moment but they struggle with the current gradient of path and the distance from the parking space to the door of the property.
- The occupier cannot negotiate steps.
- Although the driveway is still steep it will cut down the travel distance considerably.
- Although a classified road it is not busy and there is a large resting area with good visibility allowing easy manoeuvring.

Relevant planning history

9/2003/1079 No 14 – approved with no gradient or turning area conditions.

9/1086/0561 No 26 – approved with gradient condition.

9/2014/1172 No 24 – approved with no gradient or turning area conditions.

9/1184/0640 No 44 – approved with gradient condition.

Responses to consultations and publicity

The Highway Authority recommends conditions, including "The gradient of the new private driveway shall not exceed 1:15 for the first 5m from the nearside highway boundary. Where sloping towards the highway, measures shall be installed at the interface between each private driveway/ vehicular access and the highway to prevent the flow of surface water onto the highway".

DMPA/2022/0927 – 60 Coton Park, Linton



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There were no neighbour responses to the application.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

2016 Local Plan Part 1 (LP1): Policy S2 (Presumption In Favour of Sustainable Development), Policy SD1 (Amenity and Environmental Quality), Policy SD4 (Contaminated Land and Mining Legacy Issues), Policy BNE1 (Design Excellence), Policy INF2 (Sustainable Transport)

2017 Local Plan Part 2 (LP2): Policy SDT1 (Settlement Boundaries and Development), Policy H27 (Residential Extensions and other Householder Development)

The relevant local guidance is:

South Derbyshire Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

Planning considerations

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Design
- Amenity
- Highway safety and sustainable transport
- Mining legacy

Planning assessment

Design

The proposal would be a simple hardstanding, staying close to existing contours. As such there would be minimal visual impact and no demonstrable harm to the general character of the area, in accordance with Policies BNE1 & H27

Amenity

The installation and use of the driveway would not generate any atypical or unacceptable noise or disturbance and there is thus no offence to Policies SD1 & H27.

Highway safety and sustainable transport

On the advice of the Highway Authority, and subject to its recommended conditions, the proposal would not adversely affect highway safety.

However, the applicant has affirmed that it is not practicable to provide the recommended gradient whilst also providing adequate disabled access. Without the requested condition regarding the gradient there would be some detriment to highway safety.

While Policy INF2 seeks, in providing parking, to ensure that development would not have an undue detrimental impact on pedestrian and cyclist movement and highway safety, it also acknowledges the need to provide sufficient conveniently located spaces to meet the needs of people with impaired mobility. This inevitably introduces tension between the policy objectives, given the particular circumstances of this case.

The applicant notes that the classified road is not busy. While there is no objective data to affirm or contest this, it is noteworthy that not all previously approved vehicular accesses are subject to a gradient condition (see Planning History) and no adverse representations have been received from the local community.

In the circumstances, the need to provide access for an occupier with impaired mobility is considered to outweigh a modest risk to highway safety that might result from the gradient of the access.

The other recommended conditions of the Highway Authority could be accommodated.

Mining legacy

The site lies in an area affected by previous coal mining activity. An appropriate informative, drawing attention to Coal Authority Standing Advice, would adequately safeguard this issue in accordance with Policy SD4.

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, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

APPROVE subject to the following conditions:-

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

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

2. The development hereby permitted shall be carried out in accordance with drawing No. AMB/01 submitted with the application; unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

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

3. Pedestrian visibility splays of 2m x 2m shall be provided and permanently maintained on both sides of the access to the dwelling. There shall be no obstruction to visibility between 0.6m and 2.0m above carriageway level.

Reason: To provide adequate visibility for drivers entering or leaving the site and to ensure the safety of pedestrians and vehicles.

4. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained for the lifetime of the development.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019)

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no

gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access, other than as may be required pursuant to Condition 6 below.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (2019).

Informatives:

- c. a) Under provisions within Sections 149 and 151 of the Highways Act 1980, the developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- b) Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- c) Planning permission does not give you approval to work on the public highway. To carry out works associated with this planning permission, separate approval must first be obtained from Derbyshire County Council as Highway Authority - this will take the form of a section 184 licence (Highways Act 1980). It is strongly recommended that you make contact with the County Council at the earliest opportunity to allow time for the process to be completed. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email highways.hub@derbyshire.gov.uk or telephone 01629 533190.
- d. The proposed development lies within an area that has been defined by the Coal Authority as containing coal mining features at surface or shallow depth. These features may include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such features are seldom readily visible, they can often be present and problems can occur, particularly as a result of new development taking place.

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. 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, excavations for 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.

If any 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

2. Planning and Other Appeals

(References beginning with a DMPA, DMPN, DMOT or 9 are planning appeals and references beginning with an ENF or E are enforcement appeals)

Reference	Place	Ward	Outcome	Decision level
DMOT/2022/0641	Newhall	Newhall & Stanton	Dismissed	Delegated
DMPA/2022/0673	Melbourne	Melbourne	Dismissed	Delegated
DMPA/2021/1442	Church Broughton	Hilton	Allowed	Delegated
DMPA/2021/1196	Bretby	Repton	Allowed & no costs awarded	Committee



Appeal Decision

Site visit made on 17 February 2023

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 5 April 2023

Appeal Ref: APP/TPO/F1040/9162

61 Bretby Hollow, Newhall, Swadlincote, Derbyshire DE11 0UE

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to fell a protected by a Tree Preservation Order.
- The appeal is made by Mr D Barratt against the decision of South Derbyshire District Council.
- The application Ref DMOT/2022/0641, dated 5 December 2021, was refused by notice dated 19 May 2022.
- The work proposed is the felling of one sycamore.
- The relevant Tree Preservation Order (TPO) is the South Derbyshire District (land to the rear of Thorntree Lane, Newhall) TPO No 130 (1995) which was confirmed on 27 May 1996.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:

- the amenity value of the tree and the likely effect of its removal; and,
- whether sufficient justification has been provided for the proposed felling.

Reasons

Amenity value of the tree and the likely effect of its removal

3. The appeal tree is a sycamore and is one of a number of tall, mature trees located within the rear gardens of houses along the western and southern edges of Bretby Hollow that are individually protected by the TPO. The trees predate housing along this road.
4. The sycamore is a tall, mature tree with a stout stem and limbs with no signs of movement in its root plate. From ground level the only cavity I saw was along a limb that projected towards the rear boundary and was well occluded. On the basis of what I have read and seen of the tree I am satisfied that it is in good health and structurally sound.
5. The tree has a tall, large crown whose asymmetric shape appears to be gradually rebalancing itself following the felling of a neighbouring large tree some years ago. Significantly taller than the house at No 61, the tree forms an attractive back drop in public views from Bretby Hollow, Thorntree Lane and the pedestrian cut through that links the two roads.
6. The felling of the tree would materially erode the visual amenity of the area, and a replacement tree would take many years to grow large enough to compensate for

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

the harm that would be caused. As a result, the proposed felling would be contrary to the thrust of policy BNE4 of the South Derbyshire Local Plan Part 1 ('Local Plan Part 1') and policy BNE7 of the South Derbyshire Local Plan Part 2. These policies seek to protect valued landscape features such as mature trees. Given the value in terms of biodiversity that a mature tree has, the proposed felling would also be contrary to the objective of policy BN3 of the Local Plan Part 1 which seeks to prevent harm in this regard.

Whether sufficient justification has been provided for the proposed felling

7. Concerns have been expressed that due to climate change storms are becoming more severe and that this increases the likelihood of the tree failing, damaging the house and injuring its occupiers. Falling branches and trees are a safety hazard. However, in the absence of a systematic tree survey that substantiates the concerns of the appellant with good quality evidence, there are insufficient grounds to warrant the felling of this stout and attractive tree for safety reasons.
8. In relation to sunlight, the tree is located on the western side of the appellant's house. As a result, when the tree is in leaf it places the back garden and rear elevation of No 61 in the shade for the majority of the latter half of the day. A neighbour complains of a similar problem caused by the tree during the morning. Protected trees though should not be felled merely for this reason. In the summer such shade can help prevent overheating and so maintain pleasant living conditions within dwellings and their gardens. It also seems to me that the effect on sunlight and shade that the tree has, forms part of the character of the area, and by any reasonable measure is pleasant rather than harmful.
9. In terms of outlook, owing to its location positioned towards the rear of the garden and its high elevated crown, the tree is not overbearing and does not unduly enclose views from the rear of the house. Moreover, there are parts of the garden that are not beneath its canopy. Should the appellant wish to reduce the crown of the tree he can apply to the Council to do so. Taking all these matters into account, the effect of the trees on sunlight and outlook at No 2 is a consideration of little weight in favour of the appeal.
10. It is stated that sycamore seeds are noxious and that in the summer its leaves can be irritating for those who come into contact with them. Many trees have inedible seeds that would make people unwell if eaten and with its high elevated crown it is unlikely that people in the garden would come into contact with leaves whilst they are on the tree. I therefore attach minimal weight to these considerations in favour of the appeal.
11. I have found that the proposed felling would have a harmful effect on the visual amenity of the area. The considerations put forward to justify the proposed felling are insufficient to outweigh the harm that would be caused. Accordingly, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector

Appeal Decision

Site visit made on 21 February 2023

by **S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Appeal Ref: APP/F1040/W/22/3308490

230 Station Road, Melbourne, Derby, Derbyshire DE73 8BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
- The appeal is made by Mr Sahota against the decision of South Derbyshire District Council.
- The application Ref DMPA/2022/0673, dated 20 May 2022, was refused by notice dated 29 August 2022.
- The development proposed is the erection of 2no. dwellings with associated new access and landscaping on land to the rear of 230 Station Road, Melbourne, Derby DE73 8BQ (Resubmission)

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site has been subject to a recently dismissed appeal¹ for two properties (the previous appeal). It considered whether the site was in an appropriate location for housing, having regards to the settlement strategy and the effect on the countryside. The appeal is a material consideration in the determination of this appeal.
3. Since the previous appeal was determined, the Melbourne Neighbourhood Development Plan 2016 to 2028 (NP) was made on 7 July 2022. The NP now forms part of the Development Plan for the area and, accordingly, I have attached full weight to the NP within my decision.

Main Issue

4. The main issue is whether the site is an appropriate location for housing, having regards to the settlement strategy and the effect on the countryside.

Reasons

5. The site is located to the rear of a group of dwellings which front Station Road. Carr Brook lies to the rear of the site, with open countryside beyond. A new development of three properties, accessed from Station Road, extends to the side and partially to the rear of the group of dwellings fronting Station Road. This development was largely complete at the time of my visit. The two proposed properties would adjoin and extend development across the rear of the group of properties fronting Station Road.

¹ APP/F1040/W/21/3283155

6. The appellant states that the site is peri-urban in nature rather than purely rural, having regard to its proximity to the settlement boundary. During my site visit, I observed the proximity of the site to the settlement boundary and noted that it is within an area that provides a transition between the built-up area of Melbourne and the open countryside. The site therefore has a semi-rural character.
7. The site and adjacent group of properties are located outside of a settlement boundary. Whilst the site has a semi-rural character, for the purposes of development plan policy, it is within the countryside. The line of the defined settlement boundary is separated from the site by a grassed field. This field extends from Station Road to Carr Brook.
8. The primary difference between this appeal and the previous appeal is that the NP is now made. My attention has particularly been drawn to Policy DP1 of the NP that seeks, amongst other things, to promote a sustainable pattern of development. The appellant argues that this policy does not preclude all development outside existing settlement boundaries, only that which is unsustainable. The appellant highlighted, as part of the examination into the Draft NP, the removal of the word 'infill' from Policy DP1, due to concerns raised that it would be potentially contrary to the national policy objective to promote sustainable development.
9. Policy DP1 of the NP does not preclude development outside of settlement boundaries. However, the wording of the policy is clear and states that new development beyond the settlement boundaries of Melbourne and Kings Newton will only be supported where they comply in full with the relevant policies of the NP and the Adopted South Derbyshire Local Plan.
10. The supporting text to Policy DP1 of the NP sets out background to the policy and indicates an expectation that no new homes should be built in the fields outside the existing settlement boundary of Melbourne.
11. The relevant Adopted South Derbyshire Local Plan policies are Policies H1 and S1 of the South Derbyshire Local Plan Part 1 2016 (LP1) and BNE5 of the South Derbyshire Local Plan Part 2 2017 (LP2). There have been no material changes to these policies, or the status of the Adopted South Derbyshire Local Plan, since the previous appeal and the NP was made.
12. Policy S1 outlines the Sustainable Growth Strategy for the District. Policy H1 seeks to direct and distribute housing towards the more sustainable settlements. Policy BNE5 seeks to ensure that development which must take place in rural areas, outside of defined settlement boundaries, does not lead to unacceptable environmental effects on the countryside. The Inspector considering the previous appeal found that the location of the development was contrary to these relevant LP policies and subsequently dismissed the appeal.
13. Policy H1 identifies Melbourne as a Key Service Village, where the development of sites adjacent to settlement boundaries may be considered appropriate as exception sites. In the previous appeal, the Inspector concluded that the site did not adjoin the settlement boundary and therefore the development did not comply with Policy H1. The Inspectors reasoning drew attention to the grassed field, between the settlement boundary and site.

14. I observed the field which lies between the site and the settlement boundary during my site visit. The field has defined boundaries and no built development within it. It provides a significant open break between the edge of the settlement, denoted by the defined settlement boundary, and the site. I therefore conclude that the site does not adjoin the settlement boundary, as required by Policy H1.
15. Policy BNE5 lists a number of exceptions to development proposals within rural areas, outside of settlement boundaries. A key consideration in this appeal is whether the development can be regarded as the infilling of a small gap. Policy BNE5 refers to a small gap as for not normally more than two dwellings. The Inspector in the previous appeal concluded that the site could not be regarded as infill.
16. There is no definition of infill development within the Framework, and it is therefore a matter of planning judgement. Taking the reference in Policy BNE5, I consider infilling to comprise a small gap in an otherwise built-up frontage. During my site visit, I observed that the rear boundary of the site borders open countryside, with its side boundary adjoining the adjacent field that lies between the site and the settlement boundary.
17. Having regard to the surrounding area, the site does not form a small gap in an otherwise built-up frontage, as it is open to fields on two of its boundaries. These adjoining fields provide significant open breaks, which cannot be considered as a small gap. I conclude that the site cannot be considered infill, with regards to the wording of Policy BNE5.
18. Having regards to the other exceptions in Policy BNE5, there is no evidence before me which justifies that the development is essential to a rural based activity or unavoidable outside a settlement boundary.
19. For the reasons given, I conclude that the development would not be an appropriate location for housing having regard to the settlement strategy and the effect on the countryside. The development would be contrary to Policies S1 and H1 of the LP1, Policy BNE5 of the LP2, Policy DP1 of the NP. These policies seek to direct development towards more sustainable settlements and ensure any development that does take place outside of settlements would not lead to unacceptable environmental effects on the countryside.

Other Matters

20. The appellant has highlighted that a number of other concerns were raised during the consultation of the planning application in relation to the over-development of the site, the size of the dwellings, the impact on the amenity of neighbouring occupiers, traffic and highway safety and flooding issues. The appellant states that these are matters of common ground between the Council and appellant. I note that both the Council and Inspector in the previous appeal did not oppose the proposal on grounds other than those set out in the main issue. Based on the information before me, I see no reason to disagree.
21. The development would provide two dwellings towards the Council's housing stock and contribute toward meeting the Government's aims to boost the supply of housing, with particular regard to windfall sites. However, this would be a limited benefit given the small scale of the development and the Council's statement that they can demonstrate a 5 year deliverable supply of housing.

There would be some economic and social benefits as a result of the development, including during construction and the activities of future residents in the local area. Having regards to the size of the development, these benefits would be limited.

22. The appellant refers to paragraph 68, now paragraph 69, and paragraph 118, now paragraph 120(d), of the Framework in support of the development. The Council can demonstrate a deliverable supply of housing land and therefore land supply is not constrained within the District. Furthermore, there is little evidence before me which demonstrates the land is under-utilised.
23. The appellant contends that it is common ground the appeal scheme would be sympathetically integrated within the local context in terms of appearance, layout and materials. The Council have not raised any concerns in this regard, and I have no reasons to disagree.
24. I note that the appellant has referred to the site as previously developed. The National Planning Policy Framework (the Framework) describes previously developed land as land which is or was occupied by a permanent structure, including the curtilage of the developed land. I observed on my site visit that the site was overgrown but I have limited evidence before me which demonstrates the land is previously developed. Even if I had such evidence before me, it would have no effect on my decision.

Conclusion

25. For the above reasons, having considered all the policies drawn to my attention, the conflict with Policies H1 and S1 of the LP1, Policy BNE5 of the LP2 and Policy DP1 of the NP lead me to conclude that there is conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with the development plan.
26. The Framework refers to a presumption in favour of sustainable development that means approving development proposals that accord with an up-to-date development plan without delay. However, I have concluded that the proposal would not accord with the development plan. As such, the appeal should be dismissed.

S Pearce

INSPECTOR

Appeal Decision

Site visit made on 7 February 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/F1040/W/22/3306278

The Grange, Main Street, Church Broughton, Derby DE65 5AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
- The appeal is made by Mr Andrew Johnston against South Derbyshire District Council.
- The application Ref DMPA/2021/1442, is dated 19 September 2021.
- The development proposed is described as *To construct a greenhouse (4m long, 3m wide, 3m high) with an adjoining potting shed (3m long, 3m wide, 3m high). To be constructed within land that is currently a meadow adjacent to the bottom of the existing garden. The meadow being owned by the applicant.*

Decision

1. The appeal is allowed and planning permission is granted to construct a greenhouse (4m long, 3m wide, 3m high) with an adjoining potting shed (3m long, 3m wide, 3m high) at The Grange, Main Street, Church Broughton, Derby DE65 5AS in accordance with the terms of the application, Ref DMPA/2021/1442, dated 19 September 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and photograph/image:
 - *Location Plan; Proposed Greenhouse Details; Potting Shed Details; Hand Drawn Site Plan; and Aerial Photograph and Image.*

Preliminary Matters

2. Relevant planning applications include the approval of planning permission for two dwellings in 2014¹ and a later application in 2016². Whilst I have no information as to which permission The Grange was built under, the application site for both applications indicates a rear boundary much shorter than that on the appeal site subject to this appeal. The submitted location plan and aerial photograph state a change of use from meadow to garden however, regardless as to whether or not the area of existing garden beyond that shown on the plans for the original approval has a lawful use as garden land, which remains disputed, there is no indication of the appellant's intent for any consideration under this appeal as to whether or not that existing garden is lawful.

¹ Planning Application Ref: 9/2014/0492 granted 21 October 2014.

² Planning Application Ref: 9/2015/0990 granted 12 February 2016.

3. From what I saw and from the details submitted with the appeal documents, the proposed buildings would be partly within the land indicated as being for a change of use and part in the existing garden referred to above. I have determined the appeal on that basis.
4. The proposed development is described on the application form as being constructed within land that is currently a meadow adjacent to the bottom of the existing garden, owned by the appellant. I have omitted this additional description when describing the proposal in the interests of clarity.
5. Since the submission of this appeal the Council has indicated that it would have granted planning permission subject to conditions.

Main Issue

6. On the basis of the information submitted, I consider that the main issue is the effect of the proposal on the character and appearance of the area.

Reasons

7. The Council has indicated that it would have approved the planning application given that the increase in garden land compared with that authorised by the previously mentioned planning approvals would not encroach significantly beyond the gardens of adjoining houses to the east. Notwithstanding the use of the land which I have clarified above, the Council accept that the proposal would have a minimal impact on the countryside and the general character of the area. I concur with this assessment.
8. Taking the above into consideration, I find that the greenhouse and potting shed would be modest structures and in terms of their height, size, materials and overall appearance would not appear out of keeping with this area. Their location in relation to the existing garden to The Grange and the adjacent field/meadow would not be unduly intrusive and I consider that they would not have a harmful effect on the character and appearance of the area.
9. As such, the proposed greenhouse and potting shed would not conflict with Local Plan³ Policies BNE1, BNE4 or BNE5 which, amongst other things, seek to protect landscape character. Furthermore, they would satisfy Local Plan Policy H27 in that they would not be out of scale or character with The Grange or have an adverse effect on the character and appearance of the area. Furthermore, the proposal would not result in detrimental domestication of the countryside and would not therefore conflict with Local Plan Policy H26.

Other Matter

10. The Appellant requests that this decision should lead to the reimbursement of planning application fees from the Council in a timely manner. However, this is a matter between the Council and the Appellant.

Conditions

11. The Council has suggested a condition restricting permitted development rights for the erection of buildings, other than as hereby approved, which I have

³ South Derbyshire District Council – South Derbyshire Local Plan – Part 1, Adopted 13 June 2016 & Part 2, Adopted 2 November 2017.

considered in the light of the Planning Practice Guidance⁴. However, given that the area of land shown on the submitted location plan and aerial photograph as proposed change of use from meadow would be modest, and in any event, mostly taken up by the greenhouse and potting shed, I do not consider it necessary to restrict development as suggested. A condition requiring the development to be carried out in accordance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed.

J D Clark

INSPECTOR

⁴ Planning Practice Guidance, Published 6 March 2014 – Updated 23 July 2019.

Appeal Decision

Site visit made on 28 February 2023

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 29 March 2023

Appeal Ref: APP/F1040/W/22/3303885

Knights Lodges, Knights Lane, Bretby, Burton-on-Trent DE15 0RT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr D Willshee against the decision of South Derbyshire District Council.
- The application Ref DMPA/2021/1196, dated 20 August 2021, was refused by notice dated 4 July 2022.
- The development proposed is the erection of leisure building with associated access, parking and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for the erection of a leisure building with associated access, parking and landscaping at Knights Lodges, Knights Lane, Bretby, Burton-on-Trent DE15 0RT in accordance with the terms of the application, Ref DMPA/2021/1196, dated 20 August 2021, subject to the conditions in the schedule at the end of this decision.

Applications for costs

2. An application for costs was made by Mr D Willshee against South Derbyshire District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Other than for the omission of the south-western wing, a leisure building that is similar to the proposed building which is the subject of this appeal has been erected on the appeal site. I have determined the appeal on the basis of the submitted plans rather than the building that has been erected.
4. The date of the planning application given on the appeal form is different to the date given on the application form. Similarly, the address given on the appeal form differs from that given on the application form in that it omits 'Knights Lodges'. In the banner header above and in the permission, I have used the application date and address given on the application form.

Main Issue

5. The appeal site is a parcel of land within a park of holiday lodges known as Knights Lodges. With the granting of planning permission for two other versions of the leisure building, it is common ground that the development of such a tourist related building is acceptable in principle.
6. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

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

Reasons

7. The holiday park is located within a hedged field on Knight's Lane. The surrounding landscape is characterised by undulating fields with occasional copses and mature trees within the hedgerows.
8. The proposed building would be a T shaped, single storey, gable ended structure set back slightly within the field, with its shorter front elevation facing Knights Lane. The ridge and eaves height of the building would be similar to the L shaped leisure building that was originally granted permission (ref: DMPA/2020/0226). The front elevation of the proposal would be wider. However, as the building would be orientated with its shorter front elevation facing the road, rather than its longer side elevation, as is the case with the scheme in the original permission, it would be perceived to be similar in scale in views from the highway. The landscaping scheme would also help soften the long side elevation in views from the public footpath to the south-west.
9. The preponderance of stone over wood cladding would make the building appear more substantial than the original permission. However, as a focal point of the spacious holiday park that is otherwise occupied by smaller, wooden clad lodges this would not be harmful. Moreover, the contrasting use of stone, wood and glazing would help provide relief to the building's elevations. Given the screening effect of the roadside hedge on the parking spaces and any parked cars, the number of parking spaces that would be provided would also be acceptable.
10. The appeal proposal primarily differs from the two other permissions for a leisure building in that additional space has been added to create a T shaped building. This allows a gym and games room to be provided in addition to the swimming pool. As a holiday park in a rural area, there is no evidence before me that these leisure needs are met by existing facilities within easy access of the holiday park.
11. Taking all these matters into account, I therefore conclude that the appeal proposal would be a building that is appropriate in scale for the proposed leisure uses and that its visual impact has been sufficiently well controlled through good design for its effect on the character of the area to be acceptable. The proposal would therefore comply with policies E7, BNE4 and INF10 of the South Derbyshire Local Plan Part 1 and policy BNE5 of the South Derbyshire Local Plan Part 2. These policies support tourism development in appropriate locations where identified needs are not met by existing facilities. They also require the protection of the character and appearance of a locality through high quality design that respects local design features.

Other Matters

12. Various designated heritage assets such as listed buildings, Bretby Castle, Bretby Hall and Bretby Conservation Area are located in the wider area. Their significance is architectural and historical. However, as there is no intervisibility between the appeal site and these assets, and the appeal site is not located within their setting, I agree with the Council that their significance would not be harmed by the appeal proposal.

Conditions

13. In the interests of certainty, I have imposed a condition specifying the relevant plans that the development is to be carried out in accordance with. To ensure that the building is only used by holiday park residents and their guests, a register needs to be kept of users of the leisure building. To ensure that the development does not increase flood risk and that it abides by the principles of sustainable drainage the scheme needs to be carried out in accordance with submitted surface drainage details. For the same reason, further details of the infiltration pond, as well as a drainage verification report, need to be submitted for approval.
14. To promote sustainable transport, an electrical charging point and secure cycle parking needs to be provided. In the interests of highway safety, parking and manoeuvring needs to be laid out. In the interests of visual amenity and pleasant conditions for the occupiers of the holiday lodges, details of any external lighting need to be submitted for approval. To enhance biodiversity, the recommendations contained within the submitted assessment need to be implemented.
15. In order to ensure that the development complements its surroundings, landscaping and the materials used on the external surfaces of the building need to be carried out in accordance with the submitted details. To ensure that any planting becomes well established it needs to be well maintained.
16. I have required all these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance. A list of documents was proposed for inclusion with the plans listed in condition 2. However, as the plans and other conditions cover relevant matters contained within these documents their inclusion is unnecessary.

Conclusion

17. For the reasons given above, I conclude that the appeal should be allowed.

Ian Radcliffe

Inspector

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Drawing no.18 (Ground Floor Plan and Elevations),
 - Drawing no.19C (Site Plan),
 - Drawing no.20B (Site Location Plan),
 - Drawing no.21 (Material Schedule),
 - Drawing no.105 Rev.P10 (Proposed Drainage, Layout and External Levels),
 - Drawing no.106 Rev.P2 (Proposed Drainage Details),
 - Drawing no.108 Rev.P1 (Drainage Construction Details),

Drawing no.GL0797 05C (Leisure Building Landscape Proposals),
Proposed Leisure Block Visualisations (dated 8th June 2021)

- 3) The development shall take place accordance with the drainage proposals outlined within:
 - a. PRP. 04/02/2022. Flood Risk Assessment. Rev A.
 - b. PRP. 27/01/2022. 1 in 1 year storm calcs. Rev 1
 - c. PRP. 27/01/2022. 1 in 30 year storm calcs. Rev 1
 - d. PRP. 27/01/2022. 1 in 100+40% CC calcs. Rev 1
 - e. PRP. 27/01/2022. 1 in 100 calcs. Rev 1
 - f. PRP. 25/02/2022. Proposed Drainage Layout and External Levels. Rev P10
 - g. PRP. 01/2022. MANAGEMENT SCHEDULE FOR SURFACE WATER DRAINAGE DURING CONSTRUCTION. Rev 1
 - h. PRP. 15/03/2022. 81270 - Maintenance Schedule. Rev1
 - i. Golby + Luck Landscape Architects. 29/03/2022. Leisure building landscape proposals. Rev D
 - j. Including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team and DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015). Any agreed amendments shall be submitted to the local planning authority.
- 4) The facing and roofing materials and fenestration to be used shall follow the details as described within the submitted Materials Schedule Drawing No. 21. The stone to be used on the main face of the building shall be constructed using irregular patterning within the mortar layers and irregular sizes of stone. The development shall be constructed using the approved facing, roofing and fenestration materials.
- 5) The development hereby approved shall be carried out in accordance with the biodiversity enhancement recommendations in Section 5 of the Ecological Impact Assessment 2019-12(01) produced by Ecolocation dated 16th January 2020. The measures shall be implemented and retained as such thereafter.
- 6) No external lighting shall be installed until details of the intensity, angling, shielding and the area of spread of the lighting have been submitted to the local planning authority for approval in writing. The lights shall be installed in accordance with the approved details and thereafter retained in conformity with them. The submitted scheme shall comply with the latest guidance published by the Institute of Lighting Engineers.
- 7) Prior to the first use of the development hereby approved, a verification report carried out by a qualified drainage engineer shall be submitted to and approved by the local planning authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

- 8) Prior to the first use of the development hereby approved, the parking and manoeuvring space shown on drawing ref: Proposed Plans Site Plan 19C as received by the local planning authority on 28th February 2022, shall be laid out and thereafter shall be maintained throughout the life of the development free of any impediment to its designated use.
- 9) Prior to the first use of the development hereby approved, 1 no. electric vehicle charging point shall be provided. The point of installation and specification of the charging point to be provided shall be submitted to the local planning authority and approved in writing prior to installation. The charging point shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. The electric vehicle charging point shall be provided in accordance with the stated criteria and approved details prior to the first use and shall thereafter be maintained in working order and remain available for use throughout the life of the development.
- 10) Prior to the first use of the development hereby approved, 1 no. secure cycle parking facility shall be provided in accordance with specification and siting details that have been submitted to and approved by the local planning authority in writing. The provided parking facility shall thereafter be maintained in good repair for the lifetime of the development.
- 11) Prior to first use of the development hereby permitted, a scheme for an infiltration pond fully designed in line with CIRIA SuDS manual C753 and an associated management and maintenance plan, in line with CIRIA SuDS Manual C753, together with a timetable for its construction shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the pond shall be managed and maintained in accordance with the agreed details for the lifetime of the development.
- 12) The approved Landscaping Scheme GL0797 05C, shall be implemented in full in the first planting season following the occupation of the development. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in accordance with the approved scheme and timetable; 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.
- 13) The development hereby approved shall solely be used as an ancillary facility to in situ Knights Lodge tourism accommodation and shall solely be used by customers residing in the tourism accommodation on site and guests of those customers. A register shall be kept of customers and their guests using the facility, their lodge/cabin numbers and duration of stay at the cabins and made available for viewing upon the request of the local planning authority. The development shall not be for general public use.

-----End of Conditions Schedule-----

Application for Costs

Appeal Reference: APP/F1040/W/22/3303885
LPA Reference: DMPA/2021/1196
Appellant: Mr Dean Willshee
The Council: South Derbyshire District Council

Appeal against the decision of South Derbyshire District Council to refuse an application for the erection of a leisure building with associated access, parking and landscaping on land at Knights Lane, Bretby, DE15 0RT

Introduction

1. This is an application for a full award of costs made on behalf of Mr Dean Willshee ("the Appellant"). This application is made against South Derbyshire District Council ("the Council"), in respect of the Council's unreasonable behaviour in failing to approve the above planning application, preventing or delaying development which we submit should clearly be permitted. It is the Appellant's submission that the Council's conduct has caused unnecessary and wasted costs of an appeal, which was wholly avoidable.
2. The conduct of members of the Council's Planning Committee is fundamental to the consideration of this application for costs. The behaviour of Planning Committee Members during the determination process for the planning application is set out at paragraph 3.29 of the Appellant's SoC and at Appendix 6 of that SoC. We do not propose to rehearse these facts but respectfully request that the Inspector considers this application in conjunction with the Appellant's Statement of Case and Final Comments and has particular regard to the timeline of local authority actions. The purpose of this separate application for costs is to demonstrate how the Council's conduct aligns with the Planning Practice Guidance ("PPG") and the costs regime.
3. This application for costs is made at this stage of the Appeal following receipt of the Council's Statement of Case, which is not only contrary to their more detailed consideration of the appeal proposals as set out within the officer

Report to Committee (enc. 301), but confirms that the inherent acceptability of the proposals, and of a leisure building on-site of a very similar overall scale, and one of the same height and materials used, accords with the Development Plan for South Derbyshire.

The Costs Regime

4. The PPG provides that the aim of the costs regime is to (our emphasis):-
- *encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and in the presentation of full and detailed evidence to support their case*
 - ***encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay,***
 - ***discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.***

Paragraph: 028 Reference ID: 16-028-20140306

5. The PGG indicates that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour directly causes another party to incur unnecessary or wasted expense in the appeal process.
6. The PPG makes clear (paragraph 032) that costs applications may relate to events before the appeal or other proceeding but costs that are unrelated to the appeal or other proceeding are ineligible.
7. Further the PPG advocates (paragraph 033) that whilst costs cannot be claimed for the period during determination of the planning application, parties are expected to behave reasonably throughout the planning process. Behaviour

and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.

8. Paragraph 048 of the PPG provides guidance as to when the authority's handling of the planning application may lead to an award of costs:

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*
- *failure to produce evidence to substantiate each reason for refusal on appeal*
- *vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*
- *refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead*
- *not determining similar cases in a consistent manner*

Costs Submission

9. The objective behind the costs regime is to encourage good behaviour by all parties in the appeal process and avoid the need for unnecessary appeals and the consequential costs. This case represents a failure on behalf of the local planning authority, especially its Planning Committee Members and disregard for the principles that underpin the costs regime.
10. The Council's putative reasons for refusal demonstrate a disregard for and misapplication of the Development Plan and the NPPF. The Council's misconceived position is that the Appellant has:

- Failed to demonstrate that the leisure building is not of too great a scale; and
- That the impact of the leisure building upon the character and appearance of the countryside is visually harmful

i. Leisure Building Scale and Landscape Impact

11. As set out within the accompanying Final Comments to the appeal and within the Appellant's SoC, the Council have recently granted planning permission for a very similar leisure building under planning permission ref: DMPA/2022/0838. The only difference with regards to the scale of the leisure building structure proposed is that the current appeal proposals include a "wing" that incorporates a games room, with a GIA of 81m². The materials used, and the overall height of the leisure building is the same as that proposed under this appeal. An additional 6no. parking spaces are also proposed to the north of the leisure building.
12. As part of the original planning application submission the Appellant provided extensive technical evidence, inclusive of a Landscape Visual Impact Assessment, Proposed Site Levels and Surfaces Plan and a Landscape and Ecological Management Plan for consideration. Council officers found no conflict arising from the proposals with the Development Plan for South Derbyshire and reported the application to Committee with a recommendation to approve. This recommendation was informed by several key statutory consultees, including the Council's Landscape Officer who considered the proposals to be acceptable with regards to landscape impact following on from revised plans sent to the Council during the determination period for the application.
13. Despite this recommendation, acting contrary to professional officer's advice, informed by key statutory consultees, members of the Planning Committee motioned to refuse the proposals with one reason for refusal identified. The Council's Statement of Case, dated 26 January 2023 makes clear that, contrary

to their much more detailed Officer Report to Committee, which recommended approval of the proposals, that members of the Planning Committee behaved in an unacceptable manner, and refused planning permission *“based on their local knowledge of the area and the impact they considered the building would have in its rural setting”* (paragraph 4.2). This reason for refusal is therefore nothing more than member’s personal opinion, and is evidently not backed up by any detailed technical evidence or analysis.

14. No detailed assessment of why the proposals are of an unacceptable scale has since been provided by the Council, nor has any detailed assessment been provided as to why the landscape impacts arising are unacceptable. Conversely, the only detailed analysis of the proposals, within the Officer Report demonstrates that the proposals accord with the Development Plan for South Derbyshire and do not give rise to an unacceptable landscape impact, as set out at page 6 of that Report.
15. As such, having due regard to paragraph 049 of Planning Practice Guidance, it is considered evident that members of the Planning Committee, in refusing planning permission behaved unreasonably in the following ways:
 - *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*
 - *failure to produce evidence to substantiate each reason for refusal on appeal*
 - *vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis.*
 - *refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead*
16. It is submitted that this application for costs, in conjunction with the Appellant’s Statement of Case and Final Comments demonstrate that the Council’s

conduct in the course of and prior to this Appeal, constitutes unreasonable behaviour as more particularly set out in the PPG.

17. The Council have prevented and delayed development, which we submit, should clearly be permitted, when having regard to the development plan, national policy and other material planning considerations. Further it has done so whilst failing to substantiate its reasons for refusal and failing to acknowledge or consider the full extent of the Appellant's case.
18. The Council should be held accountable for this conduct. It is respectfully submitted that a full award of costs is made against the Council.

Marrons Planning

09 February 2023

Deb Smith
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Steven Hoang
Planning Officer

South Derbyshire District Council,
Civic Offices, Civic Way,
Swadlincote, Derbyshire, DE11 0AH

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Please ask for Officer Name

Phone 07884 750409

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Our Ref: DMPA/2021/1196

Your Ref: APP/F1040/W/22/3303885

9 March 2023

Dear Deb,

Town and Country Planning Act 1990

Site Address: Knights Lane, Bretby, BURTON-ON-TRENT, DE15 0RT

This letter is a response to the appellants application for a full award of cost against the Councils' decision to refuse planning permission for the erection of a leisure building with associated access, parking and landscaping on land at the above address.

The appellant claims that Planning Committee members, in particular have acted unreasonably during the determination of the application by refusing planning permission in the following ways:

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.*
- *failure to produce evidence to substantiate each reason for refusal on appeal.*
- *vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*
- *refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead.*

It is acknowledged the appellants claims mentioned above are listed under the NPPG section "What type of behaviour may give rise to a substantive award against a local planning authority?", in addition to the above, the NPPG also lists other examples of behaviour which are deemed to be unreasonable as stated below:

- *acting contrary to, or not following, well-established case law;*
- *persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable;*
- *not determining similar cases in a consistent manner;*
- *failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances;*
- *refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage;*



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- *imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework on planning conditions and obligations;*
- *requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy in the National Planning Policy Framework, on planning conditions and obligations;*
- *refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal;*
- *not reviewing their case promptly following the lodging of an appeal against refusal of planning permission (or non-determination), or an application to remove or vary one or more conditions, as part of sensible on-going case management; and*
- *if the local planning authority grants planning permission on an identical application where the evidence base is unchanged and the scheme has not been amended in any way, they run the risk of a full award of costs for an abortive appeal which is subsequently withdrawn.*

Having regard to all of these potential examples of unreasonable behaviour and specifically the points put forward in the appellants costs application, it is not considered that any of these apply to the Council's conduct in this instance. As explained in the Council's Statement of Case (SoC), the Council previously granted planning permission (ref: DMPA/2020/0226) on 29th May 2020 to allow development on site for the erection of a leisure building. In relation to the appeal scheme, as the appellant mentions in their application for costs "the only difference with regards to the scale of the leisure building structure proposed is that the current appeal proposals include a "wing" that incorporates a games room, with a GIA of 81m²" (para.11), which the Council considers to be a significant increase in scale from the above extant scheme. The Council's reason for refusal was based on relevant planning grounds (South Derbyshire Local Plan Policies as detailed in the SoC) and material considerations, and the decision to refuse permission followed a site visit from the committee members/Council officers. The refusal reason was squarely within the scope of reasonable planning judgment applying relevant development plan policies and taking into full account of the permission in place, as detailed in the officer report of application ref: DMPA/2021/1196.

The Council have not prevented or delayed development on site. Following the initial decision to refuse permission before the decision notice was issued, and at the request of the appellants a further meeting was held on site between the appellant with his representatives and the Head of Planning and Strategic Housing in an effort to find an acceptable solution to the appellants wish for a larger leisure building on site to incorporate additional facilities to that previously approved. Following this meeting and in line with these discussions, a further application (ref: DMPA/2022/0836) for the erection of a leisure building was granted planning permission on 5th September 2022 which addressed the reason for refusal against application ref: DMPA/2021/1196, by submitting the following changes:

- Reduction to the to the overall scale of the building by the removal of the western wing of the building, thus increasing separation distance between nearest heritage asset.
- Proposed building being "sunken" or "cut into" landscape which reduced the visual impact of the building.
- Improvements to landscaping, including a visual buffer to the west, greater density of planting, additional grassland and wildflower meadow planting, as well as increased tree planting, overall securing greater biodiversity net gain.

The appeal scheme, due to its scale was considered visually harmful to the local landscape and rural character of the area. This is a reasonable planning judgment to reach, and the concerns identified were not capable of being dealt by the imposition of planning condition(s). The appeal scheme had materially changed from the previously approved application ref: DMPA/2020/0226 and is also materially different from approved application ref: DMPA/2022/0836.

The Council refutes the appellants claim of unreasonable behaviour by preventing and delaying development which should have clearly been permitted. The local planning authority have properly exercised development management responsibilities in line with the Councils relevant planning policies, have also behaved reasonably in relation to procedural matters at the appeal stage, and have shown a willingness to engage with the appellant and his representatives to get to an amended design to the Leisure Building that was granted planning permission on 5th September 2022.

It is respectfully requested that the application for costs is dismissed.

Yours faithfully,

Steven Hoang
Planning Officer



Costs Decision

Site visit made on 28 February 2023

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 29 March 2023

**Costs application in relation to Appeal Ref: APP/F1040/W/22/3303885
Knights Lodges, Knights Lane, Bretby, Burton-on-Trent DE15 0RT**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr D Willshee for a full award of costs against South Derbyshire District Council.
 - The appeal was against the refusal of planning permission for the erection of a leisure building with associated access, parking and landscaping.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process¹.
3. There are four claims to assess. Firstly, whether the Council prevented development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Secondly, whether the Council failed to produce adequate evidence to substantiate its reason for refusal by making vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis. Thirdly, whether the Council refused planning permission on a planning ground when the attachment of suitable conditions would have enabled the proposed development to go ahead. Lastly, whether the behaviour of councillors at the planning committee when determining the application was biased and unreasonable.
4. In terms of the first two claims, the officer recommendation in relation to the application was to grant permission. However, planning authorities are entitled not to accept an officer recommendation, so long as reasonable planning grounds are given for taking a different decision. In its reason for refusal the Council explained that the design of the proposed building would result in harm to the character and appearance of the area, citing those policies of the development plan the proposal would be contrary to. Within the Council's appeal statement, in the comments on the appellant's grounds of appeal, the Council expanded upon its reason for refusal. Although for the reasons given in the appeal decision I did not agree with the Council, such matters are a question of planning judgement. Through the wording of its reason for refusal and its appeal statement the Council presented

¹ Paragraph: 028 Reference ID: 16-028-20140306, 'Appeals', 'Why do we have an award of costs?'

evidence that was sufficiently respectable to substantiate its decision to refuse permission. As a result, it did not act unreasonably.

5. In relation to the third claim, the Council's reason for refusal related to the scale of the proposed building, which would be materially larger than the two extant permissions for a leisure building on the site. Given this fundamental objection to the proposal, I am not persuaded that this matter could be overcome by condition.
6. Turning to the last claim, I recognise that the appellant was perturbed at the comments he stated were made by certain councillors at the planning committee in relation to the application. The Council has not commented on this matter and the minutes of the planning committee are silent on this issue. Notwithstanding what was or was not said, I can only determine a costs application on the basis of the actions of the Council, rather than the comments stated to have been made at the planning committee. For the reasons given earlier, I have found that the Council through the content of its issued decision notice and appeal statement has substantiated its decision to refuse planning permission.
7. Taking all these matters into account, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated. An award of costs is therefore not justified.

Ian Radcliffe

Inspector

REPORT TO:	PLANNING COMMITTEE	AGENDA ITEM: 6
DATE OF MEETING:	06 JUNE 2023	CATEGORY: (See Notes) DELEGATED
REPORT FROM:	HEAD OF PLANNING AND STRATEGIC HOUSING	OPEN
MEMBERS' CONTACT POINT:	JESSICA CHEADLE, 07435829964 jessicak.cheadle@southderbyshire.gov.uk	DOC:
SUBJECT:	DEED OF VARIATION – LAND AT BROOMY FARM	
WARD(S) AFFECTED:	MIDWAY AND WOODVILLE	TERMS OF REFERENCE:

1.0 Background

- 1.1 Members may recall that the site, known as Woodland Rise, Overseal, was granted outline planning permission for up to 400 homes in July 2016. The Section 106 agreement can be found under permission reference 9/2014/0740. A Deed of Variation can be found under permission reference 9/2016/0882, this was required following a S73 application to vary condition 19 of the outline planning permission.
- 1.2 As required within the Ninth Schedule – Healthcare Contribution of the Section 106 Agreement, South Derbyshire District Council received £190,853.11 from Bellway Homes following the trigger points being met. This contribution has to be spent by 31st October 2027.

2.0 Recommendations

- 2.1 That the Committee approves the request to amend the Section 106 Agreement (S106) and subsequent Deed of Variation (DoV) to include amendments to be made to the definition of the Healthcare Contribution which is payable in accordance with the ninth schedule of the Section 106 Agreement– Healthcare Contribution. This is based upon recommendations that have been received from Swadlincote Primary Care Network.
- 2.2 That the Committee delegate authority to the Head of Planning and Strategic Housing to agree the finer detail and wording of the obligations to be secured under the DoV.

3.0 Purpose of Report

- 3.1 To inform the Committee of the proposed changes to the S106 Agreement, Land at Broomy Farm.

4.0 Discussion

- 4.1 Following the receipt of the Section 106 contribution, The Planning Policy Team

were approached by Swadlincote Primary Care Network (PCN) wishing to propose a variation to the definition of the Healthcare Facility. It is requested to amend the Section 106 agreement as due to increasing patient numbers within the wider Swadlincote area, all of the surgeries are at capacity. The PCN wish to convert Ragsdale House into a Primary Care Hub for the benefit of all residents within the urban area in addition to the current medical practices. The hope is that by increasing access to the services such as; Mental Health Practitioners , Social Prescribers, Vaccination Clinics and Paramedic this will create capacity at the five surgeries within the Swadlincote Urban Area to mean that the 57,000 residents¹ that they serve will have better medical service provision provided for them.

4.2 This change will mean that the contribution that was sought to mitigate the effects of the development will still remain as mitigating the effects of the development at Broomy Farm.

4.3 The proposed amendments can be seen outlined in the table below.

	Existing Section 106 Agreement definition	Proposed Amendments to Agreement definition
Healthcare Contribution	The sum of £152,160 (One Hundred and Fifty-Two Thousand One Hundred and Sixty Pounds) to be paid to the Council by the Owner in accordance with clause 9 and applied by the Council towards the construction of the Healthcare Facility	The sum of £152,160 (One Hundred and Fifty-Two Thousand One Hundred and Sixty Pounds) to be paid to the Council by the Owner in accordance with clause 9 and applied by the Council towards the construction of the Healthcare Facility
Healthcare Facility	A replacement or new healthcare facility at Woodville	A replacement or new healthcare facility at Woodville and / or healthcare facility works at Ragsdale House , Woodville.

5.0 Financial Implications

5.1 There are no financial implications associated to the Council for this change as the costs of the DoV will be paid for by the Primary Care Network as they have requested the DoV

6.0 Corporate Implications

6.1 None

7.0 Community Implications

7.1 The most appropriate healthcare mitigation has been selected to be undertaken. The residents will see an improvement to the healthcare services that they can access within Swadlincote.

8.0 Background Information

a) Section 106 Agreement:

[Planning Applications, Decisions and Appeals \(southderbyshire.gov.uk\)](https://www.southderbyshire.gov.uk/planning-applications-decisions-and-appeals)

b) Deed of Variation:

[Planning Applications, Decisions and Appeals \(southderbyshire.gov.uk\)](https://www.southderbyshire.gov.uk/planning-applications-decisions-and-appeals)