

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.

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

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

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/2020/0156](#)

Valid date: 06/02/2020

Applicant: Sean Goodwin

Agent: D Cooney
Planning & Design Practice Ltd

Proposal: Demolition of existing dwelling (use class C3) and existing commercial buildings and redevelopment of existing commercial premises to form 9 business units (use class B1(c)) with a single point of access onto Derby Road and associated works at Talbot Turf, 75 Derby Road, Hilton, Derby, DE65 5FP

Ward: Hilton

Reason for committee determination

This item is presented to the Planning Committee at the request of Councillor Julie Patten as local concern has been expressed about a particular issue, and it is also a major application subject to more than 4 objections.

Site Description

The site is located on the approach into the village of Hilton on Derby Road when entering the village from the A50 junction to the east. It is located to the northern side of the road and is fairly flat in nature. It is located adjacent to residential properties to the south of the site, across the highway, one dwelling associated with and immediately adjacent to the south-west corner of the site, and an approved residential scheme to the west and north-west of the site. The site is largely open to the north and east with fields beyond up to the A50 embankment.

The proposal

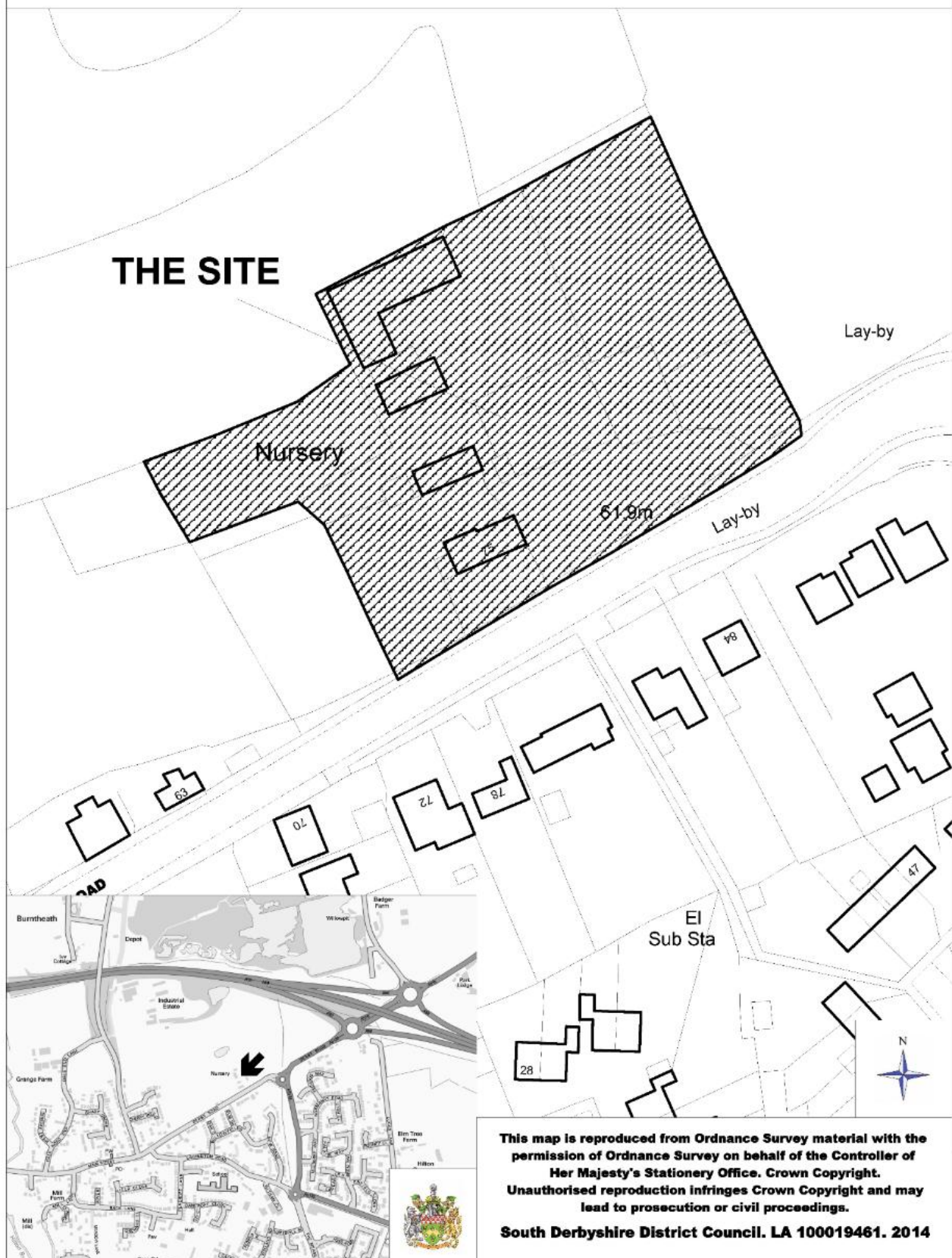
Planning permission was refused under application ref. 9/2019/0299 for the erection of 9 light industrial units (use class B1(c)) with associated works and parking. Consent is now sought for a revised scheme, again of 9 light industrial units and associated works and parking, with the revisions seeking to address the concerns previously raised. The layout would be broadly similar with a central area of service yards and parking, with incidental landscaping, and the buildings framing this to the western, northern and eastern edges of the site. A new bellmouth access, broadly central to the site frontage, would be created with visibility splays and footways to serve it.

The buildings on the western side would now be set further back from Derby Road with a landscaping buffer in-between, whilst the design of the buildings has also been altered to reduce the massing. The units along the northern edge are also now conjoined to provide a single block. The eaves height of each unit would be 5.85m with the ridge at 7.80m, compared with 6.00m and 8.20m on the previous proposals. Materials have been altered to soften the impact and improve the quality of the proposal, with further landscaping also included on the eastern boundary to provide a softening of views to the site from the east.

Applicant's supporting information

A Design and Access Statement sets out that the proposed development constitutes sustainable development by virtue of the re-development of an existing brownfield site that is currently used for a commercial business. The location is sustainable, is well served by public transport, ideally situated to connect with the A50 and would provide much needed industrial and commercial space in a Key Service Village, given the redevelopment of the Hilton depot site for housing. The current and future residents of Hilton that work in local businesses would be able to access the site by walking, cycling and on public transport, thus reducing the reliance on private cars. The scale and design of the proposed scheme is appropriate for this location, in relation to the scale of the recent housing

DMPA/2020/0156 - Talbot Turf, 75 Derby Road, Hilton, Derby DE65 5FP



development opposite. The retention of the existing boundary hedgerows, along with the innovative landscaping proposals for the front part of the site, result in an attractive scheme that would present an image of a high quality development. The land to the north and west of the site is a housing allocation in Part 2 of the Local Plan and has recently been granted permission for up to 45 dwellings, meaning that the site would be virtually surrounded by development on three sides. The loss of the single residential dwelling on the site would be offset by a replacement dwelling under a separate permission, located in the south-west corner of the site. It is therefore considered that the proposal is compliant with the planning policies in the National Planning Policy Framework and the Local Plan Parts 1 and 2.

A Transport Statement states that the works are proportionate to the scale of the proposed development and in relation to the amount of traffic generated by the current lawful use of the site. The proposed development constitutes sustainable development by virtue of the redevelopment of an existing brownfield site that is currently used for a commercial business. The location is highly sustainable, is well served by public transport, ideally situated to connect with the A50 and would provide much needed industrial and commercial space in a Key Service Village given the redevelopment of the Hilton depot site for housing. Current and future residents of Hilton that work in local businesses would be able to access the site by walking, cycling and on public transport, thus reducing the reliance on the private car. Businesses on the site would be provided with information so that they can encourage employees to travel by sustainable modes of transport. It is therefore considered that the proposal is compliant with the planning policies relevant to transport in the National Planning Policy Framework, and the Local Plan Parts 1 and 2.

A Flood Risk Assessment finds that the proposed use is classified as 'less vulnerable and the Environment Agency advises that less vulnerable uses are appropriate within Flood Zone 1. Surface water ponding is the only source of flood risk to the site itself; however the risk of this is low and the potential depth of this is less than 300mm. A surface water run-off attenuation pond is proposed to the western corner of the site, along with SuDS features within the site itself to encourage direct infiltration to ground. The risk of flooding to the development itself and to the surrounding areas would not be significant.

An Ecology Survey finds that the existing buildings on site provide a poor level of roosting potential for bats. There are examples of nesting birds provision within two of the building and the surrounding hedgerow, and the retention of the hedgerow and the accommodation for nesting birds are strongly recommended.

An Arboricultural Report notes the development would result in the removal of existing buildings and construction of 9 industrial units. To allow for the new entrance to the site, 3 category C trees would require removal. The 3 trees consist of 2 Lawson's Cypress and 1 variegated Holly, all in fair condition. To allow for the construction of the new units, 6 trees would require removal, consisting of 1 category B tree, 4 category C trees, and 1 category U tree. A Hybrid Black Poplar, an Ash and a Sycamore are all covered by a Tree Preservation Order (TPO). To the rear of unit 1 would be a balancing pond and it is recommended that the TPO Hybrid Black Poplar is felled on the grounds of safety. It is recommended that a replacement tree planting scheme is produced to replace the trees removed from site. The trees removed from the TPO would not be able to be replaced with like for like species, so suitable alternatives would be required. All retained trees would require protection during the construction work to make sure that they are not damaged. This can be achieved by creating a Construction Exclusion Zone (CEZ) using barriers to exclude vehicles, personnel and materials.

Relevant planning history

9/2008/1205 - The erection of two portable offices: Approved with conditions 02/03/2009

9/2019/0299 - Demolition of existing dwelling (use class C3) and nursery buildings (sui-generis use) and construction of 9 light industrial/office buildings (use class B1 c) with the creation of a new access

to derby road and associated works: Refused 06/11/2019 and subject to a current appeal (ref. APP/F1040/W/20/3246651)

Responses to consultations and publicity

The Environmental Health Officer has raised no objections to the application subject to the inclusion of conditions to safeguard against contaminated land and gas migration and disturbance during hours of construction.

The County Highway Authority has commented on similar proposals under application ref. 9/2019/0299. This section of Derby Road is a classified Road with a 40mph speed limit and links with the A5132 roundabout to the east and continuing further to the east links with the grade separated A50 Derby Southern Bypass. The site lies on the north side approximately between north-east bound and south-west bound bus stops and currently has two vehicular access points off Derby Road. The proposal is to close these existing access points and introduce a single point of access approximately 100m from the roundabout with A5132. The vehicular visibility splays for 40mph speed limit are 2.4m x 120m in both directions. Although the splay of 120m can be achieved to the south-west, only 73m can be achieved to the north-east. However as part of a previous application in the close vicinity of this site, a speed reading survey was carried out on Derby Road which resulted in vehicle speeds of 39.51 mph travelling in a north easterly direction and 31.58 mph travelling in a south westerly direction. Therefore, the visibility based on the measured speeds to the north-east would be considered to be adequate.

Internally, the submitted plans show adequate parking spaces for the proposed use. However, there are no details for swept path manoeuvring at the access junction for the largest vehicles expected to/from the site for purpose of loading and unloading. These details would be required to determine the extent of the radii of kerbs and it would be necessary for these details to be required by planning condition if permission is minded to be granted. Therefore, subject to the inclusion of planning conditions relating to the layout of proposed access and parking area, the Highway Authority raises no objections to the application.

The Lead Local Flood Authority (LLFA) has raised no objections subject to conditions relating to a surface water drainage scheme.

Derbyshire Wildlife Trust has raised no objections to the application subject to conditions.

Hilton Parish Council has raised the following comments:

- i. The Planning Committee refused the application on the basis that the application was contrary to policies BNE1, BNE4, BNE5, E2 and E7 in terms of appearance and impact on amenity. Policy INF2 was also cited for the impact of traffic and HGVs.
- ii. The only changes in the new application are some trees along the frontage to Derby Road, moving Unit 3 rearwards by about 4-5m to make room for the trees and some brick facades on the Derby Road facing units. There is no explanation as to how these minor changes address the issues for refusal.
- iii. The minor changes do not allow this application to meet BNE1 e), g) and h). The buildings are still 8m high and not in keeping with the local character, are still not visually attractive, appropriate or contributing to the continuity of the street scene and will have an undue adverse effect on existing nearby occupiers.
- iv. The previous proposal was contrary to BNE4. As the application has an unacceptable impact on landscape character and visual amenity, the planting of a few trees, does not address the issue for refusal.
- v. The previous proposal was contrary to BNE5. The application is still contrary to BNE5 as the development is not in an appropriate location, has undue impact on the landscape and is not well related to the settlement.
- vi. The previous proposal was contrary to E2. As this application is unchanged in its business use, scale, layout and does give rise to an undue impact on the local landscape, it is still contrary to E2.

- vii. The previous proposal was contrary to E7. The current application does not demonstrate that Derby Road is capable of accommodating the traffic generated. The development does have an undue impact on the neighbouring houses, is not well designed and of a scale commensurate with a B1(c) use but is designed and of a scale for B8 use. Consequently, the visual intrusion and impact on the character of the locality is not minimised. The application is still contrary to E7.
- viii. The application is correct in identifying the need for B1(c) as highlighted in the now submitted Neighbourhood Plan. However, to satisfy this need it does not require buildings and a site layout designed for B8 business use.
- ix. The previous proposal was contrary to INF2. The current application makes no attempt to address this except to state that a turn left sign would be located at the exit of the site. The movement of a considerable number of 44 tonne HGVs through this part of Hilton will have a detrimental impact on the local amenity and highway safety. The issue of the road speeds and visibility splays is still not addressed.
- x. The Transport Statement provided does not consider the total traffic implications of this application. The projected number of people that the development could employ is perhaps ambitious but taken at face value. It would appear that between 60 and 80 extra jobs would be created. This number of people arriving and leaving the site would be the equivalent of a housing development of approximately 30 houses. This needs to be viewed in the context of the development for 45 houses adjacent to the site.
- xi. It is likely that the majority of the new employees will arrive by car, adding to the current traffic issues of Derby Road. Where will the cars park that cannot access a space on site? It would be unacceptable to have them parking on Derby Road. The only up to date traffic survey of Derby Road was carried out by the Parish Council as part of the Neighbourhood Development Plan and this quite clearly shows the extent of the problems of traffic volumes at peak times and speeding traffic at non-peak times.

Five letters/emails of objection have been received, raising the following concerns/points:

- a. This is a repeat of a previously rejected planning application.
- b. There is little change from the first application except for a little aesthetics.
- c. The planting of deciduous trees and will not hide the 8.1m high gable industrial units in the winter or soften the noise from the potential 40 tonne 6 axle lorries and increased commercial traffic that are being planned to use this site when the weight restriction is 7.5 tons on Derby Road.
- d. The site is not screened by 3m and 4m high hedges but currently a sparse 1.1/2-2m high hedge. The street scene appears to convey a very tranquil scene with only cars present on the site. This does not represent reality when we know large HGV's will be coming and going on the site, loading and off loading at potentially unsocial hours.
- e. The site is not in keeping with the local area as it has residential properties including the new development of 45 houses on Derby Road in addition to the recent development on the island at Derby Road which are nearby and the current buildings on this agricultural site are only single storey or at the most the height of the chalet cottage currently occupying the site and not 8m.
- f. Propose to build a single point access (built to industrial road access standards) which is directly opposite a busy bus stop.
- g. There is not enough on-site provision for parking as most of the employees will potentially drive to their workplace and Talbot turf already employ 40+ employees and will only use 3 of the 9 units.
- h. There are already issues with speeding on this road and there is no place on the main road for any cars to park. The site is currently a six and sometimes seven days a week operation, also open to the public with large lorries already coming and going early in the morning and late evenings. This has increased over the years.
- i. There will be increased light and noise pollution from the site and the extra traffic from commercial vehicles and tractors will not be good for the environment as no electrical vehicle provisions have been included.
- j. While some of the front of the buildings have changed to brick/glass. This is still not in keeping with local character the height at 8m is not either, the visual impact of this application as you

drive in from the A50 is not in keeping with the local area which has become more residential in recent times.

- k. There are industrial sites in Hilton that would better serve the expansion of this business from an agricultural one and this site would be better served as residential for new bungalows which Hilton is lacking according to its emerging Neighbourhood Plan and not industrial units.
- l. The traffic issues are not addressed at all. The emerging Neighbourhood Plan has documented that Derby Road suffers from high levels of HGVs and general traffic issues including speeding. By permitting nine additional industrial units this will significantly increase the volume of HGV traffic on a road that already does not support this type of vehicle.
- m. Additional signs will not stop HGVs travelling along Derby Road to main street or vice versa. This is already known and documented in the emerging Hilton Neighbourhood Plan.
- n. The landscape design is misleading because the application shows mature trees. These do not exist on the current site and unless they are evergreen will be without foliage for six months of the year and will not obscure or soften any building during that time.
- o. Moving buildings of this size back by 5m will not stop them being 8.1m high or 932 cubic meter buildings and will not stop them from dominating the street scape. This planning application will have a significant impact on the character of the access into Old Hilton village and is not in keeping with the local area.
- p. The updated Design & Access Statement document contains a number of inaccuracies and does not address the original concerns expressed by the Planning Committee.
- q. Section 2.1 states "Derby Road is now the secondary route through the village centre...most traffic is directed along the Hilton bypass". This comment is not supported by any facts and is entirely subjective and, intended to mislead the Planning Committee. As part the emerging Hilton Neighbourhood Plan traffic studies have been completed and surveys of resident's views regarding issues with traffic along Main Street and Derby Road which clearly demonstrate that this statement is not accurate.
- r. The document itself contradicts this in Section 5.5 where it has stated "the development fronts a busy road". Section 2.1 states that "the site is screened by a 3-4m high hedgerows". Again, this is misleading, only one section of the site is screened by hedgerows at this height and this intermittent as, it is mainly trees within this section that reach between 8-12meters in height and do not form a continuous border. In addition these trees are not evergreen and do not provide screening throughout the entire year. The majority of the site is not screened and the frontage is only screened by hedgerows at a height of under 2 meters. The landscape design pictures throughout are misleading as they present mature trees which do not currently exist and would take numerous years to ever look like those pictured which suggest the building would be hidden by trees.
- s. Section 2.6 - states that the site will have "industrial units with height of 8.1m (an Eaves height of 6m)". These heights are not consistent with the commercial units currently on the site and comparisons with a newly built residential dwelling are, again, misleading as the overall size and scale is not proportional and it is not appropriate to compare a residential dwelling to a 932 cubic meter combined industrial unit (Unit 1 + Unit 2 + Unit 3) which is around 6x the size of the compared dwelling. Section 2.9 states that "most of the site will be occupied by businesses located in the nearby area" and quotes "ease of use for those living nearby". Again this is misleading and totally unknown, since section 2.6, states the Talbot Group will use buildings units 1-3. 3 out of 9 units is not "most" of the site and therefore it is not possible to make any assertions of which other businesses will occupy the other 6 of the units or how employees of those businesses will travel to/from the site.
- t. Section 2.12 does nothing to address the issue of the height of the building and moving the units back 5 meters and planting saplings will not screen 6m buildings which will dominate the landscape. Section 4.4 states "Policy S6 - The Council will make the most efficient use of transport infrastructure and Services". This application does not comply with this statement. Derby Road has a 7.5 tonne weight limit and Hilton suffers from HGV and general traffic issues through Derby Road to Main Street, as documented in the emerging neighbourhood plan. By approving 9 industrial units this will significantly increase the volume of HGV traffic on a road that already does not support Heavy Good Vehicles, exasperating the current problem.
- u. The potential for six further businesses to operate across hours beyond these operated by the current business will further add to this problem with the inevitable probability of HGVs queuing

along Derby Road to access the site. Section 4.5 B states that "all proposals under part A should be in scale with existing built development". The existing built industrial development is not in scale in height or area to any of the planned industrial units.

- v. With regards to Section 5.8 a 3-4m hedge will not "mask most of the site" as the buildings are proposed to be 8.1m in height, so even if the statement about hedgerow height were true over 50% of the units would still be visible.
- w. Moving a building back 5m will not stop an 8.1m height 932 cubic meter building dominating the streetscape.
- x. A proposed a "sign" requesting left turns out of the site does nothing to address HGVs accessing via the west. Additional signs will not stop HGVs travelling down Derby Road to Main Street or vice versa. This is already a known and documented issue (see emerging Hilton Neighbourhood Plan).
- y. If the objection from the Planning Committee had been reasonably considered then the design of the site entrance could and should have been designed to ensure right turns out of the site are impossible and not be left to a sign. HGVs travel illegally down Derby Road already. There is already a Highways Agency sign directing that there is no access for 7.5 tonne vehicles. Signs do not stop illegal behaviours, designing building infrastructure to stop illegal behaviours is why planning decisions should be in place and taken note of.
- z. The planning committee objected to the previous application in several grounds and changes made have not addressed the concerns (appropriately if at all) of the planning committee.
- aa. The units proposed were seen as not in keeping with the area and current land use. It is turning agriculture type land into industrial units which are not in keeping with the existing buildings in height or appearance.
- bb. The existing property to be demolished is not 2 storeys high, at best it is 1.5 storey and the other current buildings are merely sheds and temporary office areas. The new application fails to address the points made previously by the planners in the first rejection.
- cc. Pushing buildings back 5m does not take away the height issue or address the in keeping with existing properties. Dwellings in the area have to abide to be in keeping (down to window type or guttering) so the same rules should apply to any new building.
- dd. The plan could easily be reduced to single storey permanent type buildings and still bring in employment whilst staying in line with current properties. Larger outbuildings will encourage larger vehicles.
- ee. Why would further 7.5 tonne lorries to use the Road which is already restricted to large vehicles be encouraged. The rule is required as recently highways moved the restriction sign as the adherence to the current road rules.
- ff. As the industrial units proposed are tall buildings, it will likely encourage much more lorry traffic on an already busy residential road. Signs currently fail to direct traffic down The Mease (purposely built to take lorries and traffic out of the old village) . There are increasing numbers of pot holes in the road and the ancient bridge has several cracks appearing. This will not be helped by further lorries not obeying the 7.5tonne restricted to access signs.
- gg. No suggestion of adding measures to stop lorries turning right by putting in chicanes or a wider path.
- hh. Units of double height are not in keeping with the area or current use. These could easily be single storey height permanent buildings in keeping with the area.
- ii. Lorries will be encouraged and as the Council has identified the road as incapable currently of 7.5 tonne lorries.
- jj. Derby road is a residential road, with two new housing estates in close proximity. This development will significantly decrease road safety in the village for pedestrians and drivers.
- kk. There is no reduction to the height of the metal units. They far exceed the height of any building currently on the site. B. As with the previous objections there seems to be little reasonable attempt to shield this development from the public eye as the planting of a deciduous tree, which shed all its leaves for the majority of the year will make no impact on eight metre high sheds, as a minimum none deciduous trees should have been offered.
- ll. The entrance is directly opposite a well used bus stop and on to a road that is already very busy and at times gets congested. At certain times of the day the traffic is very high and cars already come round the roundabout at speed and have to put hard brakes on when they see cars or lorries turning right in front of them.

- mm. There will be a larger traffic issue as soon the 45 new buildings will be ready for use - which are to have an exit point just a few yards down the road. This is a huge additional concern. The speed limit is 40 mph and surely this is an issue.
- nn. There will be an increased level of noise and extended working hours which are not conducive to a village residential setting in addition to light pollution caused by the increased height of the buildings and the fact that they will be seen easily.
- oo. The planning application shall be studied by a planning officer who has not previously recommended granting this application.
- pp. Understand the need for business development but not in this area of the village, with the increased houses it is becoming more residential not less, more children using the road.

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), E2 (Other Industrial and Business Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE4 (Landscape Character and Local Distinctiveness) and INF2 (Sustainable Transport).
- 2017 Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in Rural Areas) and BNE7 (Trees, Woodland and Hedgerows).

The relevant national guidance is:

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

The relevant local guidance is:

- South Derbyshire Design Guide SPD

Planning considerations

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

- Principle of development;
- Impact on the character and appearance of the area;
- Impact on neighbouring amenity; and
- Highway safety.

Planning assessment

Principle of development

The current application is revised submission of the scheme under application ref. 9/2019/0299. Permission was withheld on the basis that the site is located within the countryside and is currently largely rural in character with any existing buildings and structures within the site being mainly single storey and sprawled in nature. It was considered that the proposed scale and layout of the proposed site did not assimilate well with the rural surroundings, and that it would attract a greater number of HGVs to the site which would compromise highway safety. There have been amendments made to the layout as part of the submitted application which include the moving of buildings further back into the site and additional landscaping details submitted in order to minimise the visual impact of the proposed development so to address concerns raised.

The site is located outside of the settlement boundary for the village of Hilton. Whilst the planning history for the site is not conclusive, the planning history does outline that that site has historically been used as a nursery (horticulture) in the past and would usually fall under the scope of an agricultural use. However, information was provided under the previous application (and also this one) that

indicates, on the balance of probability, the site has been used for a mixed business purpose comprising use classes B1(a) and B1(c) with some storage (B8). The submitted information includes business rates details as well as evidence of goods vehicles licencing, which this shows a ten year period of continuous use and payment of business rates for business purposes. The site would therefore be considered as an established industrial use and should be assessed as the redevelopment of an existing industrial site, as opposed to the creation of a new industrial use.

Policy E2 supports the redevelopment of industrial or business land provided that it lies within or on the edge of a Key Service Village and would not give way to undue impacts on the local landscape. Given that the site has historically been used for business use, the erection of the new B1(c) light industrial buildings would be consistent with the policy.

Impact on the character and appearance of the area

Policy BNE1 stipulates that proposed development should be visually attractive and should respect important landscape features, this being further supported by policy BNE4. The SPD provides more guidance on the design of proposals so to ensure their scale and appearance harmonises with the surrounding area.

One of the reasons for the previous refusal was due to the sites position in an location which is largely rural in character, with the existing buildings on the site predominantly single storey in height, and that the creation of buildings roughly twice as high in this location would be at odds with this character. In addition, it was considered that the erection of industrial units in this location would not harmonise with the mainly residential neighbouring uses and would have a fairly urbanising effect.

The proposed layout is similar to that of the layout previously submitted. However, the Committee made clear previously that the proximity to Derby Road and the height of the units were the main factors which led to the above conclusion. The revised scheme has stepped back some of the proposed units to reduce their dominance, whilst materials have been revised to reflect a more rural and traditional character. The overall height of the buildings has been reduced by nearly half a metre with the eaves line also reduced, lessening the massing and scale impacts of the buildings. Furthermore, a robust landscaping scheme is proposed as part of the application in order to further reduce the visual impact of the development and to soften the development against the rural backdrop to the rear. This landscaping could be designed, through detail required by condition, to ensure the planting is nurtured and maintained so to provide screening and softening of the development through its adolescent years on to maturity. Use of bunds can also contribute to this screening. Given the approval of the neighbouring residential schemes, which would introduce two storey residential properties within close proximity of the site which will alter the wider appearance of the area and the landscape on entering the village of Hilton; the degree of landscape change arising from the proposal would not be too dissimilar to that already permitted. Enclosure to the east would be strengthened under the proposals to ensure similar enclosure of the residential scheme to the west and north-west. Therefore, owing to the impending changes in the local landscape and streetscene owing to already approved schemes, the creation of industrial units of similar overall heights and massing of those residential schemes is not considered to have such a harmful visual impact so to withhold permission any longer.

The proposed redevelopment would also result in the clearing of the site and condense the built form into a more structured and organised fashion, providing strong boundaries to all edged to prevent further 'creep'. Ample space is available for turning and manoeuvring and it would not constitute an overdevelopment of the site. Therefore, subject to the use of suitable materials and an effective landscaping scheme to soften the visual appearance of the site and retain the hedgerow to its frontage, it is considered that the proposal would be suitable and consistent with policies E2, BNE1 and BNE4 of the Local Plan.

Impact on neighbouring amenity

Concerns have been raised by local residents with regard to the use of the site for industrial purposes,

given the proximity of the site to residential uses. However, the principle of the use for industrial purposes has been established through the historical use and light industrial uses are generally considered appropriate close to residential areas. The previous application was revised to omit the more disruptive B2 (general industry) and B8 (storage and distribution) uses, and noise impacts on residential amenity was not a reason for refusal previously. Indeed, it would not be reasonable to withhold planning permission on the basis of the nature of the proposed use as the site could be continued to be used in an uncontrolled fashion for similar and more harmful purposes without the erection of further buildings.

There have also been concerns raised with regard to issues of overbearing and overlooking from the proposed units. The proposed units would be just under 8m in height and would be separated from the existing residential properties by Derby Road, of which the Council's Design Guide (although not applicable to industrial development) does relax the proposed separation distances between existing and proposed residential development that is separated by a highway. The side elevations of units 3 and 4 would be positioned along the site frontage and would be closest elevations to the neighbouring dwellings. These would not present habitable rooms facing towards the south and in any case would pose no unacceptable overlooking or shading issues due to the distance to the neighbouring residential properties (over 30m). The main aspects for proposed units is into the central courtyard and thus there is not a concern in respect of loss of privacy, with the proposal according with policies BNE1 and SD1 and the Design Guide SPD.

Highway safety

Permission was also previously refused owing to the increased number of HGVs that would be experienced moving to and from the site. Comments have been received from the County Highway Authority who again consider that the required visibility splays can be achieved at the site and that the nearby speed survey provides a representative reflection of likely vehicle speeds, and thus the real splays required (over that which might be required as standard based on the posted speed limit). The plan provided demonstrate that suitable splays can be achieved within controlled land. With no substantiated objection to the proposed development, the proposal is considered to be suitable subject to the inclusion of conditions relating to the layout of the proposed access and the internal parking arrangement. The layout of the proposals would therefore comply with policy INF2 and the NPPF.

Concerns were also previously raised in respect of increased traffic movements to the site and the potential for HGVs to be accessing the site through a weight restriction. The 7.5 tonne restriction begins at the roundabout with the A5132 (top of The Mease bypass around the village) and covers Derby Road. It is therefore possible, by way of condition and without compromising the purpose of the restriction, to require this restriction to be 'moved back' to just west of the site access - ensuring that HGVs cannot be argued to be accessing property within the weight restriction area if approaching from the west along Derby Road. It must also be remembered that the Sutton Road industrial estate lies within the restriction and such traffic can already approach the centre of the village from either side of it.

Other matters

The proposed use would be for use class B1(c) with ancillary offices to support the B1(c) uses. There would be no retail element to the proposed use which would increase the numbers of comings and goings to the site, and this could be appropriately conditioned. Drainage matters are also considered to be satisfactory, subject to conditions, with the principle of on-site attenuation and acceptable discharge rates from the site having been demonstrated.

Conclusion

It would appear that, on the balance of probability, the site has been used for business purposes for a period of in excess of ten years. The principle of redeveloping the site for the same is thus acceptable. Changes to the surrounding landscape are already forthcoming due to the neighbouring developments, and the erection of the proposed buildings in this location would not have a materially different and

harmful impact in terms of size, scale and massing, and would be consistent with the historical use of the site. Subject to appropriate detailed design and landscaping, and controls on the use of the units so to safeguard neighbouring amenity; the proposal would accord with policies E2, BNE1, BNE4, BNE5, SD1 and INF2 of the Local Plan.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, 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 permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings ref. 1385 - 001, TTH - MMA - Z1-ZZ-DR-A-02001, 1001, TTH-MMA-Z1-ZZ-DR-A-02002, THL-0757, and TTH-MMA-Z1-ZZ-DR-A-02001, unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the units hereby approved shall be used only for purposes falling within class B1(c) of the Town and Country Planning (Use Classes) Order 1987, as amended, or any order revoking and re-enacting that Order with or without modification, and for no other purpose in Class B of the schedule to that Order. Specifically, there shall be no trade counters included as ancillary to such use.

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

4. No development, including preparatory works, shall commence until a scheme for the creation of suitable alternative nesting sites for swallows along with a timetable for the provision of such measures, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme with the alternative provision thereafter retained and maintained in situ.

Reason: In the interests of the preservation of the species and that there would be no loss throughout the construction period.

5. No development, including preparatory works, shall commence until protective fences have been erected around all trees and hedgerows shown to be retained on the approved plans. Such fencing shall conform to best practice as set out in British Standard 5837:2012 and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and

trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

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

6. No development, including preparatory works, shall commence until a biodiversity enhancement strategy, has been submitted to and approved in writing by the Local Planning Authority. The details shall include (but not exclusively relate to) the biodiversity enhancement measures outlined in sections 5.17 and 5.20 of the Preliminary Ecological Appraisal report prepared by Absolute Ecology dated January 2018. The approved measures shall be implemented in full as construction proceeds and completed prior to first occupation of the development and thereafter maintained as such.

Reason: To protect species during the construction period and to ensure that biodiversity gain is incorporated into the development.

7. No development, including preparatory works, shall commence until a Risk Assessment/Method Statement for amphibians and reptiles, detailing Reasonable Avoidance Measures, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Risk Assessment/Method Statement.

Reason: In the interests of the preservation of the species and to reduce any harm posed during the construction period.

8. No development shall take place until a detailed design and associated management and maintenance plan, in line with CIRIA SuDS Manual C753, of the surface water drainage for the site, in accordance with the principles outlined within:
 - a. The Flood Risk Assessment v2.0 (supplied June 2020) and including any subsequent amendments or updates to those documents as approved by the County Flood Risk Management Team; and
 - b. DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design, prior to the use of the building commencing.

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

9. 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.

10. Prior to commencement of the development, the applicant shall submit for approval to the Local Planning Authority, 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 Local Planning Authority, 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.

11. No development should therefore commence until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority. Alternatively the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Both schemes shall meet the requirements in Box 4, Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated', and include relevant mitigation where necessary. The approved preventative or mitigation measures (if any) shall be incorporated the development and upon completion, verification of their correct installation (if any) shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the development hereby permitted.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site.

12. The development hereby permitted shall not be commenced until details of radius of kerbs at the vehicular access, determined by swept path manoeuvring for the largest goods expected to and from the site, have been submitted to and approved by the Local Planning Authority. The radii kerbs at the access shall be implemented in accordance with the approved details.

Reason: In the interest of highway safety and to ensure that the bellmouth would be suitable for its intended use before the construction phase commences.

13. The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The details shall accord with the revised layout to be submitted pursuant to condition 22. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason: In the interest of highway safety.

14. Throughout the construction phase space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

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.

15. During the period of construction, no ground, construction or fitting out works shall take place other than between 0730 and 1800 hours Monday to Friday and 0800 and 1300 hours on Saturdays. There shall be no works on Sundays or public holidays except in an emergency.

Reason: To protect the amenity of local residents by way of noise or disturbance.

16. Throughout the construction phase 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.

17. The proposed access to Derby Road shall be no steeper than 1 in 30 for the first 10 metres from the nearside highway boundary.

Reason: In the interest of highway safety.

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

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

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

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

20. Prior to occupation of the proposed units a new vehicular access shall be formed to Derby Road laid out in accordance with the approved plans, including those approved under condition 12. The vehicular access shall be provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 120 metres to the south west and 73m to the north east, measured along the nearside carriageway edge. The land in advance of the visibility sightlines shall be retained throughout the life of the

Reason: In the interest of highway safety.

21. Within 28 days of the new access being taken into use, the subject of condition 20 above, the existing vehicular accesses to Derby Road shall be permanently closed with a physical barrier and the existing vehicle crossover(s) reinstated as footway and verge in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety.

22. No unit shall be taken into use until respective parking spaces have been laid out within the site in accordance with an amended layout first submitted to and approved in writing by the Local Planning Authority for no less than 52 cars to be parked, including disabled parking spaces, and for vehicles to turn so that they may enter and leave the site in forward gear. The amended layout shall make clear the areas to be kept clear for access and circulation to vehicular access doors in the units, pedestrian routes and areas of incidental landscaping, and be supplemented with full details of the surfacing materials to be used in their construction. These spaces and circulation areas shall thereafter be retained for use at all times.

Reason: In the interest of highway safety and to ensure that users of and visitors to the site are not intimidated by vehicles, and to enhance the visual appearance of the development.

23. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The details shall accord with the revised layout to be submitted pursuant to condition 22. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

Reason: In the interest of highway safety and to ensure that bin storage will not obstruct the highway.

24. Notwithstanding the submitted details, prior to the first occupation of the units, revised details of a scheme of proposed planting and landscaping, along with a landscape management plan for the long term management of such areas, shall be submitted to and approved in writing by the Local Planning Authority. This revised scheme shall ensure that landscaping buffers to the southern and eastern edges are complimented, where feasible, by bunds and planted so to ensure a mixture of young and semi-mature planting so to ensure continual screening as the planting and landscaping matures. All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the completion of the development, whichever is the sooner; and any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation Planning Authority.

Reason: In the interest of visual amenity and the character of the area.

25. Each unit 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.

26. Prior to the first occupation of the development, a verification report 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 Non-statutory technical standards for sustainable drainage and CIRIA standards C753.

27. The attenuation pond 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.

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

28. Recharge points for electric vehicles shall be provided within the development to comply with the following criteria:
1 charging point for every 10 parking spaces (or part thereof) which may be provided in phases first submitted to and approved in writing by the Local Planning Authority.
Charging points 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. Alternative provision to this specification must be first submitted to and approved in writing by the Local Planning Authority.
To prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first submitted to and approved in writing by the Local Planning Authority.
The electric vehicle charging points shall be provided in accordance with the stated criteria and approved details prior to the first occupation or use of the respective premises and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

Reason: In the interests of protecting and enhancing air quality through reducing and minimising emissions from vehicles.

Informatives:

- a. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, email highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.
- b. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- c. Pursuant to Section 127 of the Highways Act 1980, no works may commence within the limits of the public highway to reinstate the footway/verge and redundant vehicular accesses without the formal written Agreement of the County Council as Highway Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email – kevin.barton@derbyshire.gov.uk. The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.
- d. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- e. The application proposals are affected by a Prescribed Improvement Line and Building Line under the Public Health Act / Roads Improvement Act 1925. Whilst it is an offence to undertake building works in advance of this lines, it may be possible for the applicant to apply to rescind the lines. The applicant is advised to write to the Strategic Director of the Economy, Transport and Environment Department at County Hall, Matlock, DE4 3AG, at least 6 weeks before commencing works requesting that the lines be removed and confirming that they will meet the Authority's administrative / legal costs if the removal is approved. For further advice, please contact Mr G Hill, Principle Engineer, Development Control (tel: 01629 538647).
- f. The Lead Local Flood Authority 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. No part of the proposed development shall be constructed within 3-8m of an ordinary watercourse and a minimum 3m for a culverted watercourse (increases with size of culvert). It should be noted that the Lead Local Flood Authority has an anti-culverting policy. Furthermore, any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the Lead Local Flood Authority. For further advice, or to make an application please contact Flood.Team@derbyshire.gov.uk and have regard to the response of the Lead Local Flood Authority dated 29 June 2020 available at <http://planning.southderbyshire.gov.uk> under the planning application reference DMPA/2020/0156.

Item No. 1.2

Ref. No. [DMPA/2019/0966](#)

Valid date: 30/10/2019

Applicant: Rory Mulroe

Proposal: The variation of condition no. 6 of permission ref. 9/2017/1262 (relating to change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding) on Land at SK3221 7095 (Rowan Woods), Ticknall Road, Hartshorne, Swadlincote

Ward: Woodville

Reason for committee determination

This application is presented to the Planning Committee at the request of Councillor Dawson as local concern that has been expressed about a particular issue.

Site Description

The site is located within the National Forest and provides overnight tourist accommodation in the form of tipis and yurts with associated structures. The site relates to access routes and small clearings within woodland, located amongst a footpath network. The existing tree cover is relatively dense, minimising views into and out of the site.

The proposal

Planning permission was granted under ref. 9/2017/1262 for the erection and retention of tipis and yurts and for the change of use of the site to a tourism use. Consent is now sought to vary condition 6 of that permission which prohibited the use of open fires at the site unless they were for BBQs. The intention is to allow for fires to be held, solely for maintenance purposes, three times a year at a specific location to the south of the site, and for the erection of three fire pits for BBQs to be carried out in three specific locations.

Applicant's supporting information

A [Fire Policy Statement](#) outlines how proposed BBQs and fires for maintenance purposes would be carried out and provides an overview as to how they would be operated. The BBQs would only be allowed to be held at the proposed fire pits and not elsewhere within the site. The Management Company would provide the wood that would be used, so that it would be dry and would be less likely to cause smoking and would burn more efficiently. The fires for maintenance purposes would be conducted 2/3 times a year and would only be conducted by Management at the site in a designated area during dusk periods of the day and only during appropriate weather conditions. Whilst every endeavor is made to create a carbon neutral business, it is noted that the 21 acres of the site has the ability to absorb 50 tonnes of carbon annually and that this would offset the carbon that the business is calculated to produce. Where possible, renewable energy alternatives would be used.

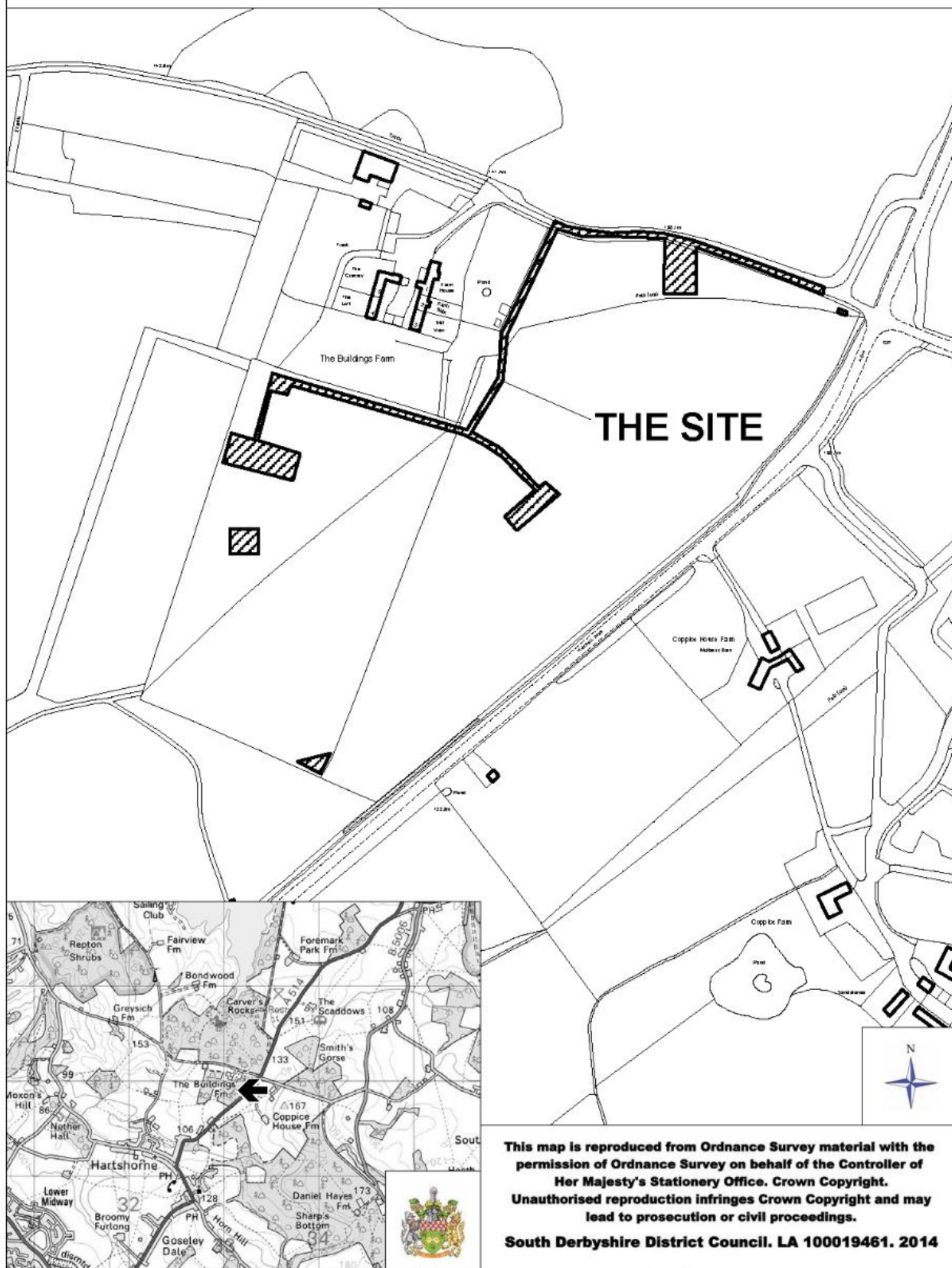
Relevant planning history

9/2015/0440: The erection of a log cabin to be used for holiday lettings (to the north of the site) - approved June 2016.

9/2017/1365: The erection of a log cabin to create a live/work unit along with creation of parking and turning area and decking at Buildings Farm (adjacent to the site) - refused March 2018.

9/2017/1262: Change of use of land for tourism purposes and retention of a yurt and a tipi with associated sauna and compost toilet structures with parking and hardstanding - Approved May 2018.

DMPA/2019/0966 - Land at SK3221 7095 (Rowan Woods), Ticknall Road, Harstorne, Swadlincote (DE11 7AU)



9/2018/0941: The retention of a pergola and pond - Approved November 2018.

Responses to consultations and publicity

The Environmental Health Officer has no objections on the basis of the frequency that the maintenance fires are to be carried out. It is also suggested that a condition be placed to restrict BBQs to the hours of 4pm to 8pm each day.

There have been 28 representations received from 9 different properties, raising the following issues:

- a. The plans for the fire pits and BBQ area make this site a significant camping area albeit with a yurt and tipi but the fire risk in the warmer summers would be increased considerably.
- b. What restrictions will there be on the holiday makers. Is there a warden on site if there is a fire. This area is on the edge of the National Forest and should be retained as an area of beauty and risk free.
- c. Not enough consideration has been given to people living in this area or for the activities proposed, much of what happened in the Peak District last year could happen here.
- d. The new photo now specifically shows a fire pit, of which there are three, the plan does not show the precise locations of the three fire pits, just the areas.
- e. The original application 9/2017/1262, which was passed at committee, stipulated no open fires. It isn't acceptable to have fire pits so close to neighbouring properties and there is also a livery right next to one location and so the smoke will affect the horses.
- f. No objection to using gas or charcoal BBQs provided that they're used at sensible times throughout the year, but not log fires. Surely there are more environmentally friendly ways of disposing of forest waste. In the current climate of global warming?
- g. In the summer months there is chance of causing forest fires as all the pits are within the forest. The fire service would need to be on standby too. No objection to using the log cabin as a holiday let but it shouldn't affect the standard of living of neighbouring occupiers whether through noise or smoke.
- h. The forestry commission rules stipulate no burning of waste near residential areas or in forests, only in open spaces.
- i. The burning of waste is to save money but will create smoke pollution neighbouring occupiers, walkers on the public tracks adjoining these sites and smoke damage to neighbouring properties. There are Health and Safety issues (HSE issues) in the dry summer months.
- j. If this application is allowed and causes smoke damage to neighbouring properties, residents will seek compensation from the council.
- k. A 1m by 600mm deep pit can burn a lot of wood causing harm to residents as they would be in the direct line of neighbouring living room and bedroom windows.
- l. There appears to be no restrictions on times proposing to light these fire pits. Walkers at Rowan Woods are concerned about the smoke pollution this causes to individuals and the environment. All three fire pits are very close to the public footpaths where people walk their dogs.
- m. Most UK glamping sites allow small BBQs fuelled either by charcoal or gas.
- n. A proposal for three large fires a year; given the size of the area there will be many tons of waste which will result in very large fires. These are likely to be smoking for a number days after lit and would be unacceptable and dangerous if emergency services aren't present as the site is close to forest and dense tree planting.
- o. There is no reason why the current condition should be overturned and this has been applied for within twelve months of the original application.
- p. Policy INF10 stipulates that tourism development shall not give rise to undue impacts on the local landscape and natural environment. This would impact on people who walk through the National Forest.
- q. No dimensions given for the fire pits. This is a designated 'quiet zone' and would encourage noise after 10pm.
- r. The fire pits have been applied for so the visitors can keep warm during the evening.
- s. The D7 exemption on the Government's website states that there should be no nuisance to residents from smoke.

- t. This presents potentially six to nine fires being carried out in three locations across the site every day.
- u. There is no fire safety plan for the site and the use of the fire pits.
- v. The fire pits would be 200m away from two properties.
- w. The fire pits would be 100m away from the nearest residential properties and would allow smoke to enter neighbouring residential properties. The outside hot tubs and saunas would also be fire heated and policy SD1 seeks to protect amenity of the occupiers of neighbouring land.
- x. Original permission confirmed that he could not have wind turbines.
- y. A previous application by Midlands Logging Company to make charcoal and burn wood at the Buildings Farm site has previously been turned down and reported due the impact on the local environment.
- z. Rowan woods is part of the national forest. Although there are public footpaths through the woods, the general public have the 'right to wander' on any part of the land. There is a public footpath only metres from each of the locations. There are a lot of families and dog walkers who walk on these paths and regularly wander into the woods. Its dangerous to have a fire pit which can be touched. Also, what about burning embers in the air? Who takes responsibility if somebody gets burned? People have 'wandering rights' throughout the land.
- aa. The Forestry Commission allow to burn forest waste only if it does not cause a nuisance to neighbours.
- bb. The open fire at the yurt is 20m away from the nearest property.
- cc. The Environment Agency advises that the burning of forestry waste is against environmental regulations and is an environmental pollutant and against the law.

Hartshorne Parish Council has concerns with the removal of condition 6 and that this will lead to unattended open fires. The site is not extensively used and it is felt that open fires would be of major concerns for the local residents.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD1 (Amenity and Environmental Quality), BNE1 (Design Excellence), BNE3 (Biodiversity), INF8 (The National Forest) and INF10 (Tourism Development).
- 2017 Local Plan Part 2: SDT1 (Settlement Boundaries and Local Distinctiveness), BNE5 (Development in Rural Areas) and BNE7 (Trees, Woodland and Hedgerows).

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 SPD

Planning considerations

Condition 6 presently states *“notwithstanding the submitted details, there shall be no open fires, other than BBQs, at the site”*. Under the scope of the existing permission, therefore, no fires for maintenance purposes can currently be carried out within the site, but BBQs can be carried out anywhere within the site boundary.

The current application seeks to vary the wording of condition 6 to allow for an open fire for maintenance purposes to be carried out at a precise location within the site on three occasions within a year, noting that there is a need to maintain the woodland and under storey growth, and for the erection of three fire pits where it is the intention for BBQs to be carried out so to accord with a Health and Safety Management Plan. It would be considered that the erection of the fire pits would be development

facilitating the use and therefore fall under the scope of the development facilitated by the existing permission.

If permission is granted on an application made under section 73, the permission has effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, and it is open to the applicant to decide whether to implement the new permission or (continue with) the one originally granted.

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 the impact on amenity and resulting air quality impacts.

Planning assessment

Policy SD1 allows for development that would not lead to adverse impacts on the environment or the amenity of existing and future occupiers. Given the application is made under section 73, to vary condition 6, this focus under is whether the proposed changes would have a more harmful impact on the amenity of the local area and neighbouring residents when compared to what has already been permitted.

Concerns have been raised by local residents with regard to smoke from the BBQs and the impact that this would have on the enjoyment of their dwellings, as well as concerns for local dog walkers and families who could walk through the site with 'roaming rights'. However, the BBQs can already take place anywhere within the wider site under the existing permission and thus this application would not worsen these potential impacts. Attention is therefore given to the substantive changes proposed - the maintenance fires and the fire pits.

Maintenance fires

The use of the site for fires maintenance purposes would introduce a new scope for fires to be carried out where such type of activity is not currently permitted. It is proposed that these would take place in a precise location to the south of the site and would only be carried out a maximum of three times a year. Whilst a more sustainable method of site management would be ideal for the disposing of waste, within reason individuals can carry out fires to dispose of waste without requiring planning permission to do so (e.g. a bonfire in a domestic garden). Environmental Health legislation is usually more appropriate at this point; however, this activity is currently prohibited by the wording of condition 6.

Given that this is a practice carried out without any control, nor it actually constituting development requiring planning permission, at various sites across the District, it is not considered reasonable to withhold permission on this basis. Owing to the infrequent nature of the maintenance fires, and there has been no objections raised by the Environmental Health Officer; given that the precise location and extent, and number, of fires can be controlled; it is not considered this would have a demonstrable and unacceptable impact on the amenity of local residents - particularly given the distance between the proposed burning site and prevailing winds. The proposal would therefore comply with policy SD1.

Concerns have been raised in respect of carbon emissions that would be expelled by removing waste from the site in this way. Whilst every endeavor is made to reduce burning of waste, the altering of the wording of the condition would not prohibit more sustainable methods of waste management still being carried out. Exporting waste from site for other means of disposal brings about transport requirements, whilst it would also be an unreasonable burden imposed by the planning system if permission were to be withheld on this basis. Owing to the proposed frequency of the maintenance fires, and that this is a practice that it is widely carried out, this would not contribute significantly to overall carbon omissions to the extent which would be unsustainable - particularly noting that the wooding of the land has provided a carbon sink.

Fire pits

The proposed fire pits would be positioned within three specific locations within the site and would be 0.6m in height and 1.0m in diameter with a stone finish. Given the height and size of the fire pits, and their discrete locations, it is not considered that this would have a harmful visual impact or would be out of keeping with the immediate locality, complying with policy BNE1.

Health and safety requirements for the overall site have highlighted that visitors are currently permitted to have BBQs across the site. The creation of the firepits to house BBQs would be a suitable way to limit the risk and ensure that BBQs could take place safely at the site (i.e. this would reduce the risk of disposable BBQs being used elsewhere).

Concerns have been raised with regard to the type of fuel that would be used for the BBQs and the position of the fire pits close to residential garden space, which could result in smoke entering neighbouring properties. As noted, the scope of the current condition allows for open fire for BBQs anywhere within the site - even closer than the currently proposed fire pits. The proposal here would provide some certainty as to the degree of separation achieved, also limiting the scope for noise disturbance associated with their use. This is considered to result in a betterment in terms of the impact on neighbouring amenity. In addition, having three specific locations with physical structures demarcating them would also provide more awareness and protection for walkers and other users of the site.

The Environmental Health Officer expressed that a desire to incorporate a condition to restrict BBQs to be carried out only between the hours of 4pm to 8pm. However, the application cannot be used to further constrain the already consented use. There is no evidence to suggest that use to date warrants such a restrictive approach and it is certainly not unreasonable for a BBQ to be held at lunchtime, for instance. Furthermore, the existing permission provides an unrestricted fallback position in this respect and such a condition would fail to meet the test of reasonableness.

Conclusion

It is considered that the creation of specific fire pits in three specific locations to house BBQs would provide a betterment on the existing situation, providing more certainty for neighbouring residents as to the location and extent of potential impacts. The use of a particular area of the site for fires for maintenance purposes would be consistent and proportionate with practices at other sites and would still remain controlled in terms of the impact on neighbouring residential amenity. It would be considered that the proposed variation of condition and associated works would accord with policies SD1 and INF10 of the Local Plan.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, 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 permission subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with following plans/drawings and documents; the 1:2500 plan received on 30 October 2019, showing the position of the proposed fire pits and area for maintenance fires; Fire Policy and BBQ Dimensions received 10 December 2019 under application ref. 9/2017/1262; the amended Location Plan received on 14 December 2017; Site Plan 1, Site Plan 2, Site Plan 3, Yurt Floor Plan, Yurt Elevation Plan, Tipi Floor Plan, Tipi Elevation Plan, Compost Toilet Floor Plan, Compost Toilet Elevation Plan, Hot Tub Floor Plan, Hot Tub Elevation Plan, Sauna Floor Plan and the Sauna

Elevation Plan all received on 9 January 2018 under application ref. 9/2017/1262; the document 'Change of use of Forestry Land at Rowan Woods to tourist accommodation Glamping sites' received on 9 January 2018 under application ref. 9/2017/1262; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

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

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) and Article 3 and Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, or any Order(s) which revokes, amends or replaces that Order(s); this permission shall relate to the use of the premises as described in the application documents and for no other purpose.

Reason: In order that the Local Planning Authority may retain control over the future use of the premises, and in the interests of the amenity of the area and highway safety.

3. Prior to the first use of the fire pits and first controlled open fire measures shall be implemented to ensure the sole vehicular access to the site from Ticknall Road (A514) is via the access shown on approved location plan with the alternative access blocked off.

Reason: In the interests of highway safety.

4. Prior to the first use of the fire pits and first controlled open fire a scheme of noise control shall be submitted to and approved in writing with the Local Planning Authority. This scheme shall include details of a 'quiet site' policy, enforced between 10pm and 8am, details of site management which shall be provided by means of signage by the site entrance, and the contact details of person with responsibility for the site made available. The scheme shall be carried out in accordance with the approved details prior to the first use of the fire pits and first controlled open fire.

Reason: To ensure the amenity of local residents and their ability to enjoy their properties.

5. Prior to the first use of a hot tub, details of acoustic screening of the hot tub areas shall be submitted to and approved in writing by the Local Planning Authority. The screening shall be installed prior to the first use of each respective hot tub and retained as such thereafter.

Reason: To protect the amenity of neighbouring residents.

6. Notwithstanding the submitted details, other than BBQs there shall be no open fires on the site other than for site maintenance purposes only to a maximum of three open fires within a calendar year.

Reason: In the interest of the public amenity.

7. There shall be no external lighting fixed to any structure on the site.

Reason: To protect the public amenity from light pollution.

8. The site shall not be occupied by guests until details of a scheme for the disposal of surface and foul water have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been approved before the first use of the site by guests.

Reason: In the interests of flood protecting and pollution control.

9. Prior to the first use of the fire pits and first controlled open fire, a health and safety risk assessment incorporating an emergency plan for the evacuation of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved recommendations of that assessment shall then be implemented in full as stated throughout the lifetime of the development.

Reason: In the interests of public safety.

Informatives:

- a. The grant of planning permission does not entitle developers to obstruct public rights of way affected by the proposal. Development, in so far as it affects the right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of the Town and Country Planning Act 1990 for the diversion or extinguishment of the right of way has been made and confirmed. Nor should it be assumed that because planning permission has been granted an order will invariably be made or confirmed.
- b. Further to condition 9 above, the Council will expect the plan to ensure compliance with the Regulatory Reform (Fire Safety) Order 2005.

Item No. 1.3

Ref. No. [DMOT/2020/0362](#)

Valid date: 24/04/2020

Applicant: G Dunnicliff

Agent: Andrew Dukesell
DBD Architectural Consultancy Ltd

Proposal: The pruning and laying of remaining trees covered by South Derbyshire District Council Tree Preservation Order no. 477 on Land between 49 and 59 Manchester Lane, Hartshorne, Swadlincote, DE11 7BE

Ward: Woodville

Reason for committee determination

This item is presented to the Planning Committee at the discretion of the Head of Planning and Strategic Housing, noting the Committee's previous involvement in development proposals and Tree Preservation Orders (TPOs) at the site.

Site Description

The trees are located on the southern tip of a wider T-shaped site, which has been subject to development proposals and a related appeal in recent years. The trees are a vestige of a former hawthorn hedgerow bordering the highway which have been left unmanaged for many years, some 10-12m in length. Recently, a handful of specimens have been removed under a planning permission for widening the access and construction of an agricultural building on the land further back from the highway.

The proposal

It is proposed to lay the remaining trees as part of traditional practices with hawthorn hedgerows around the country.

Applicant's supporting information

Other than the plan, none supplied.

Relevant planning history

9/2018/1306: Erection of agricultural building with access track - approved March 2019.

9/2018/0920: Laying of a hawthorn hedge - refused October 2018 but allowed at appeal (ref. APP/TPO/F1040/7065).

9/2017/1184: Siting of 4 holiday cabins with associated parking and access - refused February 2018 and appeal (ref. APP/F1040/W/18/3200936) dismissed.

9/2017/0342: Siting of 4 holiday cabins with associated parking and access - refused June 2017.

Responses to consultations and publicity

Hartshorne Parish Council objects on the following grounds:

- i. why does the entrance needs to be widened, as the agricultural land is relatively small and does not require machinery that cannot currently reach it;
- ii. the TPO on the hedges has been investigated with the last 2 (recent) applications, with the first application considered at appeal and it being concluded the the TPOs should remain; and

THE SITE

131.8m

140.0m

BLACK LANE

Track

Horn Hill

Horn Hill

North Arrow

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South Derbyshire District Council. LA 100019461. 2014

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South Derbyshire District Council. LA 100019461. 2014

- iii. if the gate is widened to accommodate larger machinery, it must impact on this narrow country lane.

8 objections have been received from 7 neighbouring properties, raising the following material comments:

- a. there was a reason why these trees were protected by TPO - why should this be removed on the proposal of planting 1 tree in its place;
- b. the works would impinge on the integrity of the TPO, more so that the scheme allowing the widened access and contradicting officer advice at a previous Committee meeting;
- c. the reasons for refusing works to TPO472 are equally applicable here;
- d. the agricultural access is already comparable in size to all other agricultural access points along Manchester Lane and no other landowner needs to widen their access to cater for the largest of farm machinery;
- e. why, in the act of widening the access, do all the trees need laying or removing?
- f. the applicant claims shading is an issue, but what is being shaded and, if so, what is the impact of this?
- g. thus far, there is no grassland for sheep to be feeding on as stated in the barn application, and grass grows in shaded areas.
- h. the consideration that the barn would cast shadow over the vast majority of their garden couldn't be considered previously, so how can it now?
- i. the developer seems to be using as many tricks as possible to get around planning;
- j. the developer is attempting to increase the value of their land;
- k. there are no arboricultural reasons (health, etc.) for the works to be undertaken;
- l. the trees are part of the character of the lane;
- m. Manchester Lane is an ancient hollow way and intrusion into the countryside even for agricultural purposes, should be treated carefully;
- n. the appeal inspector's comments must be taken into account under ref. APP/F1040/W/18/3200936 where it is described that the trees are "*a prominent street entrance to the site*" and supports the retention of the majority of the group, referring that the 'entirety of the group' should not be impinged upon;
- o. the boundary is alive with wildlife and any work should comply with regulations to protect nesting birds and wildlife;
- p. there is no need to remove these trees;
- q. allowing the works would set a precedent for others elsewhere to apply for the same; and
- r. the planning application for the barn states existing trees and hedges on the site are not to be removed to facilitate the development.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), BNE3 (Biodiversity) and BNE4 (Landscape Character and Local Distinctiveness); and
- Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows).

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF); and
- Planning Practice Guidance (PPG).

Planning considerations

The need for the access is not a consideration under this application - the principle of that was established under a previous permission with that permission, through Regulation 14 of the 2012 Regulations, allowing for removal of some protected trees to facilitate the development. The proposal has been amended to reflect this, noting that further removal is not required after initial ground works have secured the necessary removal.

Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issue central to the determination of this application is whether the works are justified given the protected status of the trees.

Planning assessment

The proposal falls to be assessed primarily under policies BNE7 and BNE4, with ancillary consideration also given to BNE3.

Policy BNE7 deals with development proposals under part A. The development of the associated land cannot be directly linked to the applicant's desire to lay the hedgerow, so consideration turns to part B. This states *"the felling of protected trees, groups of trees or woodland and/or removal of important hedgerows, will be considered in accordance with the relevant national guidance and regulations, taking account in particular of their amenity, ecological, landscape and historic value"*. The proposal does not concern felling, so attention instead turns to policy BNE4.

Policy BNE4 states *"developers will be expected to retain key valued landscape components such as mature trees, established hedgerows and topographical features within development sites unless it can be demonstrated that the loss of features will not give rise to unacceptable effects on local landscape character"* and that *"in bringing forward proposals developers will be expected to demonstrate that close regard has been paid to the landscape types and landscape character areas identified in The Landscape Character of Derbyshire"*.

The Council's Tree Officer notes the line of trees fronting this site lend themselves well to hedge-laying and would provide an interesting feature, albeit with different aesthetics. Presently, the trees do provide an interesting feature and a higher eyeline view of their canopies by passing public on the road. A managed hedge would have reduced visibility, and therefore slightly lower visual amenity value. However, counteracting this is that a properly managed hedge would provide a quirky and somewhat unusual visual frontage to the site. Such hedges are rapid to re-grow and vigorous growth would quickly fill hedge voids and would soon become an effective green screen. It should also be noted that nos. 41 to 49 Manchester Lane provide a material interruption in the otherwise similarly higher, native hedgerows further north-west and south-east along Manchester Lane. With this in mind, this section of hedgerow is viewed as an isolated feature, against the backdrop of residential properties in the immediate environs. There is a continuous, lower flailed hedgerow on the southern boundary to Manchester Lane.

In terms of policy BNE3, many ornithologists suggest overgrown hedges provide better habitat for nesting birds, whilst others say the dense compact nature of managed (farmland-like) stock-proof hedges provide habitat for smaller birds that require low level dense cover. As such, there is not considered to be a demonstrable negative overall impact on wildlife, given the available tree cover in the vicinity, whilst the proposed Oak tree would counter some of this impact in the long term.

In considering the planning merits, the line of hawthorns is comparable to those to the rear of the land parcel here. They are a former hedgerow which has been left unchecked for many years leading to their current status, qualifying as trees. However, that is not to say that their current status is in keeping with the area with laid and flailed hedgerows more characteristic of the local landscape character. The introduction to the Coalfield Village Farmlands character area of the Landscape Character Assessment (LCA) description states that there is a scarcity of hedgerow trees and that hedges tend to be low cut. The value of these trees in the local area must thus be a key consideration.

Although the hedge is prominent in views from the public highway in the immediate vicinity, as well as adjoining residents; this is about the limit of their visual contribution with other boundary hedgerows and vegetation screening them beyond the immediate locale. Whilst height gives them some prominence, it is a vestige of the former hedgerow which would have previously fronted the lane before the fragmented ribbon of dwellings was constructed. It is but one component of the overall mosaic of landscape features in the area.

In considering the proposal, assessment focusses on the landscape and visual effects of replacing an overgrown hedge with a maintained hedge, not the loss of the hedge itself. A maintained hedge would have a slightly lesser visual impact in this context. However, a change in the immediate locale would be noticed, in the wider landscape a laid hedgerow would not appear any less appropriate.

It should be noted that a similar hedgerow, although longer, is subject to protection at the rear of the associated site. A recent appeal was allowed on the basis that the hedge-laying would have a largely neutral effect on the underlying landscape character. Representations make much of the removal of shade being instrumental in allowing the appeal, but the inspector states it is only a small benefit weighing in favour of the proposal. The key paragraph in the decision states:

"18. Consequently, given the species involved and their age and growth pattern I am not satisfied that there are reasonable management alternatives to laying this hedge. Moreover, if left unchecked, it is likely that the plants would become leggy and gappy at the base. Whilst such remnant hedges can be attractive features in a landscape, I can appreciate that the appellant would like a secure and easily managed boundary..."

The Inspector in the earlier appeal stated *"the majority of the group would remain; forming the main feature at what is a prominent street frontage entrance to the site. With this in mind, and considering the measures that could be employed to protect what is due to remain of the group through the development, I do not feel the appeal scheme would be harmful to the character and appearance of the area in respect of the loss of trees"*. It must be recognised that the trees would not be lost. Their contribution to visual amenity would be altered, as already outlined, but this is not determinative of the current proposal. This statement is not considered to provide a particular direction on how this application should be treated.

Planning Practice Guidance advises that where there is limited visual amenity derived from protected trees, and the impact of the proposed works would be negligible, it may be appropriate to grant consent even where there is no arboricultural need for the work. There is essentially nothing of material difference between the appeal proposal and the proposal before the Council here. It is a shorter length, but it a component of the wider landscape and reads as remnant hedgerow. Its long term future will reside on some form of works, and it is difficult to envisage any alternative which is more appropriate.

Whilst the effect of this recommendation would mean the TPO would become effectively redundant, and the hedge would fail to meet criteria under the Hedgerow Regulations for a Hedgerow Retention Notice; there are no sound arboricultural reasons to resist the works - it is solely a matter of amenity and thus a planning judgement. That judgement has found that the long term amenity value of the group would be no less valuable than that which presently exists, noting that a 'do nothing' scenario is more likely in the longer term to cause substantive loss of the amenity it presently provides. It is noted that residents lent support to the similar works to TPO472 at the rear, commenting that, *inter alia*, low hedgerows are a documented characteristic of the local landscape, it would be best for the health and longevity of the hedge if it were laid, and it would be better for the local wildlife if the hedge were laid, with a dense base and laying a hedge providing an improved wildlife habitat (i.e. reflecting the observations made above on the subject trees/hedgerow). This, coupled with the very material planning consideration that the appeal for those identical works on TPO472 was allowed, despite that row of trees/hedgerow of much greater significance in the landscape, and the scope for the proposed Oak to compensate for loss of higher storey visual amenity presently offered; it is thus not considered the amenity value is so grand in its own right to resist the proposal.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, 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 work hereby approved shall be carried out within two years of the date of this consent.

Reason: To conform with Regulation 17 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the Local Planning Authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

2. Prior to any works to lay the hedgerow commence, a method statement shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved method statement.

Reason: In the interests of the visual amenities of the area and to safeguard habitat for the long term.

3. The new Oak tree to be planted on the site as detailed in drawing number PL 52G shall be planted in the first available planting season after the approved works have been carried out (1 November to 31 March inclusive). Should the tree become diseased, be removed or die within 10 years of planting an equivalent tree shall be planted and retained for at least the same period.

Reason: To safeguard the long term biodiversity and visual amenities of the area.

Item No. 1.4

Ref. No. [DMPA/2019/1177](#)

Valid date: 11/10/2019

Applicant: E Partington

Agent: Richard Giles-Grant

Proposal: The retention of a septic tank and formation of a vehicular access to serve Tiddly Frog Barn, Unnamed Road from Twyford Road to Buckford Lane, Stenson, Derby, DE73 7GB

Ward: Stenson

Reason for committee determination

This item was originally presented to the Planning Committee at the meeting on 30 June 2020 where Councillors resolved to reject the officer's recommendation and approve permission subject to conditions concerning the approved plans and a tree planting scheme. Following that meeting and prior to issuing a decision notice, it came to the attention of officers that the conditions requested by the County Highway Authority, relating to matters of highway safety, had not been included in the Committee's resolution. Since then, the applicant has also provided amended plans to fulfil the requirements of one of the County Highway Authority's requested conditions, whilst the tree planting scheme has also been supplied. This detail is provided in an attempt to negate any pre-commencement requirements of conditions otherwise attached to the permission, and reflects good practice in facilitating prompt delivery of the development.

The report below is therefore as previously presented with any changes in italics. In addition, the recommendation is now one of approval to reflect the Committee's previous resolution and the fact that this item is simply presented so to adjust the scope of conditions to be attached to an approval.

Previous report commences here:

This item is presented to Committee at the request of Councillor David Shepherd as it is considered the issues in this case are very finely balanced and the unusual site circumstances should be considered and debated by Committee.

Site Description

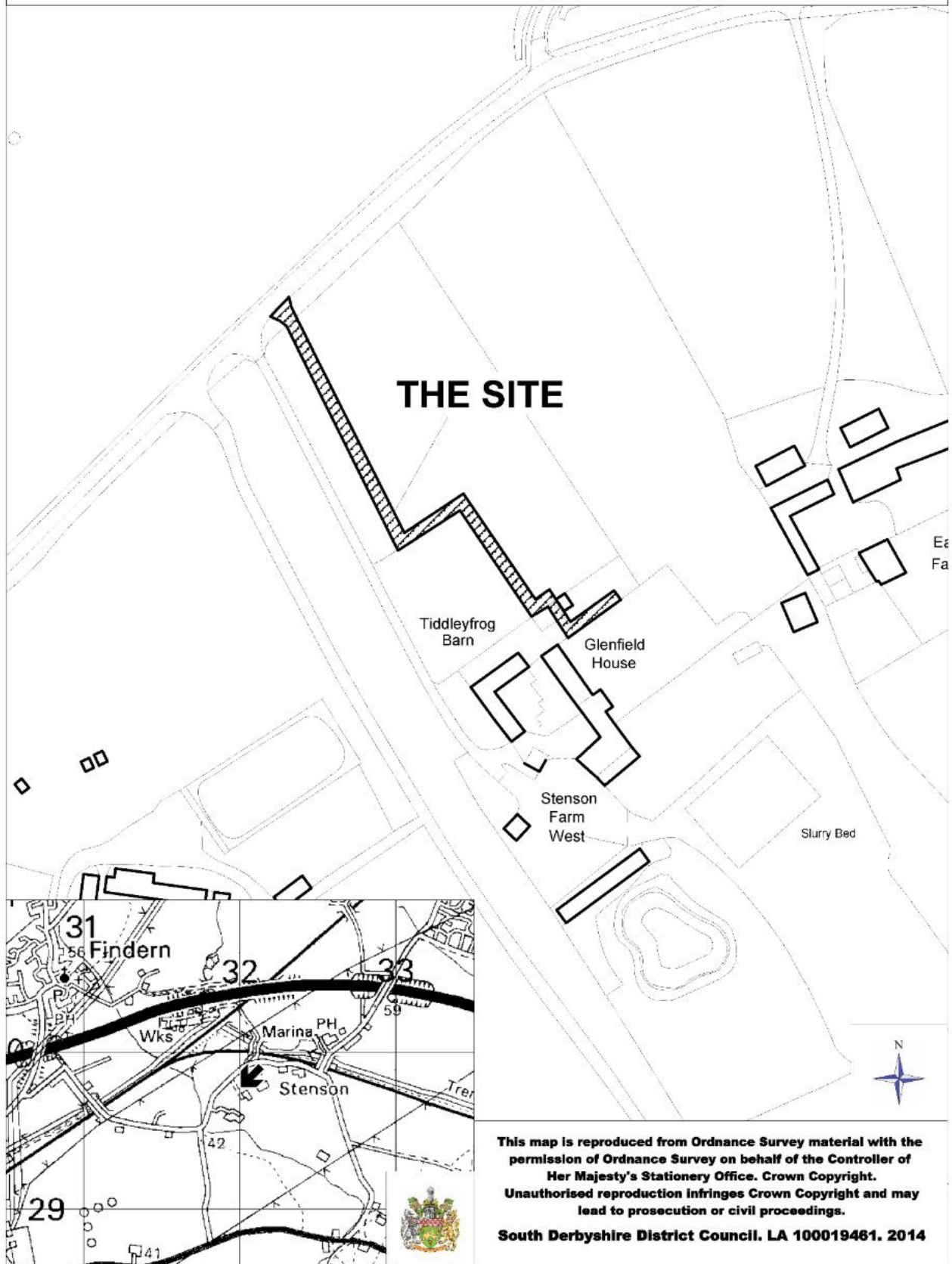
The site lies in open countryside but is part of a group of buildings to the south of an unnamed section of road connecting with Buckford Lane to the west. The applicants dwelling is one of several traditional buildings now converted to residential accommodation. The dwellings, farmsteads other uses in the locality are all served by long driveways from the highway and Tiddly Frog Barn shares the existing driveway with other dwellings and commercial uses.

The proposal

This application seeks permission for a new separate access for Tiddly frog Barn and latterly to regularise the installation of a septic tank in the south eastern corner of the field located to the north east of the applicant's property, which is outside the domestic curtilage.

Applicant's supporting information

The applicant has provided plans identifying the location of the proposed access and track, the location of the septic tank and both a planning statement and a personal statement setting out the reasons for the need for a separate dedicated access for these premises. The Planning Statement notes the character of the area to be one where buildings are set back from the highway and have long driveways. The statement notes the conflict between users of the cattery and domestic vehicles and highlights that there are no passing places along the existing driveway which is approximately 130m



from highway to existing access and goes on to set out how the proposal complies with BNE5 of the Local Plan.

Relevant planning history

9/1986/0654 - Conversion into two dwellings of agricultural buildings and two detached garages to the west of the farmhouse at West Farm - Refused 20 March 1987 but allowed on Appeal

9/1989/0015 - Total reconstruction in the form permitted under 9/1186/0654 to form a dwelling out of the detached barn at West Farm - Approved 25 May 1989

9/1999/0666 - The erection of a detached double garage at Glenfield House - Approved 8 December 1999

9/2004/0682 - Application for a certificate of lawfulness for an existing use for the storage of a horse lorries, horse trailers, caravans and ice cream vans at Fryzms House - Refused 16 July 2004

9/2007/1383 - The formation of a vehicular access to serve Glenfield House - Approved 24 Jan 2008 (unimplemented)

9/2010/1123 - The erection of a dog boarding facility at West Farm - Approved 27 April 2011

9/2011/0645 - Resubmission of application for the erection of a dog boarding facility at West Farm - Approved 28 September 2011

9/2018/0481 - The erection of a first floor front extension at West Farm Approved 3 July 2018

9/2018/0580 - The enlargement of an existing double garage and addition of a garden room at Tiddly Frog Barn - Approved 14 August 2018

9/2019/0047 - The erection of extensions at Tiddly Frog Barn - Approved 14 August 2018

Responses to consultations and publicity

The County Highway Authority (CHA) states that the originally proposed driveway would emerge onto an existing access point to Buckford Lane. This is likely to lead to driver confusion and conflict when drivers entering or exiting the existing driveway meet drivers entering or exiting the proposed driveway. A revised access separate from the existing access has been provided and is considered acceptable, subject to conditions. The CHA notes the tight 90 degree corners set out within the field and suggests a condition for a revised layout using additional land within the owners control.

Following the provision of amended plans, the CHA considers this to definitely be an improvement over that previously shown, and although still challenging for larger vehicles such as a septic tanker, would remove the need for a condition requiring such amendments.

The County Archaeologist states that the proposals would have no archaeological impact.

The Environmental Health Officer states there are no concerns with potential environmental impacts and has no comments to make.

The Tree Officer considers the selected species to be suitable so long as the desired outcome is for an ornamental display rather than a row of trees in keeping with what one would normally expect to find growing in the countryside. An alternative might be Field Maple or Rowan to create a more compact feature, or a much higher landscape feature could be created by something like Lime, Red Maple or Oak.

Two representations have been received, raising the issue that ownership of the land may be in dispute, but following amended plans have no objection.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport); and
- 2017 Local Plan Part 2: SDT1 (Sustainable Boundaries and Development), BNE5 (Development in Rural Areas) and H26 (Residential Gardens in Rural Areas).

The relevant National 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:

- Principle of development;
- Character and appearance of the area; and
- Highway safety.

Planning assessment

Principle of development

Policy SDT1 states that "Outside 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". In addition to policies specifically referenced the policy sets out criteria which proposed development must comply. Development which is not covered by policies set out in criterion (i) must be:

- ii) Otherwise essential to a rural based activity; or*
- iii) Unavoidable in the countryside; 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 land, and heritage assets.*

Tiddly Frog Barn is a dwellinghouse created from a former agricultural building and shares its access with West Farm, which also runs a dog kennel business and cattery, and Glenfield House, another former barn. There is other development in the vicinity that have their own accesses from the highway and therefore long driveways are a pattern of development in the area. The application site has been a residential dwelling since the early 1990s and has right of access, although the access itself is owned by West Farm. It would appear that the dog kennels and cattery have only operated since around 2011 when permission was granted.

More recently permission for an extension to Tiddly Frog Barn has been granted which appears to have obstructed access to the field from within the residential curtilage, thus making access to a empty a new septic tank difficult. In addition, works being undertaken to the property has led to concerns from the owner of the dog kennels and resulting in some restriction of access and parking for the applicant, leading to the applicant installing a temporary access through the field from half way down the existing access. This was clearly done as a solution to a temporary problem but the applicant has stated that this would be a more useful access to their existing historic access. Nonetheless the shared use of existing access is well established and a new dedicated access for Tiddly Frog Farm, whilst this may

be desirable, cannot be considered to be unavoidable and cannot be justified as otherwise essential to a rural based activity.

This application also seeks regularisation for the locating of a septic tank in the field adjacent to the dwelling following approval and implementation of extensions to the dwelling. In principle, there is no objection to this element of the proposal. Overall however, the proposal fails to meet the criteria set out in policy BNE5.

Character and appearance of the area

Policy BNE4 seeks to retain the character, local distinctiveness and quality of South Derbyshire's landscape and soilscape will be protected and enhanced. The applicant's statement references the Landscape Character of Derbyshire, noting the site is within the Trent Valley Washlands area and the character is of lowland village farmland with pasture giving way to mixed farming and with larger and more regular fields. It also references the power stations and their cooling towers which dominate the scene and the evidence of sand and gravel extraction and subsequent restoration. The applicant states that there is nothing in the landscape character assessments that indicates any conflict with the proposal. However, the introduction of an additional access would further urbanise the immediate environment by creating a third driveway in close proximity to others and would also see the loss of a significant section of hedgerow to achieve adequate visibility splays, having an unacceptable impact on the landscape character and visual amenity contrary to policy BNE4.

Highway safety

The original proposal showed the proposed new driveway close to the existing access and, in effect, sharing part of the access junction with the existing access. The Highway Authority states that this is likely to lead to driver confusion and conflict when drivers entering or exiting the existing driveway meeting drivers entering or exiting the proposed driveway. An amended scheme as suggested by the Highway Authority was submitted and is deemed acceptable subject to conditions relating to the inclusion of visibility splays along with a more detailed access design to avoid the potential problems with 90 degree turns along its length. The scheme is therefore considered to comply with policy INF2.

Conclusion

Despite there being no objection from a highway safety point of view, the need for the driveway has not been demonstrated to be unavoidable or otherwise essential to a rural based activity in this location. The applicant retains a right of access to their property over the existing access track and, whilst desirable, the proposal would cause unnecessary harm to the character and appearance of the area.

Previous report ends

The proposed species of tree is Silver Birch, with 9 proposed along the north-eastern side of the track as it heads away from the public highway. Whilst there might be opportunity for alternative species which more closely reflect hedgerow trees in the rural landscape, the row is designed as an avenue and not as a field boundary per se. With this in mind, the selected choice is appropriate.

A condition to require revisions to the tight corners of the track as it heads towards the property has been negated by the amendments provided. The remaining highway conditions remain necessary in order to ensure an appropriate interface with the public highway.

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 permission subject to the following conditions:

1. The development hereby approved shall be carried out in accordance with plans/drawings ref. 2027-100 Revision D and 2027-103 Revision C unless otherwise required by a condition attached to this approval or allowed for by way of an approval under section 96A of the Town and Country Planning Act 1990. The works to create the rounding of corners along the route of the track shall be carried out before the first use of the new element of track connecting to the public highway.

Reason: In the interests of sustainable development and for the avoidance of doubt.

2. All planting comprised in the approved details shall be carried out in the first planting and seeding seasons following the first use of the access and any plants which within a period of ten years from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation.

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

3. Prior to connecting the new section of track to that already laid, the new access shall be formed to the public highway. The access shall have a minimum width of 3.5m, be constructed as a splayed vehicular crossover, surfaced in a solid bound material for the first 5m into the site from the highway boundary and provided with visibility sightlines of 2.4m x 120m in each direction, the area forward of which shall be cleared and maintained throughout the life of the development free of any obstruction exceeding 1m in height (600mm in the case of vegetation) relative to the nearside carriageway edge.

Reason: In order to provide safe and suitable access in the interests of highway safety.

4. Any gates shall be set back at least 6m into the site from the highway boundary and open inwards only.

Reason: In order to provide safe and suitable access in the interests of highway safety.

Informatives:

- a. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website www.derbyshire.gov.uk, email ETENetmanadmin@derbyshire.gov.uk or telephone 01629 533190.
- b. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- c. The Highway Authority recommends that the first 6m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel, etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the householder.

Item No. 1.5

Ref. No. [DMPA/2020/0305](#)

Valid date: 19/03/2020

Applicant: Judy Wooley

Agent: Katarzyna Jakus-Lechowska
Making Plans Architecture

Proposal: The erection of two new detached dwellings at The Forge, Boggy Lane, Heathtop, Derby, DE65 5AR

Ward: Hilton

Reason for committee determination

The application is presented to committee at the request of Councillor Patten as local concern has been expressed about a particular issue.

Site Description

The site is located to the south of Church Broughton in a small linear group of dwellings known as Heathtop on Boggy Lane. It is within the existing curtilage of the property The Forge which faces onto Woodhouse Lane. The land is to the north east of the existing property and it is gravelled, enclosed by fencing and there are existing stables in the north western corner and garage to the south west.

The proposal

Planning permission is sought for two detached dwellings that would face onto Boggy Lane. Two-storey 4-bedroomed properties are proposed utilising the roof space and including an integral garage. Each property would also have two external parking spaces. The dwellings would have gabled roofs with a gable feature on the front and include traditional detailing such as stone kneelers, copings and chimneys. Generous garden areas are included to the plots.

Applicant's supporting information

The applicant has submitted a Design and Access Statement justifying the proposal and providing examples of materials to be used in the proposal in addition to setting out general details about landscaping and boundary treatment.

Relevant planning history

9/2008/0828: Outline application (all matters reserved except for access) for a detached bungalow - refused October 2008

9/2016/0545: The erection of two dwellings - approved February 2017

Responses to consultations and publicity

The [County Highway Authority](#) has no objection subject to conditions relating to visibility and parking.

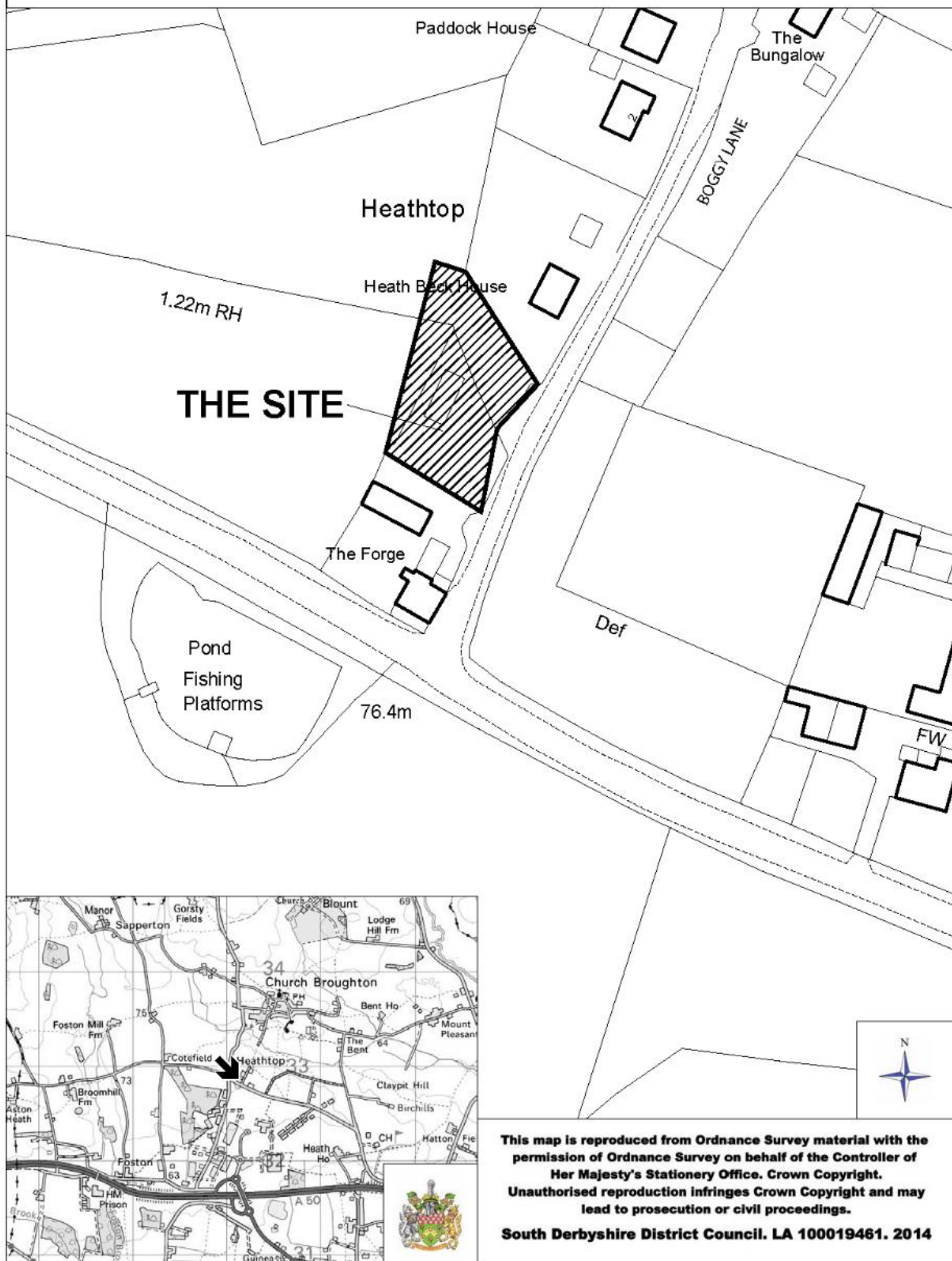
The [Environmental Health Officer](#) has no objection subject to the inclusion of conditions relating to ground gas ingress and working hours on site.

[Foston and Scropton Parish Council](#) raises no objection to the proposal.

Two objections have been received from one address raising the following concerns:

- a. Inaccuracies in the application form.
- b. Property to the north not shown on site plan.

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- c. The northern plot will have an impact on daylight/sunlight to our property and garden.
- d. Dwellings too tall.
- e. No access vision line shown on plan.
- f. Plan notes hedge to be 'chopped back'. This hedge is not in the ownership of the applicant.
- g. Parking does not appear to be achievable within the site for both dwellings.
- h. The proposed dwelling to the south has parking spaces close to the proposed passing space which will potentially dangerous.
- i. Concern about the velux windows in the second floor facing west and the potential for overlooking. Overlooking was recognised as an issue in the previous permission when primary windows were initially proposed in the side elevation.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- 2016 Local Plan Part 1: S1 (Sustainable Growth Strategy), S4 (Housing Strategy), S6 (Sustainable Access), H1 (Housing Hierarchy), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), 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), BNE7 (Trees, Woodland and Hedgerows).

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 SPD

Planning considerations

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

- Principle of development;
- Design, residential amenity and impact on the character of the area; and
- Highway safety

Planning assessment

Principle of development

The site is located within the countryside within a linear development of houses along Boggy Lane, Heathtop and is land owned by the property on the corner of Boggy Lane and Heathtop, known as The Forge. The fact that a very similar scheme for the site was recently approved and has only just lapsed is a material consideration in this case which carries substantial weight. The test therefore is to examine whether there has been any material change in circumstances (e.g. policy considerations) that would suggest an alternative outcome this time.

The Local Plan Part 1 was adopted when the last proposal was approved and although Local Plan 2 policies were not yet adopted, they carried substantial weight and were material considerations at the time permission was granted. There is therefore no substantive change in policy in terms of the principle of development.

Policy H1 defines the settlement hierarchy and the site would be classed as within a rural area where only development of limited infill and conversions of existing buildings is acceptable. Policy SDT1 relates to settlement boundaries and states that outside these land will be considered as countryside and limited to that considered acceptable by policy BNE5. This policy states a number of policies where

development in the countryside may be appropriate and reiterates infill development may be appropriate. Section (iv) of this policy states that planning permission will be granted in the countryside where the development is *"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"*. The proposal is therefore infilling a gap between existing properties for two dwellings which complies with Policy H1 and BNE5 and is thus considered acceptable in principle.

Notwithstanding this, bus route 229 stops opposite to the Boggy Lane junction with Woodhouse Lane which links the site to Church Broughton, Scropton, Hatton, Hilton and Etwell, and thus the site is accessible by another means of transport, though in practice it is likely that most journeys would be made by private car. Nonetheless, the scheme accords with policy S6.

Design, residential amenity and impact on the character of the area

Policy BNE1 relates to design excellence and outlines specific criteria that are required when designing new developments. Criteria (e), (g) and (h) are relevant to this proposal and require developments to create places with a locally inspired character that respond to their context, be visually attractive and respect important landscape, townscape and historic views and vistas, and not have an undue adverse effect on the privacy and amenity of existing nearby occupiers. NPPF paragraph 127 requires that developments: function well and add to the overall quality of the area over the lifetime of the development, establish a strong sense of place, optimise the potential incorporating green spaces, respond to local character and reflect the identity of local surroundings, create safe and accessible environments and are visually attractive. Policy SD1 supports development that does not lead to adverse impacts on the environment or amenity of existing and future occupiers.

The two properties are of the same design but 'handed' so that the garages are adjacent to each other and the front gable at opposite sides resulting in the main living space in property 2 being approximately 1.5m from the northern boundary at its closest point. The neighbouring property (Heath Beck House) is a two storey detached property which has no primary windows on its southern gable, but in any event is sufficiently distant, being approximately 11.5 metres from the gable of property 2 - a blank elevation. This proposal is very similar to that approved in 2017. However, the second floor master bedroom design has increased the number of roof lights to light this 'attic room'. As originally proposed, the design was to feature a 'Velux Combi' balcony window. However, this design of window and location in each property allowed occupants to effectively stand on the roof and potentially overlook the rear gardens of both the host property and Heath Beck House respectively. An amended plan has been provided showing 'standard' Velux windows fitted in this location on both new properties in order to protect neighbouring amenity.

Being of very similar to the previously approved proposal, the proposed dwellings are considered to be a sufficiently high quality design with traditional features. Their scale and mass is considered to be in keeping with the character of this part of Boggy Lane which is of two storey properties in sizeable plots of differing designs set back from the road frontage. The plans specify facing and roofing materials which are considered acceptable as well as specifying uPVC Residence 9 windows. The proposal is considered to respond to its context in line with Policy BNE5, so to satisfy the remaining test against that policy, and Policy BNE1 along with the Council's Design SPD.

The site itself is relatively sparse but there are mature trees to the west within the applicant's control. There are also some trees within the garden area of the neighbouring property to the north which would require assessment of Root Protection Areas prior to any building works, so to avoid and/or limit any damage, and this can be made a condition of any permission.

Highway safety

Policy INF2 states that planning permission will be granted for development where travel generated by development should have no undue detrimental impact upon local amenity, the environment, highway safety and the efficiency of the transport infrastructure and availability of public transport services. It requires that appropriate provision is made for safe and convenient access to and within the

development and car travel generated is minimised. NPPF paragraph 109 requires that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The original location plan has been amended to take into account the land on the frontage of Boggy Lane which is adopted public highway. The site now abuts the public highway and indicates two external parking spaces per dwelling (in addition to the garage spaces proposed) and as such the Highway Authority has no objection subject to conditions. The proposed Block Plan indicates that part of a hedge outside the application site may need to be chopped back to achieve visibility to the north and an objection was made on this basis. However, since the hedge immediately in front of the application site in the north east corner is on highway land, as indicated by the plan supplied by the Highway Authority, the hedge could be removed at any time. Conditions could address any minor loss in biodiversity. The proposal is considered to comply with INF2 and NPPF paragraph 109.

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 permission 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 drawings ref. 2928-01 Rev A, 2928-02 Rev B, 2928-02 Rev A, 2928-04 Rev A and 2928-05 Rev C 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. 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 0730 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: Reason: In the interests of protecting the amenity of the area and adjoining occupiers, recognising that initial preparatory works could cause unacceptable impacts.

4. No development shall commence until a suitable scheme for the prevention of ground gas ingress has been submitted to and approved in writing by the Local Planning Authority. Alternatively the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Both schemes shall meet the requirements in Box 4, Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated', and include relevant mitigation where necessary. The approved preventative or mitigation measures (if any) shall be incorporated the development and upon completion, verification of their correct installation (if any) shall be submitted to and approved in writing by the Local Planning Authority prior to the first [**occupation/use**] of the development hereby permitted.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site.

5. Before any other operations are commenced the existing vehicular access to Boggy Lane shall be modified in accordance with the application drawing. The accesses shall be constructed in accordance with Derbyshire County Council's specifications for splayed vehicular crossovers with the highway boundary clearly and permanently marked and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, to the extremities of the site frontage abutting the Boggy Lane highway in each direction. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1 metre in height (0.6 metre in the case of vegetation) relative to adjoining nearside carriageway channel level.

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

6. Prior to the first occupation of each dwelling, space shall be provided for the parking of vehicles associated with that dwelling in accordance with the approved plan(s) and the 6Cs Design Guide (or any subsequent guidance that may amend or replace it); and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, such space shall be maintained throughout the life of the development free of any impediment to its designated use.

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

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

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

8. No development, including preparatory works, shall commence until protective fences have been erected around all trees and hedgerows shown to be retained on the approved plans. Such fencing shall conform to best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that Standard) and ensure that no vehicles can access, and no storage of materials or equipment can take place within, the root and canopy protection areas. The fences shall be retained in situ during the course of ground and construction works, with the protected areas kept clear of any building materials, plant, debris and trenching, and with existing ground levels maintained; and there shall be no entry to those areas except for approved arboricultural or landscape works.

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

9. Notwithstanding the plans hereby approved, prior to the construction of a boundary wall, fence or gate, details of the position, appearance and materials of such boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be completed in accordance with the approved details before the respective dwellings to which they serve are first occupied or in accordance with a timetable which shall first have been submitted to and approved in writing by the Local Planning Authority.

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

10. Prior to the occupation of a dwelling a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. Details of soft landscaping 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)'. Where areas of public open space are included in the proposals, the details shall be supplemented with details of play equipment, seating, litter and dog waste bins, signage and other ancillary structures (as necessary). All hard landscaping shall be carried out in accordance with the approved details prior to occupation of each respective dwelling, whilst all planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the first occupation of each respective 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.

11. Prior to their incorporation in to the buildings hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials.

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

12. Prior to their incorporation in to the extensions hereby approved, details of the external appearance of eaves, verges, cills and headers shall be submitted to and approved in writing by the Local Planning Authority. The details shall include drawings to a minimum scale of 1:10. The eaves, verges, cills and headers shall be constructed in accordance with the approved drawings.

Reason: In the visual interest of the building(s) and local distinctiveness.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order, the main rooflight windows hereby approved serving the second floor window to the master bedroom in the rear elevation of each plot shall be standard rooflight windows as indicated on plan and permanently maintained thereafter as such.

Reason: To maintain control in the interest of the effect upon neighbouring properties.

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

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

Informatives:

- a. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel, etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the landowner.
- b. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport and Communities at County Hall, Matlock regarding access works within the highway. Information and relevant application forms, regarding the undertaking of access works within highway limits, are available via the County Council's website www.derbyshire.gov.uk, email Highways.Hub@derbyshire.gov.uk or telephone 01629 533190.

Item No. 1.6

Ref. No. [DMPA/2020/0479](#)

Valid date: 21/05/2020

Applicant: S Taylor

Agent: John Pearson
JDP Architects

Proposal: Outline application (all matters except for access to be reserved) for the erection of a detached dwelling with shared access at 7 Rosliston Road South, Drakelow, Swadlincote, DE15 9UD

Ward: Linton

Reason for committee determination

This item is presented to the Planning Committee at the request of Councillor Dan Shepherd as local concern has been expressed about a particular issue and the unusual site circumstances should be considered by the Committee.

Site Description

The application site comprises part of the garden at No.7 Rosliston Road South which is a large bungalow with first floor accommodation, having been extended and altered in the past. The dwelling lies to the northern side of a good sized plot, with open space to the rear and southern side currently used as garden. There is also a large amount of parking provision at the front of the dwelling with access to the public highway. The site lies on the edge of Burton, close to the District boundary, and forms a linear ribbon development with other dwellings along this part of the streetscene, although with a development of 71 dwellings currently under construction at the southern end of the existing ribbon of dwellings, approx. 250m to the south.

The streetscene is characterised by a mix of single and two-storey dwellings, with a varied palette of materials and architectural designs. No. 7 is a white rendered bungalow with the gable end facing the highway. No. 5, also a bungalow, has its ridge parallel with the highway instead and comprises a mix of weatherboarding and brick. No. 9 is a large, two-storey detached house and attached garage constructed in brick. The built character is therefore quite varied.

The proposal

Outline permission for the erection of one detached dwelling is sought. All matters, aside from access, are reserved for later consideration. One shared access point is proposed to Rosliston Road South. An illustrative layout plan has been provided, which shows how a building footprint could be located between numbers 7 and 9 Rosliston Road South, along with the intended access.

Applicant's supporting information

Other than the plans, none submitted.

Relevant planning history

9/2003/0586: Loft conversion involving the installation of a dormer - Approved July 2003

9/2004/0935: The erection of a fence and gates at the front - Approved September 2004

9/2010/0670: The erection of an extension - Approved August 2010

DMPA/2020/00479 - 7 Rosliston Road South, Drakelow, Swadlincote
DE15 9UD



Responses to consultations and publicity

The County Highway Authority has considered that the existing access, which is proposed to become a shared access for the existing and proposed dwellings, can be improved by reducing or setting back land either side of it in order to maximise the available merging visibility from a 2.4m set back distance. There is also adequate space to widen the access to enable 2-way traffic. Therefore there are no objections, subject to a condition to ensure that the access is modified, increasing its width to a minimum of 5m.

2 objections have been received, raising the following comments:

- a. a written public notice has not been displayed at the location to inform neighbours, and allow them to put forward any concerns they may have.
- b. the correct public notice period should be 5 weeks from the date of the application, therefore the deadline does not provide for this and therefore they have not been provided with adequate time to reflect and respond accordingly to the application.
- c. when purchasing their property in 2004, there were 63 homes in the Drakelow Area, and the development of Drakelow Park (2,200 homes) and Bluebell Woods (71 Homes) has now more than met the demand for housing in the area;
- d. concerns raised in regards to over-shadowing and the loss of privacy, with it considered that the 45 degree visibility splay has been incorrectly applied to the largest window on the west-facing rear aspect, and the nearest window to the proposed site appears to have not been considered;
- e. as there are no specific floor plans available to view, the volume and position of windows/doors/access is unknown - which is concerning;
- f. there are no details in relation to the general appearance of the proposed property, and so again there are concerns that the development may not be in-keeping with the scale, character and appearance of the current dwellings on Rosliston Road South, and destroy the character of the existing property;
- g. the proposed location of the property on the site would completely obliterate evening sunlight from the entire neighbouring garden and cause a significant reduction in privacy;
- h. there is currently a business operating from the premises, and customers and delivery vehicles regularly visit, with there appearing to be insufficient parking for the current use of the site without the additional requirements this proposal brings;
- i. there is a dip in the road immediately outside number 7 and during heavy rainfall the road frequently floods, and it is considered that further development would exacerbate this problem; and
- j. in 2017 permission for a front dormer window at number 35a was refused as it was not in keeping with the existing properties in the area.

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), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport) and INF8 (National Forest).
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), BNE5 (Development in the Countryside) and BNE7 (Trees and 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

The Committee should note that the application is made in outline with matters of layout, scale, appearance and landscaping reserved. Only access is to be considered in detail, such that concerns as to the height or appearance of the dwelling, or window positions, etc. are to be addressed at the later application stage. The assessment here must solely focus on whether the site has the scope to suitably accommodate a dwelling when having a broad consideration of such constraints.

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;
- Highway safety and parking;
- Design principles; and
- Neighbouring amenity

Planning assessment

Principle of development

The application site is located outside of any settlement boundary as defined by Policy SDT1 and therefore constitutes development within the rural areas/countryside. Here, policy BNE5 governs the appropriateness, or not, of housing proposals with allowance for development which is 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. In addition, to be considered compliant with Policy BNE5, the development must be considered not to unduly impact on landscape character and quality.

When assessing the indicative site layout, the proposal is considered to constitute infilling of a small gap between dwellings in an area where the character is of linear development along the road frontage within relatively generous plots. This linear development is predominantly large detached houses, with both single storey and two storey, with the built form set back from the road and with Rosliston Road South being a short cluster of dwellings with open countryside beyond the Lioncourt Homes development to the south and no development on the land opposite. This allows the countryside to permeate towards and between the dwellings before the more densely built areas of Burton to the north and north-east.

The proposed siting of the dwelling on land adjacent to No.7, currently used as outdoor amenity space, is not considered to represent an important gap between groups of housing due to its size and context. Furthermore, plot widths vary considerably from the wide plots at numbers 1 or 9 to the narrow plots at numbers 5, 11 or 13. The infilling of this space between dwellings is therefore not considered to be harmful to a degree which would fundamentally alter the character of the locality, or be at odds with it. Views of the site from the public realm would be viewed in context with the existing built development that surrounds it at both sides and at the rear and would not result as an intrusion into the countryside. The principle of development is considered acceptable and accords with policies H1 and BNE5.

Highway safety and parking

Vehicular access for the site is proposed using the existing access for No.7 with a sufficient turning area also provided within the site for access to the existing and new dwellings. The County Highway Authority has raised no objections to the proposal from a highway safety perspective, subject to a condition which ensures that the existing access is widened to 5m and the visibility sight lines are secured. Although the layout is indicative, it does show that sufficient space can be provided within the site to ensure adequate parking for two vehicles for each of the existing and proposed dwellings, compliant with the parking guidance set out in the Design Guide SPD. Vehicle movements generated by the proposal are unlikely to have an noticeably negative impact on the capacity of the wider highway network, with the proposal being for a single dwelling. Existing drainage issues on the public highway

are not relevant to this decision. As such the access and parking proposed is considered suitable to facilitate a new dwelling on the site and would not adversely impact on highway safety to a point where which would it would reasonably justify refusal of the application. As such the proposal complies with the requirements of Policy INF2 and the NPPF.

Design principles

As noted, matters of layout, scale, appearance and landscaping are reserve for later consideration. Policy BNE1 expects all new development to be well designed, embrace the principles of sustainable development, encourage healthy lifestyles and enhance people's quality of life. The SPD supports this policy with further detail.

In relation to impacts on the street scene, the indicative site layout shows the proposed dwelling placed in a staggered position between numbers 7 and 9. As a result there would be clear views of the proposed dwelling along the highway and footway, with the dwelling fronting the highway. As noted above, the surrounding dwellings differ considerably in design with those along Rosliston Road South being a mix of both single storey and two storey houses and varying types of materials used. Hipped roofs would appear to be more prevalent in this immediate area, however. It is considered that the proposal could suitably fit within the street scene, with there being adequate space between the the existing dwellings to accommodate a new dwelling. There is no planning reason at this time why a two-storey dwelling might not be appropriate in character terms, subject to the indicative footprint being followed at the reserved matters stage - noting number 9 is a two-storey dwelling. The reserved matters stage would control the finer design detailing and appropriate materials, as well as hard and soft landscaping to improve integration and a high quality design. The proposal is thus considered to comply with Policy BNE1 and the SPD in relation to its design and impact on the street scene.

Neighbouring amenity

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. Although only access is to be considered at this stage, it is important that a dwelling on this site can be accommodated without negatively impacting on neighbours.

When assessing the impact on No.9 Rosliston Road South, the neighbouring property to the south, the indicative site layout shows that when drawing a 45 degree sector view from the closest ground floor rear window the proposed dwelling would lie outside of the sector and therefore comply with the requirements of the SPD. It is noted that there is a first floor side window on the northern elevation; however, secondary windows and side windows are not protected by the SPD.

When assessing the impact on No.7 itself, although the proposed dwelling as shown would fall within the 45 degree sector view when measured from the closest ground floor window on the front elevation, this breach is only partial and careful design of the proposed dwelling could provide for a 'cut out' so to protect this sector of view. This is a constraint that would need to be addressed at the reserved matters stage, but the conflict is not presently so great to prevent any form of dwelling on this site. It also remains that the scale of the dwelling does not need to be restricted at this time as there is no amenity reason upon which to do so.

There are no neighbours at the rear of the site which would be impacted. As such it is considered that a dwelling could be achieved on the site that would not demonstrably impact the residential amenities of neighbouring properties, that surround the site and therefore the proposal is compliant with Policies SD1, BNE1 and the minimum distances as set out in the SPD.

Other matters

Conditions can suitably require water efficiency measures and electric vehicle charging points, so to accord with policies SD3 and INF2. Drainage would be handled under the Water Act (for foul water connections) and Building Regulations (for surface water drainage). The loss of an Ash tree and other

vegetation is not considered to be a reason to withhold permission when these features are not suitable for protection at this time (i.e. they could be removed in any event). The landscaping reserved matter can provide for suitable replacement and a biodiversity gain.

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 permission subject to the following conditions:

1. (a) Application for approval of the reserved matters listed at condition 2 shall be made to the Local Planning Authority before the expiration of three years from the date of this permission; and
(b) The development hereby permitted shall be commenced before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

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

2. Before any development is commenced the further approval of the Local Planning Authority is required with respect to the following matters (herein referred to as "the reserved matters") on an application made in that regard:
 - (a) appearance,
 - (b) landscaping,
 - (c) layout, and
 - (d) scale.

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

3. The matter of access shall be carried out in accordance with plan/drawing ref. 2017/03 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.

4. Prior to occupation of the proposed dwelling, the existing vehicular access to Rosliston Road South shall be modified by increasing the access width to a minimum of 5m and provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centre line of the access, to the extremities of the site frontage abutting the highway in each direction. The land in advance of the sightlines shall be maintained in perpetuity clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside carriageway channel level.

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

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. A recharge point for electric vehicles shall be provided within the development. The charging point shall be provided with an IP65 rated domestic socket 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be first submitted to and approved in writing by the Local Planning Authority. To prepare for increased demand in future years suitable and appropriate cable provision shall be included in the scheme design in accordance with details first submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging point shall be provided in accordance with the stated criteria and approved details prior to the first occupation of the dwelling and shall thereafter be maintained in working order and remain available for use throughout the life of the development.

Reason: In the interests of protecting and enhancing air quality through reducing and minimising emissions from vehicles.

Informatives:

- a. The applicant/developer is advised to liaise with the Local Planning Authority prior to submitting details of reserved matters for approval. It is strongly encouraged that, in addition to the requirements set out in any conditions, adequate details are supplied so to negate the need for further conditions upon approval. For example, details and locations of boundary treatments and species and size for soft landscaping should be provided pursuant to matters of landscaping, whilst details and/or samples of facing and surfacing materials and details of porches, rooflights, verges, eaves, cills and lintels should be provided pursuant to matters of appearance. For all matters, attention should be given to the Council's Design Guide Supplementary Planning Document - in particular the relationship with surrounding properties and the quality of materials and finishes expected.
- b. A. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.

Item No. 1.7

Ref. No. [DMPA/2020/0111](#)

Valid date: 24/02/2020

Applicant: Lucy Howard

Proposal: Change of use of integral garage from dwellinghouse (use class C3) to mixed use as dwellinghouse (use class C3) and hairdressers (use class A1) along with retention of works to facilitate the use at 15 Park Road, Newhall, Swadlincote, DE11 0TT

Ward: Newhall and Stanton

Reason for committee determination

The application presented to the Planning Committee following a request from Councillor Dan Pegg who has concerns regarding the impact of the proposal on parking and traffic for local residents.

Site Description

The site is a detached two storey Victorian dwelling set back a couple of metres from Park Road. At the northern end is a private access drive to dwellings in New Road. The vehicular access is on the southern side of the dwelling. Historically, there was vehicular access to the rear garden and the garage door was at the back of the house. The garage is a flat roofed 1960s/70s garage attached to the house. The house is currently rendered and painted in a white finish. There is new block paving around the front and sides of the house.

At the rear of the property is a gable end to another dwelling in New Road (no. 116). A new timber shed has been recently constructed in the garden area, a couple of metres back from the gated entrance, level with the rear of the house to the boundary with number 19 Park Road. The adjacent property is a similar styled and aged dwelling which has recently had a single storey side extension removed and car port constructed, and is also currently subject to an, as yet, undetermined planning application. There is a dwelling on the opposite side of Park Road, slightly set back and down from the road, and the land drops quite steeply on the western side.

There is a telegraph pole located across part of the frontage which prevents direct access onto the road from part of the car parking area. The proposal is partly constructed in that new windows have been put in the front of the attached garage in a similar style to the existing windows. The access door is also present to access the proposed salon from the parking area.

The proposal

The proposal is to change the use of the attached single former garage into a hair and beauty salon. This involves replacing windows at the front, creation of a side door and replacement of the former garage doors with a patio window opening into the rear garden.

The front drive has been blocked paved and provides spaces for the applicants car and shows one space for customers. The applicant seeks opening hours of 10.00 to 14.30 Tuesday to Friday, and 11.00 to 14.00 on Saturdays.

Applicant's supporting information

The applicant considers that the proposal would be acceptable and has resulted in improvements to the appearance of the dwelling. Improvements have been made to provide a bigger and wider parking area at the front of the site for the applicant and 1 customer to park while having treatment. Only 1 customer at a time would be seen.

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The site is located within an urban area and is close to facilities and not far from bus stops. The existing access has been used historically to drive onto Park Road. There is also on-street parking nearby which customers can use, or for the applicants car whilst customers are being seen so to allow parking on the site solely for customers.

The scale of use of the premises would not result in any detrimental impact on surrounding neighbours. There would be no noise impacts and the hours of use would be in the day.

In terms of the requirements of the Sequential Test, other properties have been looked at in Newhall, but there are no other suitable available premises that can be used which are preferable. On this basis it is considered that the proposal is acceptable.

Relevant planning history

There is no relevant planning history.

Responses to consultations and publicity

The County Highway Authority (CHA) object to the proposals noting the site is located on the inside of a bend of the classified Park Road which is subject to a 30mph speed limit. Under such circumstances, in order for an access to be acceptable in highway terms to serve new or additional development, visibility sight lines of 2.4m by 47m are required in both directions. This cannot be achieved at the site access. In addition, the limited forward visibility around the bend is emphasised by the need for solid white lining in the centre of the road.

Additional information has been submitted during the course of the application. The submitted information refers to there being no yellow lines on the road preventing on road parking. This is true, however the centre of the road is marked with solid white lines and, as such, parking outside the property would be committing an offence. Visibility available to a driver emerging from the application site is substandard. In conclusion, the CHA considers that the information does not overcome their objection that approval of the proposal would result in the use of a substandard access, contrary to the best interests of highway safety.

The Environmental Health Officer has no objection to the proposal.

3 objections have been received raising the following concerns:

- a. The proposal is retrospective having started in 2019.
- b. Park Road is busy. The use of the property would increase in vehicle comings and goings and provide highway safety risk to users. There has been an accident on the bend which has not been recorded or acknowledged by the applicants . Access out of New Road onto Park Road is difficult for residents and would be made worse by customers cars parked on Park Road in front of the premises. Yellow lines have been requested previously.
- c. There had previously been a turning circle within the site which allowed vehicles to turn and leave in a forward gear and there were no issues with previous owners. There is now an outbuilding in the way preventing use.
- d. There is not enough space to park 4 or 5 cars at the front of the site and would involve reversing back out onto the road. Customers may not use the spaces if the applicant's cars are on the site, and may add to parking on Park Road.
- e. There is another hair dressers nearby and others in Newhall, so this is not appropriate here. Customers will come from Burton.
- f. People should not be parking on the road and pavement as it is an offence.
- g. The loss of shrubs and the construction of the new outbuilding has affected views from neighbouring properties. The hedges were an important part of the landscape.
- h. There are chickens and other animals in the garden now.
- i. New heating has been installed into the former garage. It was never used as a bedroom.
- j. The new windows maybe second hand.

- k. Other permissions have recently been given for 3 new houses off Park Road and there is currently a proposal at 19 Park Road to be assessed.
- l. A new boundary fence has been constructed on a shared access drive. This should be removed.
- m. The proposed hours of operation in the planning application forms are less generous than those as advertised on Facebook which are 9.30am to 6pm on three days and 9.30am-8pm on Thursdays, and 8am to 5pm on Saturdays. Even if she gets permission for the shorter hours what is to stop her then opening up more hours and days?
- n. There are more services being advertised than just hairdressing like tanning, eyebrows, hair extensions. The outbuilding could be used to provide some services.
- o. The amended proposals show that some parking could take place in the road behind New Road using the layby in The Leys, although the plans are not properly drawn. This area is already busy and means that people who have no off road parking in New Road are having to block each other in. This will be worse if customers park there too. This layby is used to service the houses in New Road and is used for deliveries.
- p. There is no street lighting in New Road and there is dog fouling on the paths to houses in New Road.
- q. Turning cannot be achieved as shown due to the presence of the telegraph pole in the way as vehicles leave and the dropped kerb is not wide enough.

35 comments of support has been received from the applicant's customers making the following points:

- a. I trust the applicant with my hair and they do an excellent job.
- b. They run an excellent business in Burton and is professional. The business would be an asset to the community and the locality.
- c. It would be hard to find a different hairdresser and would knock my confidence if I couldn't attend.
- d. The house and the salon looks good due to the refurbishment, and there is off road parking.
- e. I would be upset if the applicant cannot open as I look forward to appointments and it helps with my mental health.
- f. I have a dependant at home so cant use mobile hairdressers.
- g. Not going to the salon would affect their mental health.
- h. You can park on the site and turn around and leave in a forward gear easily. There is ample parking without causing detriment.
- i. The applicant is hard working and provides a safe, friendly and positive environment.

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), SD1 (Amenity and Environmental Quality), SD3 (Sustainable Water Supply, Drainage and Sewerage Infrastructure), BNE1 (Design Excellence), INF2 (Sustainable Transport).
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development), RTL1 (Retail Hierarchy).

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

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 change of use to a retail proposal;
- The effect of the proposal on the character and appearance of the street scene;
- The effect of the proposal on the residential amenity of nearby occupiers; and
- The effect of the proposal on the highway network.

Planning assessment

The principle of the change of use to a retail proposal

The proposal would introduce a new retail use into the street. The site is located outside of a local centre, although it is within the boundaries of the Swadlincote Urban Area. The proposal is at a very small scale and a sole operator. Whilst its size does not require a retail impact assessment, there is a requirement to comply with a Sequential Test assessment to see if there are any other sequentially preferable premises within the locality, as required by policy RTL1. Due to the size it was concluded that an appropriate area of search should be limited to Newhall itself.

Several premises were looked at and one in particular was available at the time of the search but has since been let. It is therefore concluded that there are no sequentially preferable sites available and the proposals comply with policy RTL1.

The effect of the proposal on the character and appearance of the street scene

In terms of the physical changes proposed as part of the change of use, these are relatively minimal in terms of the external changes from the street. New windows have been installed in the front of the former garage. These are physically similar in style and appearance to the dwelling and previous windows. A new door has been installed into the side of the garage from the car parking area. There are changes to the rear where the garage doors were, but these are not visible from the street and therefore have a neutral impact.

Some bushes and conifers have been removed to widen the access at the boundary, so to provide more parking at the front of the site, but these were not protected or of significant importance from a landscape viewpoint. A tarmac drive has been replaced with block paving, which is perhaps considered a visual enhancement. The proposed changes are therefore neutral in terms of visual impact in the street scene, with the proposals complying with policy BNE1 and the SPD.

The effect of the proposal on the residential amenity of nearby occupiers

The proposal would result in an increase in activity in the vicinity of the site due to vehicular movements and associated comings and goings of customers. The removal of the access to the garden area has, however, had a positive effect on neighbours to the rear of the site by virtue of the removal of potential vehicular noise to residents in New Road, and to the private amenity area of 19 Park Road. However, permitted development rights remain intact which would allow for this access to be reopened in the future.

The keeping of some animals within the site is not considered to be at a level beyond reasonable domestic use, whilst the domestic outbuilding erected under permitted development rights is for incidental domestic use, rather than being part of the use for hairdressing/beauty salon.

Due to the general daytime use of the proposed salon, noisy activities are likely to be limited to those times when there is general noise from passing traffic from the street. The imposition of an hours of operation condition can control operating hours for the salon, and this would protect quiet times hours in the evening and at weekends to adequately protect residential amenity at these more sensitive

times. On this basis, it is not considered that the use of the premises is likely to generate such noise and disturbance to result in serious harm to the interests of the residential amenity of nearby occupiers sufficient to justify refusal of the proposal. The proposal is therefore considered to comply with policy SD1.

The effect of the proposal on the highway network

Until recently this property did have vehicular access and a turning area within the rear garden. This area had been hard surfaced and allowed the occupants to park in the garden. Vehicles could turn around within the site and leave in a forward gear. Subsequently, a new timber outbuilding has been located just inside a new gated entrance, with the parking areas and access block paved and widened to create the customer car parking proposed. The information originally submitted showed 4 parking spaces for customers and the applicant, although it understood there are two cars owned by the residents at the site. An amendment has reduced this to just 2 spaces, one allocated for the occupant and one for customers.

The applicant has indicated that there would only be 1 customer at any one time and therefore only 1 car space would be required for appointments. The applicant has indicated that they would be working on their own within the premises as a sole worker. However, it's possible that there could be more than one customer in the premises at any one time as naturally people tend to overlap when turning up for appointments, particularly if there is a greater degree of travel and may turn up early. It is likely that more than 1 customer parking space would be required.

The dwellinghouse itself requires the provision of two spaces. Information has indicated that one car could be parked off-site during customer opening hours. This is possible as there is on street parking in The Leys. The layby has been mentioned as a possibility. The use of this is difficult to control and police. It would also be open for anyone to use and may lead to greater pressure in this area, but would have to be self-policed through sensible resident management.

To limit parking demand, a condition can be imposed to ensure that only the applicant may be employed at the salon so to limit the intensity of the use and keep customers to a minimum. Conditions can also be imposed to limit the hours of operation. Different hours have been quoted in neighbour communications which are wider than those proposed. In the event of the proposal being considered acceptable, the hours could be imposed to limit operations to those outside of traffic sensitive and busier times (i.e. during school hours and outside of rush hour traffic). This could reduce pressure on on-street parking at times when residents are often at work, etc. Nonetheless, reliance should not be placed on the public highway under development proposals with such an approach failing to satisfy policy INF2.

It is considered that there is the likelihood that more than one customer could be within the premises at any one time, and there could be times when different procedures are taking place. For example, tanning would not take much supervision. Some customers could be having one procedure whilst others are in preparation. A permission for a hairdressers use could include various procedures which fall into the same category either as an A1 use, or ancillary to the main use proposed. There could be times when customers arrive early and wait for treatment while others are being seen. It's therefore possible that there could be times when cars are parked on Park Road itself and exacerbate highway safety.

The proposal cannot provide for the amount of cars required for the residential use (two), as well as customer car parking which, even taking a conservative approach, would also be a minimum of two spaces. The presence of the telegraph pole on the footway limits the ability of a car to make a three point turn successfully within the site and leave in a forward gear, and also, if a second customer uses the space when two cars are already parked there, a difficult manoeuvring procedure is likely to be required.

The removal of the ability to enter the site and leave in a forward gear, together with the intensification of the use of the property for both residential use and commercial use, would result in a more likely

detrimental impact on highway safety than the historic use of the site as just a single dwelling. The existing access out onto Park Road from the property is already substandard, but is historic. The CHA has identified that the access cannot achieve the visibility splays required to safely accommodate an intensification of this access. They consider the proposal is therefore unacceptable.

On this basis, it is considered that the increase in traffic would be material and have a significantly detrimental impact upon highway safety on this section of Park Road and would exacerbate and intensify the use of a substandard visibility from the site. Suitable parking provision would also fail to be provided. The proposal would thereby be contrary to policy INF2 and paragraphs 109 and 110 of the NPPF.

Conclusion

The use of the property, in itself, could operate without significant detrimental impact upon the residential amenity of the surrounding properties. It would not be unduly noisy or polluting. Hours of operation could be controlled to daytime hours.

The significant amount of correspondence from the applicant's existing clients suggest that the premises would be run in a professional manner. Nonetheless, the proposal has to be assessed on its planning merits, based on the evidence provided and with regard to the advice of consultees. It is concluded that the proposal would result in an increase in potential conflict between highway users and customers by virtue of vehicles coming into and out of the site, at a location with poor levels of visibility, and where there are highway safety restrictions. The proposed commercial use of the garage as a hairdressers would be likely to result in indiscriminate parking and unsafe traffic movements out of the site, and therefore be detrimental to the interests of highway safety.

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

REFUSE permission for the following reason:

1. The proposed use of the garage as a hairdressing salon (use class A1) would result in an unacceptable intensification in the use of a substandard access due to increased comings and goings associated with customers, with those customers undertaking vehicular manoeuvres into and out of the site at a point where emerging and forward visibility is substandard. Parking provision for both the existing residential use and the proposed commercial use is also likely to lead to customer or resident vehicles relying on the public highway for parking needs. The proposal would thereby lead to an increase in unsafe manoeuvres failing to provide a safe place for highway users, and lead to an unacceptable impact contrary to the best interests of highway safety. The proposal would therefore be contrary to policy INF2 of the South Derbyshire Local Plan Part 1 and paragraphs 109 and 110 of the National Planning Policy Framework.

Item No. 1.8

Ref. No. [DMPA/2020/0227](#)

Valid date: 10/03/2020

Applicant: Emma Harper

Proposal: Continued use of former substation land as residential garden (use class C3) and the erection of a detached garage (revised scheme to that approved under permission ref. 9/2019/0185) at 65 George Street, Church Gresley, Swadlincote, DE11 9NY

Ward: Church Gresley

Reason for committee determination

This item is presented to the Planning Committee as the applicant is related to a member of staff.

Site Description

The application property lies on George Street, Church Gresley, with the host dwelling being a large two-storey property with a tiled cross hipped roof, built from red facing bricks. The property is traditional in character with features such as large chimney stacks, a ground floor bay window, arched brick detailing to the front door, stone cills/lintels and tall slim casements to the windows. The site includes a large residential 'L' shaped garden at the rear and side, partly as result of the former sub-station land at the side being obtained by the applicant and having now been converted into a garden. The property is set back 10 from the highway and benefits from a small grassed garden at the front, hardstanding for parking provision and a small detached garage at one side.

The proposal

The application seeks retrospective planning consent for the change of use of the land from a former sub-station for an extension to the residential garden (use class C3). In addition, a detached garage is proposed to the southern side of the host dwelling on the land subject of the change of use. This application is a resubmission of a previous approval (ref. 9/2019/0185), seeking to remove the requirement for pre-commencement conditions set previously by The Coal Authority and Environmental Health Officer in regards to a ground investigation.

Applicant's supporting information

A Rotary Borehole Site Investigation Report has been informed by the results of intrusive ground investigations in the form of 2no. rotary boreholes drilled to depths of 30m. Borehole logs and a plan illustrating where the boreholes were drilled are appended to the report. The aim of the investigation was to confirm the exact ground conditions present beneath the area of the proposed development. Section 4.1 identifies that based on the results of the 2no. rotary boreholes drilled within the area of the proposed development, no coal seams, broken ground or voids were encountered. Accordingly, the report author concludes that no special foundations or ground treatments would be required to mitigate the risk to the site from damage such as subsidence, or collapse, due to the sites past coal mining legacy from potential shallow coal mine workings.

A Land Contamination Assessment details the findings of an excavated trial hole of approx 900mm depth. The assessment includes supporting site photos of the excavation works. The sample taken confirms that there does not appear to be any contamination within the ground and therefore would be considered and 900mm would be considered an acceptable depth and would have adequate ground bearing capacity to construct the garage off a traditional strip foundation.

THE SITE

Swadlincote

Church Gresley

Castle Gresley

Mount Pleasant

Foxley Wood

Greenfields

Albert Village

Ski Centre

Gemy

Tetron Point

Cadley Hill

Sewage Works

Stanton

117.9m

117.7m

117.0m

REGENT STREET

N

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South Derbyshire District Council. LA 100019461. 2014

Relevant planning history

9/2019/0185: Continued use of former substation land as residential garden (Use Class C3) and the erection of a detached garage - Approved June 2019

Responses to consultations and publicity

The County Highway Authority (CHA) has raised no objection to the proposals, referring to the comments made on the previous application which were subject to a condition to ensure parking space is laid out within the site in accordance with the application drawings.

The Coal Authority (CA) has reviewed the Rotary Borehole Site Investigation Report submitted as part of the application and as a result of the findings they consider that the applicant has now demonstrated to the LPA that the site is safe, stable and suitable for the development proposed (NPPF paras. 178-179) and as a result they have no objections to this proposal.

The Environmental Health Officer (EHO) has reviewed the information to date on both the current and past planning applications. Essentially they consider that condition 8 attached to the previous application, which required prior to the commencement of development a scheme to identify and control any contamination of land or pollution of controlled waters, no longer applies as the condition has been fully addressed by the new and previous reports submitted as part of this application.

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), H1 (Settlement Hierarchy), SD1 (Amenity and Environmental Quality), SD4 (Contaminated Land and Mining Legacy Issues), BNE1 (Design Excellence), BNE3 (Biodiversity) and INF2 (Sustainable Transport).
- Local Plan Part 2 (LP2): SDT1 (Settlement Boundaries and Development) and H27 (Residential Extensions and Other Household 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

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;
- Layout, scale and design; and
- Effect on neighbours.

Planning assessment

Principle of Development

The site has an extant planning permission under application ref. 9/2019/0185 and therefore the principle of development has already been found acceptable. This was due to the site being located within the settlement boundary of the Swadlincote urban area within a predominantly built up residential area. Policy H1 states that development of all sizes is considered acceptable within the settlement boundary of the urban area. The change of use is acceptable in this respect, and is suggested to have

continued for the best part of 10 years. The erection or alteration of outbuildings within residential gardens will be permitted provided that the proposals:

- i) are of a scale and character in keeping with the property; and
- ii) are not unduly detrimental to the living conditions of adjoining properties or the general character and appearance of the area.

Layout, scale and design

In relation to impacts on the street scene, the proposed detached garage is to the southern side of the host dwelling and there would be clear views of the garage from along George Street and the public realm. The garage would be located directly behind what appears to be a small electrical substation, which is accessed via a metal gate off George Street and on the land subject of the change of use. The garage is set back by approx. 12m from the highway and is in line with the front elevation of the host dwelling. It is considered that the impact of the garage on the street scene would not be detrimental to the character of the street scene along this part of George Street. It is located close to the rear of properties on Regent Street, there are several extensions/alterations to the rear of these and therefore provides a built up character, with no consistency in terms of style or design. In addition, being set behind the existing sub-station and several outbuildings within the gardens of the properties on Regent Street; a further building to this part of the street scene would not look out of place. As it is set back considerably from the street scene, this further reduces any detrimental harm to the character of the street scene and the area generally.

When assessing the impact on the host dwelling, the garage would be well separated from the host and its size and height to ridge/eaves would be of a level that allows it to appear subordinate to the host dwelling. The proposed design and gable roof is considered acceptable in terms of its design, although the proposed glazing to the gable end on the eastern side does not match the traditional detailing of the host, there would be no views of it from the public realm so it is not considered to be harmful. The proposed bricks as detailed within the supporting documents (Ibstock Smooth Village Mixture) are of a similar appearance to that of the existing dwelling and would therefore provide good integration. In addition, a condition can be attached to ensure that the roof tiles also match that of the host dwelling.

It is considered that the proposed change of use of land would not harm the character of the area and have no impact on the street scene. The substation that was on this land has since been removed and the use of the land has already been changed to residential with there being a small garden shed located on it and the area of land being grassed and bound by 1.8m fencing and a hedgerow. As such it is considered that the proposal would not be detrimental to the established character of the existing dwelling and that of the surrounding area and therefore complies with Policies BNE1 and H27.

Effect on neighbours

The levels of the site are broadly the same as that of neighbouring dwellings. As required by the SPD, single storey extensions/buildings are considered on their own merits. As a result of the single storey nature of the garage and intervening obstructions (fencing), no issues of overshadowing arise. That being said, the proposal includes some usable space within roof area. As such, to prevent any potential overlooking of neighbours to the south, a condition can be attached to ensure that the proposed skylights to the southern side of the roof are fitted with obscure glazing. It is considered that the proposed development would not demonstrably impact the residential amenities of neighbouring properties, in terms of an overbearing impact, loss of light or privacy as measured against the benchmark of the standards set out in the SPD and therefore the proposal complies with Policy SD1 which seeks to protect the amenity of neighbouring properties.

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 permission 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 Proposed Plans and Elevations, Location Plan, Site Plan and Block Plan received 24 February 2020, 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. All roofing materials used in the garage hereby permitted shall match those used in the existing dwelling in colour, coursing and texture unless prior to their incorporation into the development hereby approved, alternative details have been first submitted to and approved in writing by the Local Planning Authority.

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

4. All facing bricks used in the development shall be Ibstock - 'Smooth Village Mixture' as detailed within the supporting application document.

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

5. Space shall be provided within the application site in accordance with the application drawings for the parking of residents' vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

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

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 rooflights in the southern roof plane of the garage shall be glazed in obscure glass and non-opening (except in an emergency) and permanently maintained thereafter as such.

Reason: To maintain control in the interest of the effect upon neighbouring properties.

Item No. 1.9

Ref. No. [DMOT/2020/0729](#)

Valid date: 15/07/2020

Applicant: Robin Brooke

Proposal: **Prior approval under section 77 of the Conservation of Habitats and Species Regulations 2017 for the creation of forestry tracks at Grangewood Farm, Grangewood, Swadlincote, DE12 8BG**

Ward: Seales / Linton

Reason for committee determination

This application is reported to the Planning Committee as applications under Section 77 of The Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') are not presently included within the Council's Scheme of Delegation.

Site Description

The site relates to a proposed area of hardstanding within the farmyard of Grangewood Farm, adjacent to a large building used for equestrian and access tracks within a small area of woodland north of the farm. The work is being undertaken by the landowner and applicant and is being supported by WildWood Forestry and the Trent Rivers Trust who are delivering woodland management and water quality/flood management schemes on the site funded under The National Forest Companies Woodland Management Grant Scheme and the River Mease Development Contribution Scheme.

The proposal

The application is in relation to the creation and improvement of forestry access tracks and the creation of an area of hard-standing and siting of two shipping containers and canopy to facilitate ongoing woodland management operations and the production of firewood.

Due to the potential impact on the River Mease Special Area of Conservation (SAC) arising from the works proposed under Prior Notifications ref. DMPN/2020/0560 and DMPN/2020/0562, the applicant is required to submit an application in accordance with Section 77 of the Habitat Regulations to allow the Council to assess the potential effects of the proposal on the European Site prior to the commencement of the development (noting that consultation with Natural England is not carried out under Prior Notifications and Prior Approvals pursuant to the Town and Country (General Permitted Development) Order 2015).

Applicant's supporting information

A supporting statement sets out the details of the proposed activities, including how the tracks will be constructed, surface water management and use of the tracks and hardstanding areas, before considering environmental legislation and pollution control, as well as long term maintenance.

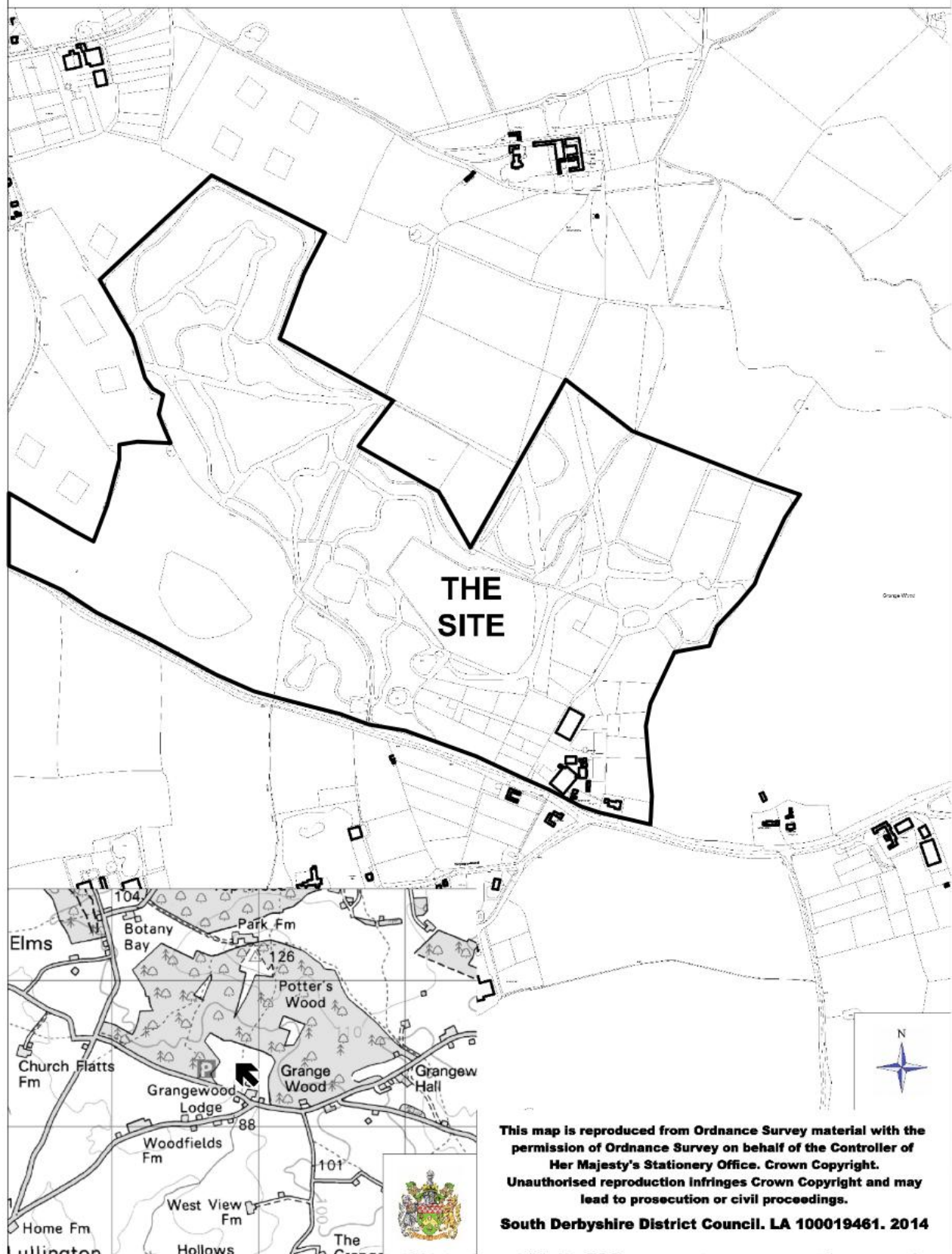
Relevant planning history

9/2018/0476: Prior Approval for the construction of forestry tracks - Prior Approval granted June 2018.

DMPN/2020/0560: Prior Notification for proposed forestry tracks (amended scheme to that approved under ref. 9/2018/0476) - Prior Approval not required July 2020.

DMPN/2020/0562: Prior Notification for the creation of an area of hardstanding and the siting of 2no. shipping containers with canopy - Prior Approval not required July 2020.

DMOT/2020/0729 - Grangewood Farm, Grangewood, Swadlincote DE12 8BG



Responses to consultations and publicity

No consultation or publicity on this type of application is required, other than to consult Natural England. At the time of writing the report, a response from Natural England is awaited although it is not anticipated an objection will be lodged. The Committee will be updated verbally on whether a response has been received at the meeting.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S2 (Presumption in Favour of Sustainable Development), BNE3 (Biodiversity);
- Local Plan Part 2 (LP2): BNE5 (Development in Rural Areas) and BNE6 (Agricultural 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

The scope of consideration under this application rests on the response of Natural England as the expert authority in respect of impacts on European Sites - the SAC in this case.

Planning assessment

The overall aim of this project is to reduce surface water runoff on the site and in turn reduce the amount of sediment entering the river. The project has been discussed at the River Mease Technical Working Group which is attended by The Environment Agency, Severn Trent, Natural England and a number of planning authorities, including South Derbyshire, and the works have been devised through discussions with all partners of the group. Ultimately it is Natural England who will advise whether the scheme is considered acceptable in terms of the impact on the biodiversity of the woodland and the impact on the River Mease, but as they have been part of the working group, the Council does not envisage any issues to be raised.

Given the need for the Committee's resolution in order to subsequently issue a decision, and the limited timeframe in which to do so; the recommendation below seeks authority be delegated to the Head of Planning and Strategic Housing to take this action.

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

Subject to receiving no objection from Natural England, delegated power to the Head of Planning and Strategic Housing to **APPROVE** the application (subject to conditions or obligations as may be required by Natural England).

Item No. 1.10

Ref. No. [DMPA/2020/0579](#)

Valid date: 15/06/2020

Applicant: Stephen Hollingsworth

Proposal: Advertisement consent for the display of four signs at the entrances of Melbourne Sports Pavilion, Cockshut Lane, Melbourne, Derby, DE73 8DG

Ward: Melbourne

Reason for committee determination

This application is reported to the Planning Committee as the Council has an interest in the site.

Site Description

The site has been re-developed in recent years to provide a comprehensive sporting and recreational facility.

The proposal

The application proposes signs either side of both site accesses to provide information about the facilities. Two existing signs would be replaced by the proposal.

Applicant's supporting information

The applicant states the signs are provided by a local benefactor who feels the signage could be improved; having signs at both sides of the entrances would enable them to be seen in a timely manner from both directions enabling controlled and safe turnings into the facility; numerous comments have been received over the years over the years that signage has not been clear enough causing the need for visitors' vehicles to double back; and the signs would visually and safely enhance the facility.

Relevant planning history

9/2013/0458: Permission granted for redevelopment of former recreation ground.

Various amendments to this original permission have been granted permission, although these do not have bearing on this proposal.

Responses to consultations and publicity

Melbourne Civic Society considers that two signs at each entrance seems to be excessive, especially in a location which is essentially rural.

The County Highway Authority has no objections to the proposal from the highway point of view subject to the signs being located within the application site boundary, in private land and not within public highway limits.

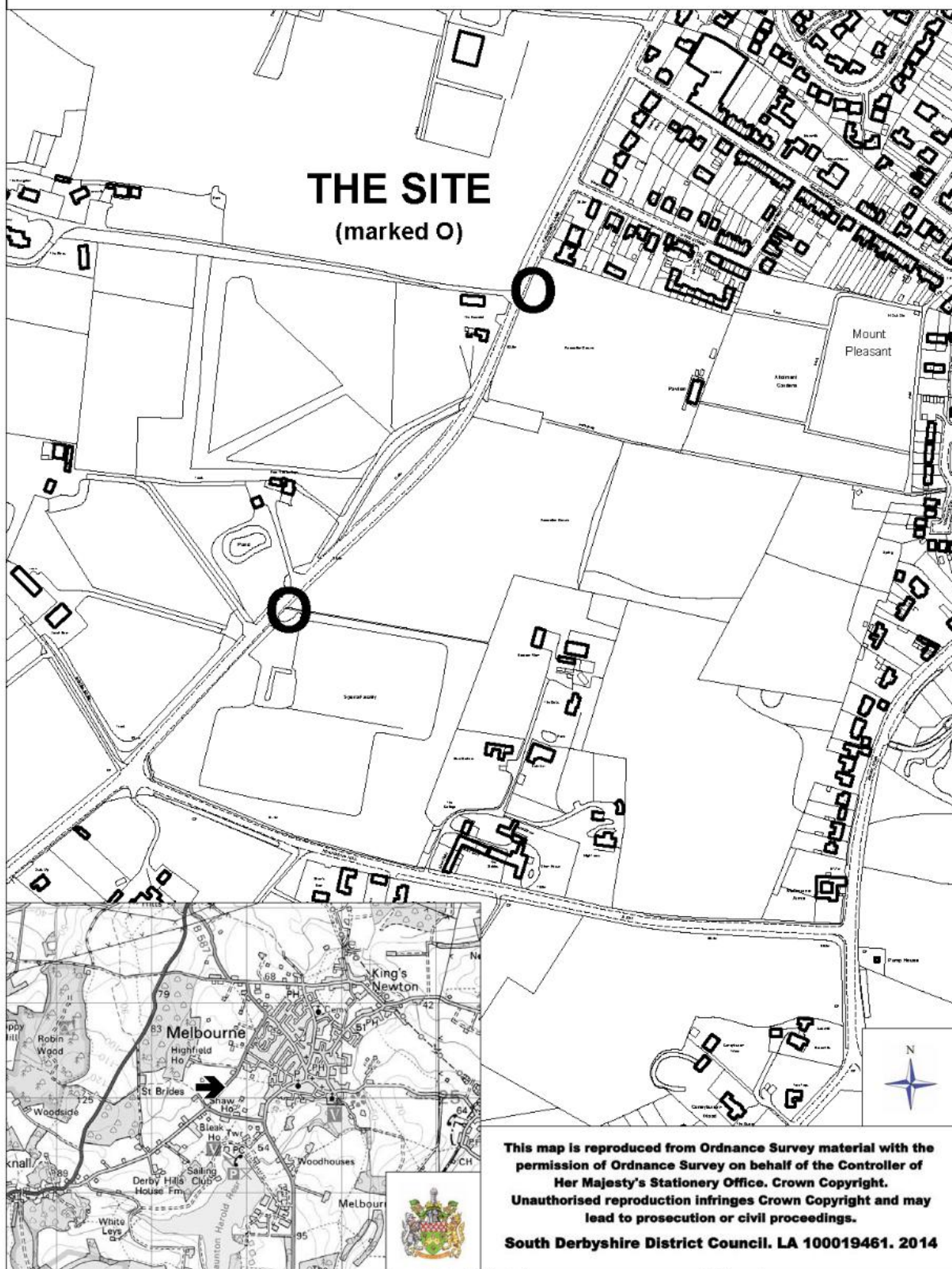
At the time writing, the application is still subject to publicity. Any further representations received within the publicity period will be reported verbally at the meeting.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): SD1, BNE1, INF2
- Local Plan Part 2 (LP2): BNE9

DMPA/2020/0579 - Melbourne Sports Pavilion, Cockshut Lane, Melbourne,
Derby DE73 8DG



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)

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 visual amenity and public safety.

Planning assessment

Visual amenity

The proposed signage is simple, modest in size in design and well related to the facility that they seek to advertise. Whilst concerns are raised as to the number proposed, it is not considered this has a visually harmful effect or causes clutter. As such there would be no adverse harm to the amenity the area and policies SD1, BNE1 & BNE9 are thus satisfied.

Public safety

Being non-illuminated, the signage would not create unsatisfactory highway safety conditions, as required by Policy INF2. Concerns about encroachment in the highway can be addressed by informative.

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.

Informatives:

- a. This consent does not authorise any encroachment into the highway limits.
- b. This consent is also subject to the standard conditions as set out in The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended). Compliance with the following is necessary:
 - (i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission;
 - (ii) No advertisement shall be sited or displayed so as to:
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
 - (iii) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site;
 - (iv) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public; and

(v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

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 |
|------------------|-----------------------------|------------------------|----------------|-----------------------|
| DMPA/2019/1272 | Main Street, Burnaston | Etwall | Allowed | Delegated |
| DMPA/2019/1286 | South Drive, Newhall | Newhall and Stanton | Allowed | Committee |
| DMPA/2019/1321 | Springfield Road, Repton | Repton | Allowed | Delegated |



Appeal Decision

Site visit made on 1 June 2020 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2020

Appeal Ref: APP/F1040/W/20/3246024

Thorn Chase, Walnut Croft, Main Street, Burnaston, Derby DE65 6LG

- 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 and Mrs Bottomley against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2019/1272, dated 1 November 2019, was refused by notice dated 23 December 2019.
 - The development proposed is change of use and associated alterations for the conversion of an existing garage to a one bedroom dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use and associated alterations for the conversion of an existing garage to a one bedroom dwelling at Thorn Chase, Walnut Croft, Main Street, Burnaston, Derby DE65 6LG in accordance with the terms of the application, Ref DMPA/2019/1272, dated 1 November 2019, subject to the attached schedule of conditions:

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The description of development in the heading above has been taken from the planning application form which slightly differs from that on the Council's decision notice. In part E of the appeal form it is stated that the description of development has not changed and neither of the main parties have provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the application form.

Background and Main Issues

4. The planning application follows two recent refusals¹. These applications were refused due to the Council's concerns relating to the impact upon the character and appearance of the area and overlooking into a neighbouring property. The current application sought to overcome those concerns. The Council is satisfied that the issues relating to overlooking have been addressed and I see no

¹ 9/2019/0364 and 9/2018/0757

reason to disagree, given the position of the proposed windows. However, it maintains an objection on grounds of the effect on the character and appearance of the area and has introduced another reason for refusal relating to highway safety.

5. Consequently, the main issues for this appeal are the effect of the proposal upon:
 - i. The character and appearance of the surrounding area; and
 - ii. Highway safety.

Reasons for the Recommendation

Character and appearance

6. Main Street is an attractive highway with a grass verge to either side. The area is rural in character and properties along Main Street differ in scale, form and design. Walnut Croft consists of three, detached properties which are set back from Main Street.
7. Thorn Chase currently has a relatively new detached garage located to the front of the dwelling. The garage is domestic in character and currently has two rooflights, two windows and a door on the principal, and most prominent, elevation. The boundary hedge and wall, adjacent to Main Street, partially screen the site.
8. Whilst Main Street is predominately laid out in a ribbon form, there are a range of buildings which do not follow this pattern. The appellant has drawn my attention to Walnut Close and Manor Farm Mews which include dwellings set back from the highway and do not follow the linear form of Main Street. In addition, there are buildings directly adjacent to Main Street, including former agricultural buildings. These buildings have been converted to either ancillary buildings or dwellings. All three properties within Walnut Croft also have ancillary buildings abutting Main Street.
9. The character and appearance of the existing building would be maintained. This is because the scheme does not seek to extend the building and only minor external alterations are proposed. The development would include larger and additional windows, but these would not result in the character and appearance of the building fundamentally altering. The revised windows, on the north west elevation, would not be significantly larger. Similarly, the extent of new openings would be limited.
10. The proposed parking space would alter the appearance of the site. Nevertheless, this would not look wholly out of place within the context of the surrounding area. The Walnuts, directly adjacent to the site, currently has parking within a similar position. Additionally, the parking area would be to some extent screened by the existing boundary treatment.
11. Due to the scale of the building, and because limited alterations are proposed, the dwelling would still read as a subordinate building within Walnut Croft, and Main Street. The scheme would therefore not look out of place within the mixed streetscene and would maintain the character and appearance of the area.
12. For those reasons, the proposed development would not have a significant adverse visual effect upon the character and appearance of the surrounding

area. Accordingly, the proposal would comply with Policies BNE1, BNE4 and H20 of the South Derbyshire Local Plan: Part 1 (2016) (LP) and the National Planning Policy Framework (the 'Framework'). These Policies seek, amongst other matters, to promote good design and to ensure that new development respects the character and appearance of the area.

Highway Safety

13. The submitted drawings show one parking space for the proposed dwelling. The Council consider that there would be sufficient parking for Thorn Chase and the proposed property. Paragraph 109 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
14. The County Highway Authority provided a consultation response and commented on the location plan's red and blue line boundaries. They raised no objection to the proposal provided that the Council are satisfied that a right of access exists between the site and the public highway, and that the proposed parking space can be conditioned.
15. The appellant has confirmed that they currently own all of the land within the red and blue line boundaries. They have also stated that the area between the appeal site and Thorn Chase is used for circulation purposes by both Thorn Chase and The Lanterns, as permitted by access rights. Thus, future occupiers would have a right of way to use the shared driveway to access the parking space.
16. There would be adequate space for future occupiers to manoeuvre and access the parking space using the shared highway. No substantive evidence has been submitted which demonstrates that the scheme would compromise highway safety and therefore the access and parking arrangements would be satisfactory.
17. For the reasons above, the proposal would not have an unacceptable impact upon highway safety. Consequently, it would accord with Policies BNE1 and INF2 of the LP, the South Derbyshire Design Guide: Design Supplementary Planning Document (2017) and the Framework. These Policies seek, amongst other matters, to ensure that new development provides suitable provision for access, manoeuvring and parking.

Conditions

18. The Council has not suggested any conditions which they consider should be imposed. However, the County Highway Authority have suggested a condition, relating to the parking space. The appellant has confirmed that they agree to such a condition and have also suggested a number of other conditions. I have assessed these conditions in light of guidance found in the Planning Practice Guidance and where necessary have been amended for clarity and precision.
19. In addition to the statutory commencement condition a condition is necessary in the interests of certainty to ensure that the development is carried out in accordance with the approved plans. In the interest of visual amenity, a condition relating to materials is necessary. I also consider a condition relating to parking provision is necessary in the interests of highway safety.

20. The appellant has suggested a condition relating to the removal of permitted development rights. Minimal alterations are proposed within the scheme put forward. In the interest of safeguarding the character and appearance of the area, this condition is necessary as future alterations under permitted development could detrimentally alter the character of the area.
21. As referred to above, the existing hedge partially screens the building. To help screen the development from public view, it is necessary to impose a condition which ensures that the existing boundary hedge is retained. The removal of the hedge would be visually harmful to the character and appearance of the area as boundary hedges are a common feature.
22. The elevation drawing shows that the bathroom window would be obscure-glazed and therefore condition 2 would ensure that the new window is fitted with obscure glazing. I am also satisfied that the obscure glazing would be retained as the window serves a bathroom. It is unlikely that any future occupiers would want to remove the obscure glazing in the future. Condition 2 would also ensure that the new windows and doors are carried out in accordance with the approved drawings.

Conclusion and Recommendation

23. For the reasons given above I recommend that the appeal should be allowed, subject to the imposition of all necessary conditions.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be allowed subject to the conditions attached.

Chris Preston

INSPECTOR

Schedule of 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: 2401-001, 2401-004 and 2401-005.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on drawing no. 2401-005.
- 4) The dwelling hereby approved shall not be occupied until the car parking space has been laid out within the site in accordance with drawing no. 2401-004 and that space shall thereafter be kept available at all times for the parking of a vehicle.
- 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 with or without modification), no development shall take place under Classes A, B, D or E of Schedule 2, Part 1 unless expressly authorised by this planning permission.
- 6) The existing boundary hedge along the boundary fronting onto Main Street, as shown on drawing 2401-004, shall be retained. Should any plants within the hedge die or become seriously diseased they shall be replaced in the first available planting season with plants of the same species.



Appeal Decision

Site visit made on 16 June 2020 by G Sibley MPLAN MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2020

Appeal Ref: APP/F1040/D/20/3246095

61 South Drive, Newhall, Swadlincote DE11 0RN

- 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 Danial Cope against the decision of South Derbyshire District Council.
 - The application Ref: DMPA/2019/1286, dated 6 November 2019, was refused by notice dated 6 January 2020.
 - The development proposed is described on the application form as 'erected fence for child safety to stop my son running out onto the main road.'
-

Decision

- 1) The appeal is allowed, and planning permission is granted for the erection of a fence at the front of the property at 61 South Drive, Newhall, Swadlincote, DE11 0RN in accordance with the terms of the application ref: DMPA/2019/1286, dated 6 November 2019.

Appeal Procedure

1. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

2. The fence has already been erected and so the application was made retrospectively.
3. In the interest of clarity, the description of the development in the formal decision is based on the description in the decision notice which more accurately describes the development for which planning permission is required. However, I have used the term 'erection of' rather than 'retention of' a fence because retention is not an act of development.

Main Issues

4. The effect of the development upon the character and appearance of the street scene.

Reasons for the Recommendation

5. No.61 is a semi-detached dwelling located on a junction adjacent to a minor roundabout and has a garden that wraps around the house. The wooden fencing to the rear and to the side of the dwelling was already in place and the

new wooden fencing, to which this appeal relates, was erected between No.61 and the adjacent dwelling as well as in front of No.61 parallel with the footpath.

6. The dwellings within the street scene are generally similar in appearance as No.61 and are typically set back behind front gardens or off-street parking. There is a notable change in the character of South Drive from the section to the north of the mini-roundabout, where front gardens are universally enclosed by low walls and fences, and the section to the south and east which has a more open plan character. Within the more open plan area there are very few front gardens that have fencing between each dwelling, although there are a number of dwellings that have low level hedges and bushes in their front gardens. In effect, the dwelling at the appeal site is located at the juncture between the more enclosed character to the north and the open plan character to the south and east. In the surrounding area is not uncommon for dwellings located at junctions or around roundabouts typically have low level fencing around their front gardens.
7. Because No.61 is located opposite a roundabout the majority of the front and side garden is already bound by blue painted wooden fencing as well as hedges and bushes that have grown to be taller than the fencing in front of it. As such, the view prior to the fencing being erected would have been of the existing fencing and hedges. Consequently, whilst the fencing has been built around more of the garden there would not have been open views across the site before it was constructed. In addition, when looking northwards, the fencing is seen in the context of the run of properties where front gardens are enclosed by fences and walls and it does not look out of place in that regard.
8. Because the fencing is around 1.2 metres(m) tall it does not restrict views within the street scene for most pedestrians, or other road users. It would also be possible to plant hedges and bushes that could be taller than the fencing, which could have a greater impact on reducing the open character of the street scene. Low level fencing is common on corner plots within the street scene and wooden fencing is not an uncommon feature in predominantly residential areas. Whilst the fencing has not been painted, it is not industrial in appearance or scale and the timber will fade and soften in colour over time. Consequently, the material is an appropriate boundary treatment for a residential garden.
9. I recognise that part of South Drive was based on an open plan layout and that many properties in that section of the estate still retain that character. However, as noted, my assessment is based on the specific characteristic of the dwelling which is located at a corner plot, directly adjacent to existing fencing and other properties with enclosed front gardens. Consequently, the conclusions reached would not set a precedent for similar development in the wider area on dwellings that did not share those characteristics.
10. Therefore, the fence in this location does not harm the open appearance of the street scene and does not appear out of character. The proposal is in accordance with policy BNE1 of the South Derbyshire Local Plan Part 1 (LP Part 1) (adopted 2016) which looks to ensure development creates places with a locally inspired character that responds to their context, as well as policy BNE4 of the LP Part 1 which looks to ensure development is carefully designed and implemented to protect the character, local distinctiveness and quality of the landscape. It is also in accordance with policy H27 of the South Derbyshire

Local Plan Part 2 (adopted 2017) which looks to ensure boundary treatments are of an appropriate scale and character with the property. The development is also in accordance with The South Derbyshire Design Guide Design Supplementary Planning Document (adopted 2017) which requires development to use boundary treatment that is common to the street scene to clearly indicate which spaces are public and private. The proposal also complies with the National Planning Policy Framework which looks to ensure that developments will function well and add to the overall quality of the area.

Other Matters

11. Because the fencing is low level, it does not significantly restrict views when exiting the neighbouring driveway and whilst the site is located adjacent to a minor roundabout, the road is located within a residential estate that appears to be lightly trafficked. Consequently, the fencing does not have an unacceptable impact on highway safety.

Conditions

12. A condition has been suggested to ensure the development is carried out in accordance with the approved plans. This condition is not necessary because the development has already been carried out.

Conclusion and Recommendation

13. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree that the appeal should be allowed.

Chris Preston

INSPECTOR

Appeal Decision

Site visit made on 24 June 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2020

Appeal Ref: APP/F1040/D/20/3250551
17 Springfield Road, Repton, Derby DE56 6GN

- 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 & Mrs Karamucki against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2019/1321, dated 15 November 2019, was refused by notice dated 20 March 2020.
 - The development proposed is a two storey side extension and single storey rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a two storey side extension and single storey rear extension, at 17 Springfield Road, Repton, Derby DE56 6GN, in accordance with the terms of the application Ref DMPA/2019/1321, dated 15 November 2019, and 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: J2908-01; J2908-02 Revision B; J2908-03 Revision A; J2908-04 Revision D.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matter

2. I have based my decision on the amended plans received during the application which were consulted upon and which the Council based its decision on.

Main Issue

3. The main issue is the effect of the proposed rear extension on the living conditions of occupants of 19 Springfield Road, with respect to outlook.

Reasons

4. Nos 17 and 19 form a semi-detached pair of dwellings which stand in angled positions within their plots relative to the road and rear gardens. As a result, the rear boundary line between the dwellings is not perpendicular, but stands at an angle towards No 19, meaning the side fence comes across the view out

from the rear patio doors of No 19. Both the appellant and the neighbour at No 19 give a height of 2.3 metres for the fence on the No 19 side.

5. The side wall of the proposed extension would replace the boundary fence to a similar height and to a depth of some 4 metres, with a shallow pitched roof above. Therefore, whilst visible from the neighbours' patio doors, the height of the boundary treatment would be effectively the same as at present, whilst the roof would pitch away from the wall and would add only modestly to the overall impression of massing seen from the neighbouring property.
6. I saw that No 19 has a large rear garden which opens out to the opposite side and has a total of four window and door openings across the rear ground floor elevation. Therefore, whilst visible from the adjacent patio door, the extension would not be prominent from the other windows and an expansive outlook would still be enjoyed from within the neighbouring dwelling toward its garden. No 19 also stands to the south of the appeal site. Given this, and the spaciousness of its rear garden, the extension would not result in a harmful loss of sunlight or daylight, nor significant increases in overshadowing or sense of enclosure to the neighbouring property.
7. For these reasons, I conclude that the proposed rear extension would not cause harm to the living conditions of neighbouring occupants, and so would accord with Policies SD1 and BNE1 of the South Derbyshire Local Plan Part 1 (13 June 2016), Policy H27 of the South Derbyshire Local Plan Part 2 (2 November 2017) and the guidance of the South Derbyshire Design Guide Design Supplementary Planning Document (November 2017) (the SPD) which together support well designed new development that does not lead to adverse impacts on the amenity of existing and future occupiers.

Other Matters

8. The Council's reason for refusal does not explicitly cite harm to the character and appearance of the area; however, the delegated report refers to the rear extension element not complying with the requirements of the SPD and Policy BNE1 due to a lack of symmetry. The angle of the proposed extension is unusual, but the particular layout of the site means that a symmetrical arrangement between the two dwellings would be difficult to achieve at the rear. From my observations, the extension would not be discordant in scale or form, and its location to the rear would limit its visibility from the public realm and other properties. Therefore, I find that the extension would not be harmful to the character and appearance of the area.
9. The Council did not oppose the proposed side extension, which I note would effectively mirror an extension already constructed at No 19. On the evidence before me, I have no reason to reach a different view.

Conclusion

10. For these reasons, the appeal is allowed. To provide certainty, a condition is required specifying the relevant drawings. It is also necessary to impose a condition requiring external surface materials to match the existing dwelling to secure a satisfactory appearance.

K. Savage INSPECTOR