

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications

SECTION 2: Planning 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 1995 (as amended) responses to County Matters and submissions to the IPC.

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

Item 1.1

Reg. No. 9/2013/1044

APPLICANT:
ST MODWEN DEVELOPMENTS LTD
C/O AGENT

AGENT:
MR JASON TAIT
PLANNING PROSPECTS
4 MILL POOL
NASH LANE
BELBROUGHTON
DY9 9AF

Proposal: **OUTLINE APPLICATION WITH ALL MATTERS EXCEPT ACCESS RESERVED FOR FUTURE APPROVAL FOR A MIXED USED DEVELOPMENT COMPRISING UP TO 485 DWELLINGS, EMPLOYMENT UNITS FOR USE AS OFFICES AND/OR LIGHT INDUSTRY (USE CLASSES B1 A & C), GENERAL INDUSTRY (USE CLASS B2) AND/OR STORAGE OR DISTRIBUTION (USE CLASS B8), PRIMARY SCHOOL, COMMUNITY FACILITIES INCLUDING DOCTORS, DENTIST AND/OR CRECHE (USE CLASSES D1), RETAIL (USE CLASS A1) AND OTHER SERVICE USES CONSISTING OF FINANCIAL AND PROFESSIONAL SERVICES (USE CLASS A2), RESTAURANTS AND CAFES (USE CLASS A3) AND/OR HOT FOOD TAKEAWAYS (USE CLASS A5) AND ASSEMBLY AND LEISURE (USE CLASS D2) ALONG WITH ASSOCIATED ACCESS, PARKING, FOOTPATH/CYCLEWAYS, PUBLIC OPEN SPACE INCLUDING ALLOTMENTS, LANDSCAPING AND OTHER INFRASTRUCTURE ON LAND SOUTH OF THE MEASE HILTON DERBY**

Ward: **HILTON**

Valid Date: **23/12/2013**

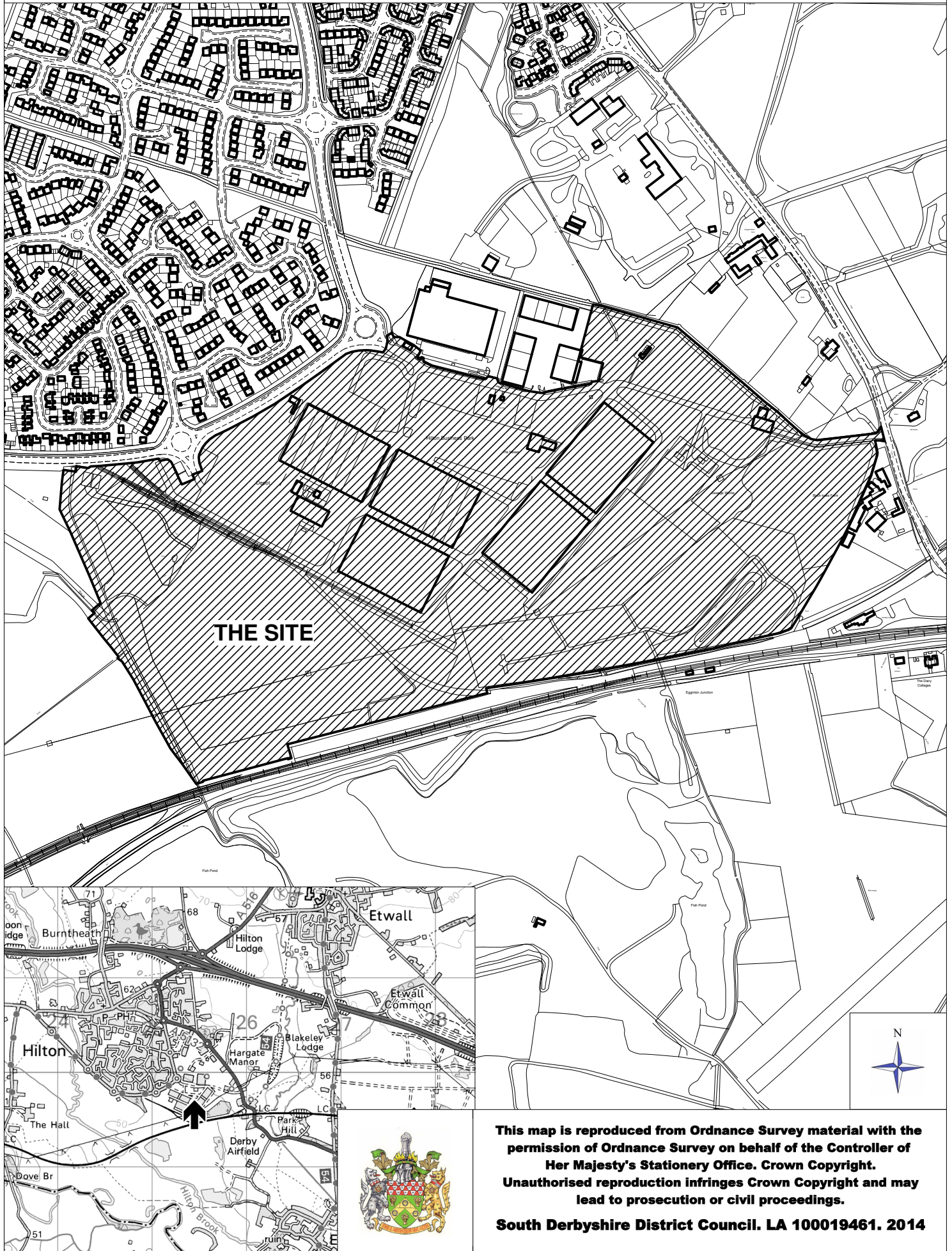
Reason for committee determination

This is a major application, not in accord with the Development Plan and to which more than two objections have been received.

Site Description

The application site comprises 37.16 hectares of predominantly brownfield land, situated to the south of The Mease and a large proportion of the site is occupied by industrial units and associated service yards and car parks. The site was the former Central Army Vehicle Depot continuing in use in the post-war period. There are significant areas of woodlands situated along the southern and western boundaries and scrubland occupies the eastern and north

9/2013/1044 - Land South of The Mease, Hilton, Derby DE65 5FJ



western corners of the site. There are high voltage power lines running east-west across the site with the Derby to Crewe railway line running in a similar direction further south, beyond the site boundary. A Severn Trent Water pumping station is also located within the existing site but is excluded from the application boundary. Vehicular access to the site is from two roundabouts, one currently serving the employment site and a second roundabout opposite Nene Way would also be utilised to access the site, although it is not in use at present. The site is bounded to the north by modern commercial buildings and the Greenway cycle/pedestrian route runs across part of the east of the site and also forms part of the northern boundary. The levels within the site fall from the north-east corner of the site to the south-west corner, towards the Hilton Brook, and the land has been plateaued in the past to create the buildings that are present on the site. The site is located within Flood Zone 3a, albeit in an area classed as defended, with areas of Zones 1 and 2. A culverted watercourse runs across the site from north to south. The site is located beyond the village development boundary, in an area designated as employment land in the adopted Local Plan.

The Proposal

Outline planning permission is sought for development of the site for mixed development of employment consisting of offices/light industry (B1), general industry (B2) and storage and distribution (B8), alongside residential development, a primary school as well as a small neighbourhood centre containing a mixture of uses. Approval of the access is sought at this stage with all other matters reserved for future approval. An indicative Masterplan has been submitted which identifies the potential level of development. This layout has changed since the original submission and the amended proposal includes 7.7 Ha (77,000 square metres) of employment land of which no more than 2,000 square metres would be used for B1a offices, residential development of up to 485 dwellings as well as significant areas of public open space on 14 ha (14,000 square metres) and a neighbourhood centre which, whilst speculative, would allow a range of uses for those, namely small scale retail (A1), financial and professional services (A2), restaurant/cafes (A3) takeaways (A5), doctors/dentist/crèche (D1) and leisure (D2). A primary school is proposed on the western side of the site along with a second commercial area which is envisaged as being appropriate for a nursery/crèche.

The illustrative Masterplan shows the residential part of the scheme located centrally between The Mease to the north, east of the proposed school and its grounds, north of the proposed public open space, SuDS area and woodland and south-west of the existing employment land, with the new employment land being located to the east and south east of the existing, more modern units that are retained.

The illustrative layout indicates the potential vehicle/pedestrian/cycleway links to locations beyond the site as well as to the remaining part of the employment land and the adjacent Greenway. Vehicular access is proposed off The Mease, utilising the two existing roundabouts, with a small access for school staff also shown directly from The Mease on the north-western part of the site. Whilst the application originally proposed re-opening of the original depot access onto Egginton Road, the County Highway Authority's main concern regarding the original submission was that element of the proposal. This concern has now been addressed and that vehicular route removed from the proposal, although it would still be a pedestrian/cycle route linked to the Greenway. The Masterplan shows secondary access roads separating the housing and employment elements of the scheme with the new publicly accessible woodland and POS linking Egginton Road and the Greenway route in a curve around the site allowing links to The Mease as well as the existing playing fields further west. The illustrative Masterplan shows a green spine through the middle of the site running in an east-west direction to provide a traffic free pedestrian/cycle route linking the proposed school through the proposed residential development to the existing employment site, the

neighbourhood centre and the cycle network to the east. Centrally located within that area is an area of POS which is envisaged as having a play area. The illustrative Masterplan includes opening up part of the route of an existing culvert that crosses the site and would be provided with landscaped corridors.

Applicants' supporting information

Design and Access Statement

This comprehensive document was revised during the consideration of the application and it sets out the vision for the site as well as a description of the site, planning policy and summarising issues relating to flood risk, drainage, noise, geo-environmental, ecology and arboriculture. The document assesses the character of the area and the consultation process undertaken in connection with the promotion of the site. The detail of the Design and Access Statement looks to explain the various uses that make up the development, the scale envisaged, as well as the layout, access and overarching design principles of the development Masterplan. It also discusses the phasing of the delivery of this major development and includes the Building for Life Assessment they have undertaken which is mostly scored green or amber.

The document has been updated to reflect the amendments in relation to the culvert and omission of the re-opened route to Egginton Road.

In terms of built form the Design and Access Statement sets out the principles of the approach to the development, indicating that the development would be predominantly 2 storeys in height with an occasional 2.5 – 3 storey building to create a sense of enclosure, add interest, create distinctive buildings or at site entrances. The mixed use would be 2.5 – 3 storeys in height with the school being single storey with a double height sports hall, and the employment buildings being single storey but of a height to reflect the more recently constructed units nearby, although if offices are delivered these would be 2 storey.

The Design and Access Statement sets out the applicant's intention with regards to the phasing of the development. In phase 1 they anticipated delivering 130 dwellings, the one-form entry primary school, access roads from The Mease, the central green corridor and children's play area as well as the attenuation basin with volume relating to the capacity for phase 1. In phase 2 a further 160 dwellings and additional landscaping would be delivered and in phase 3 185 dwellings, additional landscaping and drainage, the cycle link to the Greenway as well as de-culverting the watercourse (which may be delivered with the employment development). The employment area and mixed use facilities are proposed to be an open phase in order for the applicants to respond to market demand/funding and the demolition of the existing employment space would correspond with the development phase where possible.

Sequential Test (Flood Risk)

The application is accompanied by a Sequential test which seeks to explain rational behind the choice of the site for development in that it is a brownfield site rather than greenfield and it would deliver a new primary school. The Council has undertaken its own Sequential Test and has examined the submission and it has been concluded that the application site is the most appropriate location for the proposed development.

Flood Risk Assessment and Drainage Strategy

The document states that the development would increase the size of the plateau meaning that the developed parts of the site are all outside the floodplain. Whilst the new plateaus would reduce the floodplain, this is compensated for by the creation of new floodplain resulting in a net increase in floodplain volume of 3,666 cubic metres which includes significant additional floodplain volume by removing obstacles to flood water flow. The development of the site would also ensure that flood flow will no longer be possible across The Mease.

The levels across the site for the built development are proposed to be 50.23m AOD to ensure that finished floor levels are 50.24m AOD minimum and therefore 600mm above the 1 in 100 year + 20% climate change level. In terms of surface water it is proposed to utilise tanks, swales, permeable paving and filter drains with the SuDs configured to create two treatment levels for the residential element of the proposal as well as three for the commercial zone within the open space to the south-west of the site.

Tree Survey and Arboricultural Impact Assessment

The document examines the importance of the trees and vegetation on the site and whilst the application is in outline form only it examines the quality of the trees and vegetation on the site and the potential for tree loss. It states that the new school building would result in the loss of trees and scrubland and the employment area would result in the need to remove trees. The layout provides extensive public open space and this would allow large scale trees to be planted to compensate for those removed and the new ones would be able to reach their full potential.

Phase 2 Geo-environmental Interpretative Report and Outline Reclamation Strategy

The study resulted from both desk based and site investigations. The study states that contaminants, including heavy metals, asbestos and benzo (a)pyrene, within made ground across the site which would be an unacceptable risk for end users, particularly the housing, school and open space. The report concludes that pollution linkages must be broken and that would be by either removing the material, removing/amending the pathway or the receptor. In this case the report suggests that the most feasible option would be the use of a cover system for the sensitive areas which would consist of clean soils or hard surfaces/buildings to isolate contaminants.

Transport Assessment

The Transport Assessment was amended in order to overcome concerns from the Highways Agency as well as the County Highway Authority. The report states that the nearest bus stops are the two currently 500m from the northern boundary of the site on The Mease opposite Avon Way, serving the Villager route operated by TrentBarton. Whilst it would be ideal if the service was extended into the site this does not form part of the proposal. However, two new bus stops are proposed on The Mease on the northern boundary and these would help access to the site.

Framework Travel Plan

This report sets out the applicant's strategy for co-ordinating measures to encourage sustainable transport (public transport, walking, cycling and car sharing) and combines it in one useful place. The objectives of the Travel Plan are to encourage sustainable transport, reduce traffic generation, promote healthy lifestyles and encourage good urban design principles. In this case these relate to not only the residential element of the site but also the

school and employment uses. The Travel Plan contains action plans for each element and examines monitoring and co-ordination.

Ecology Surveys

The reports consisted of original surveys and updates and the desktop surveys anticipated Great Crested Newts to be present. However, this was highly unlikely given there is no permanent water body on the site and on site surveys found no Great Crested Newts and only small numbers of Smooth Newts along with Common Toads. The presence of bats was investigated but no bats were seen emerging from trees or buildings although they were seen foraging on the site, particularly the woodland parts of the site. 21 species of birds were found including three of High Conservation Concern (Song Thrush, Willow Tit and House Sparrow), three of Medium Conservation Concern (Dunnock, Goldcrest and Bullfinch). A small heronry was also present and the report recommends a flat gravelled island is provided in one of the attenuation ponds to provide replacement nesting habitat for Plovers and 30m exclusion provided around the heronry. The report identified protected species within the development site and states that appropriate buffer zones of at least 30m would be required.

Heritage Statement

The assessment states that there are no listed buildings on the site however the vehicle storage sheds and railway sidings are of historical interest. Whilst the development proposes to clear the site, their loss would have limited effect upon heritage interests and report concludes that their retention is not justified.

Employment Land Report

The report argues that the amount of land within the District with permission already in place exceeds the total needed in terms of strategic planning and that even losses that would result from this develop Hilton and Cadley Hill are compensated for by allocations there. They state that the Hilton Depot site is of very old, poor quality buildings in poor and deteriorating condition and that the uses of the site are such that only 150 people are employed whilst the new proposals would generate 500-550 new jobs. As such they consider that the proposal would not detrimentally affect the supply of employment land but would bring forward quantitative improvement in building stock in new premises creating more jobs.

Noise Assessment

The report identifies noise from road traffic on the A5132 (as well as the A38 and A50 to a lesser extent), sporadic train and aircraft noise and noise from the commercial activities on the site. The report concludes that noise levels would be “reasonable” during the day with windows open and “good” with them closed measured against World Health Organization and BS8233 standards and as such, subject to appropriate controls in relation to the proposed employment uses, the daytime and night-time noise climate at the site is suitable for residential development.

Planning Statement

The planning statement submitted in conjunction with the application provides an analysis of the site and its surroundings, explains the detail of the submission as well as the context in terms of planning policy that they consider relevant to the proposal. The statement states that the scheme would deliver much needed market housing as well as affordable housing

within a high quality, sustainable development. It states that the proposal would bring economic benefits in terms of enhanced employment levels due to the proposed employment accommodation, New Homes Bonus of approximately £2.5M, a new primary school as well as ecological enhancements secured. It sets out the scope of anticipated S106 matters, though this is subject to viability and concludes that the new school, the new jobs during construction, support for local services, the new employment accommodation, ecological enhancements, public open space and mixed uses outweigh the disbenefits in terms of reduction in employment land, loss of poor biodiversity habitat and flood risk, resulting in the planning balance being very clearly in favour of the development. It concludes, amongst other things, that the Development Plan is significantly out of date with the new plan having limited weight and whilst there is a requirement of the Local Planning Authority to identify a five year supply of housing there is a significant shortfall and the proposal would help meet that need. The applicant considers that the proposals are in line with the National Planning Policy Framework (NPPF) and represents sustainable development.

Statement of Community Involvement

The applicant undertook public consultation including briefings for local councillors, the holding of an exhibition for tenants as well as a public exhibition. A prior notification mailshot to 3,500 local homes, media coverage and advertising ensured that the public exhibition was attended by over 220 people. The responses showed considerable support for the scheme despite widespread concern about traffic and access.

Scheme Viability Submission

The applicants have carried out a series of viability appraisals in order to assess affordable housing and S106 contributions on the scheme.

Planning History

None particularly relevant.

Responses to Consultations

The County Council Rights of Way Section advises that there are no public rights of way crossing the site and therefore they have no objection or comments to make on the proposal.

Derbyshire Constabulary Crime Prevention Design Advisor has no concerns with regards to the principle of the development or the access points and that the development would improve the detached nature of the site from the surroundings. He expresses concerns in respect of rear parking courts and requests on plot parking or overlooking of the parking courts. Means of enclosure would be required to ensure that remote employment areas and school grounds do not experience inappropriate use. Details of measures to prevent motorcycles accessing the footpath network are required. He also requests that an informative be added to any permission to request the applicant to examine whether the existing police office in the pavilion could benefit from an alternative community police base for Hilton.

Network Rail has no objection to the principle of the development but does have concerns in respect of drainage, however, as this is an outline application, it requests a condition relating to surface water control and disposal be imposed, particularly in relation to watercourse/culverts adjacent to the railway. It also requests conditions relating to boundary

fencing, soundproofing, method statements in relation to works adjacent to the railway and landscaping as well as notes to the applicant relating to boundary security, demolition, encroachment, access to the railway, open space/children's play areas, crane and plant use as well as excavations/groundworks.

Natural England raises no objection to the proposal and has not requested any conditions be imposed but advises that consideration should be given to the impact on protected species. The scheme could deliver enhanced green infrastructure and biodiversity and it advises the Local Planning Authority to secure input from local wildlife groups.

The County Highway Authority's main concern regarding the original submission was the proposed re-opening of the original depot access onto Egginton Road. This concern has now been addressed as the reuse of route for traffic from the development has been removed from the proposal. Other matters it raises relate to the details of the school car park access, extending the footway along The Mease, mitigation measures at the Derby Road/Hilton Common Link Road roundabout and the submitted Travel Plan Plans and these are matters that can be controlled by condition. It requests that the following contributions included in the Agreement under Section 106 of the Town & Country Planning Act 1990:

1. Network Monitoring – Traffic and pedestrian monitoring in relation to establishing the need for the provision of a pelican crossing and where a material impact is identified, a contribution not exceeding £37,500 (index linked) to be made.
2. Travel Plan Monitoring - The annual assessment of the Travel Plan up to a maximum contribution of £2,500 per annum for 5 years.
3. Public Transport – A contribution of £4,000 over 5 years towards their future maintenance of a bus stop.

In addition conditions are requested in relation to the provision of details of site plant/accommodation/parking facilities; wheel washing facilities; construction management plan; footways on The Mease; school staff access; the provision of the footways, bus stop shelter and boarding facilities; provide improvements to Derby Road/Hilton Common Lane before occupation of 250th dwelling; internal road design to "6C's Design Guide"; swept path to show HGV turning at reserved matters stage; access to highway before occupation; details of SuDs; parking and turning before occupation and the provision of a Travel Plan.

Severn Trent Water has no objection subject to a condition relating to surface water and foul sewage disposal as well as an informative in relation to a public sewer within the site.

The Planning Policy Officer at Derbyshire County Council advises that the local County Council Member, Councillor Patten, has expressed concerns regarding secondary school and healthcare provision, especially with the developments in Etwall in mind, as well as access. They request S106 contributions towards the following:

- a) Amendments to the on-site design of the development scheme to ensure safe access for pedestrians and cyclists;
- b) Provision of a Greenway (with segregation for horseriders from cyclists and pedestrians) as part of the on-site design of the development scheme, along with a financial contribution of £43,520 towards future maintenance;

- c) £128,000 towards the creation of 2km of new Greenway to the south of the development site;
- d) The provision of both the land (a site with sufficient land for an eventual two-form entry primary school) and construction of a one-form entry primary school that has sufficient classrooms for one-form entry and the core facilities (dining hall, admin/office space etc.) of a two-form entry school to allow for future expansion to a two-form entry school via the provision of additional classrooms without needing to reconstruct the core facilities;
- e) £1,253,860.41 towards the provision of 73 secondary pupil places;
- f) £540,209.10 towards the provision of 29 post-16 pupil places; and
- g) New homes designed to Lifetime Homes standards.

The Council's Contaminated Land Officer states that as the site and adjacent to it have been used for road haulage and there is the potential for ground gas generation from unknown filled ground and the former National Power PLC Waste Disposal Site, along with the current uses, may have contaminated the site. Whilst it is noted that a Phase I report has been completed but a phased contamination condition is still recommended.

The Environmental Health Manager has no objection to the principle of the development but requests conditions relating to noise and dust control measures; the implementation of noise mitigation in the noise report; details of measures control of future noise sources on new commercial units; limitation of deliveries to between 08:00 and 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays with no deliveries on Sundays and Bank Holidays; opening hours of units used for A3 (restaurants and cafes) or A5 (hot food takeaways) limited to 08:00 and 22:00 Monday to Saturdays, 10:00 and 22:00 on Sundays and no opening on Bank Holidays; details of odour control measures for cooking facilities and details of lighting that should also be limited to between 5 and 20 LUX.

The Housing Strategy Manager advises that there is a need for affordable housing in Hilton and requests the developer provide 30% affordable housing (146 units) of which 30% (43 units) of those should be 1 bedroom properties, 35% (51 units) two bedroomed properties, 25% (37 units) three bedroomed properties and 10% (15 units) four bedroomed properties. Of these it is requested that 68% be for rent and 32% intermediate housing. These provisions should be secured through a S106 agreement.

Derbyshire Wildlife Trust considers that the ecological works have been undertaken to a thorough standard using methodologies that accord with best practice and that they enable an accurate assessment to be reached. They advise that there is no anticipated impact on European protected species i.e. bats and Great Crested Newts, and that the main interests are the protected species, the range of bird species including the protected Little Ringed Plover, the small Heronry and the areas of woodland. They advise that the surface water attenuation pond must be suitable for the Common Toad and the gravel island that is to accommodate the Little Ringed Plover should also have further areas of gravel/bare ground for lapwing as well. Furthermore, areas of wildlife rich grassland would be appropriate in green corridors. They do, however, advise that it may be difficult to secure the retention of ecology features as part of a condition at this outline stage and access would need to be considered to some areas. The Trust recommends conditions be imposed to secure a constructional management plan as well as a landscape and ecology management plan and that no site clearance be undertaken between 1 March and 31 August unless inspected by an ecologist.

The Coal Authority has no comments to make.

The Council's Design Excellence Officer generally supports the proposal with the only concerns relating to the radii at the access school access roundabout and investigate the provision of a more direct pedestrian crossing to the school, the provision of allotments under the existing power lines, increasing distance between the housing and the power lines and better use of SuDs.

The Highways Agency raise no objection to the proposal, stating that they are satisfied that the traffic generated by the proposal can be accommodated on the Strategic Road Network at the A50/A515/A5132 junction and that the Travel Plan should contribute to reducing reliance on the private car by encouraging sustainable means of transport.

The County Archaeologist states that the submitted information provides a robust assessment of the heritage assets and meets the requirements of the NPPF. He states that the site contains remains of the army's former Central Vehicle Depot, Hilton. Although the site has WW2 origins the surviving infrastructure and buildings on site largely relate to the site's Cold War development (1950s and 1960s). He advises that the remaining features are isolated and somewhat out-of-context, and the surviving vehicle storage sheds are rather generic in character. Nonetheless, he considers that the surviving features on site do have a certain historical and architectural significance based on their evidential value as examples of military architecture of this period but that the relatively minor loss of significance accruing from the loss of these historic features is outweighed by the benefits of bringing what is primarily a brownfield site into active use for housing development. He states that the loss of historic features should be addressed through the imposition of a condition to secure a programme of recording.

The Open Spaces and Facilities Development Manager advises that the publicly accessible open space within the development is excellent and supports the provision of allotments and the opening up of the woodlands. Linkages into the existing woodland and connections with adjacent and nearby public spaces are to be encouraged, and the provision of the cycleway and footpath links facilitates this. The tree lined avenues, the use of street trees and landscape buffers have been used to good effect to define main routes and screen off different land uses. The proposed development seems to have made a good attempt to increase the biodiversity of the site, and makes an effort in terms of habitat retention and creation, which she endorses. Details of the play equipment would be required at a later stage, prior to commencement. It is not at this stage known whether the developer intends to hand the POS to the Council for adoption or whether a management company would take it on. She advises that a landscape management plan would be required in either case, and a commuted sum secured through a S106, payable on handover to the Council, if adopted. The formal sports provision on the development is provided on the school site and it is important that community access to facilities is provided through the appropriate siting of the facilities within the school grounds, plus the provision of separate access into the site from the public side. The development at least meets the requirements for formal and informal open space on site, and therefore no off-site contribution is required for those aspects.

The Environment Agency withdrew their objection which was issued until the Local Planning Authority were satisfied in respect of the Sequential Test and request conditions relating to the provision of details relating to the phased provision of flood storage compensation, the provision of a topographical survey of the flood compensation and to ensure no subsequent alterations to the ground levels are made; details of the reinstatement of the culverted watercourse to open channel; construction method for flood storage compensation and

watercourse reinstatement; floor levels of each phase of development as well as surface water drainage scheme for each phase of development.

NHS England anticipates an increase in population directly attributable to the new housing development of approximately 1115 persons and that it is likely that the development would have a direct impact on the Wellbrook Medical Centre. As such a S106 contribution of £551 per dwelling should be secured. They advise that their Area Team is unlikely to support a single handed GP development within the site and existing local practises should be enhanced.

The Economic Development Manager advises that he has concerns in respect of the proposal and that the design and build approach for the new units follows an approach that has clearly failed at Hilton. He states that the retained employment land is not going to be a prestige development with a prominent road frontage and is liable to be limited in terms of hours of operation etc. by the proximity of the housing. Consequently he considers that it would be more realistic to undertake speculative building and offer freehold serviced plots. He states that proposals to assist the existing companies on the site that are to be displaced are inadequate and that the applicant should be looking to build new premises for those displaced companies. As the existing jobs are in warehousing etc. it is unlikely that the employees affected would be able to afford to travel any distance if their employer relocates due to the typically low wages in the sector leading to them being unemployed. He does, however, state that he would support the demand for speculative development, particularly of smaller units, and for the sale of freehold serviced plots, and for the linking of employment development to thresholds for housing construction but that it would be essential to see any 'Relocation Strategy Assistance Plan' relating to the existing businesses on site before the planning application is determined.

Responses to Publicity

Hilton Parish Council object to the proposal as they are concerned that the amount of new homes is 100 more than was anticipated or stated in the Local Plan; there is a lack of infrastructure within the village; whilst primary education is provided for secondary education is not and John Port School is already/almost full; it will increase traffic; it will increase flooding; there are Great Crested Newts and a Heron habitat in this area.

Egginton Parish Council object to the proposal due to implications for flooding downstream where Egginton remains at risk of flooding, despite flood defences, as well as the impact on existing services, particularly John Port School and school movements in Etwall.

7 letters of objection received which can be summarised as follows:

- a) Where is the detail to deal with drainage? The existing drains cannot take any more water.
- b) The road infrastructure will be adversely affected.
- c) Another primary school will reduce resources for the current one.
- d) The village community could be destroyed by catchment area changes whereby friends go to different schools.
- e) The existing GP is oversubscribed and healthcare cannot be guaranteed.
- f) The new estate should not be built like ours in Foss Road and increasing the numbers to 485 will create this type of development and make it horrendous to live in.
- g) It is premature as the Local Plan has yet to be examined and the current plan dates back to 1998 and has limited weight.

- h) The proposals map shows the residential in brown whereas the application site is purple for industrial.
- i) This is surely a departure from the adopted Local Plan allocation.
- j) The Council's Preferred Growth Strategy states Hilton is not preferred for growth anymore due to the scale of previous development, impact on the primary school, local infrastructure and flood risk.
- k) The closure of the existing commercial premises goes against planning policies aimed at securing jobs and employment is a much reduced size now and no guarantees that the new units will be provided.
- l) Mention is made of potential mixed use facilities but the other uses will be delivered in response to occupier requirements over time. Doctors, dentists and local retail are needed for the 1000 new residents and existing facilities will be under pressure, therefore these should be a requirement.
- m) Are other facilities, such as childcare, needed?
- n) There is little detail of height, design layout etc. – as opposite the site is two storey, should this not be a restriction to avoid inappropriate taller buildings?
- o) It is not clear how the internals will work, is the density too high to afford proper living conditions and can this not be a condition?
- p) Have services for sewage, water supply etc. been considered
- q) How much and where will affordable housing will be provided?
- r) Are there other community benefits that could be negotiated from the developer e.g. improvements to existing play spaces, better cycle linkages, cycle storage at the shops, a footpath along the river and have these been put to the developer to aid integration with the rest of Hilton?
- s) Would an underpass across the main road be better than a single pelican crossing?
- t) It should be refuse on prematurity grounds.
- u) SDDC, having ignored this site in its local plan, suddenly asked for 375 homes; then St Modwen said it would have to be 425 if they had to provide a school; and then planning permission goes in and now it's 485 so St Modwen can throw some cash at secondary school provision. This feels like the tail wagging the dog here. Do we know if 485 is St Modwen's final offer?
- v) Will the St Modwen plan deliver the number of affordable homes that SDDC itself stipulates as necessary on new-build developments?
- w) Why were residential developments previously refused and suddenly now it's ok.
- x) The new Academy is an imperfect solution to an imperfect plan. It will have a dramatic effect on Hilton Primary School, its parents, teachers, children – and future.
- y) Where the Planning Statement says, *"A new school is needed", it is not needed if the houses are not built. The Statement says "a new school is needed at Hilton due to the existing Primary School having grown disproportionately large. The intention is that a new school will spread education provision with more manageable school sizes. The school provision is supported on the application site by the Local Education Authority and is a principal aim in the emerging Local Plan. The proposed new school will be provided solely by the applicant and will not require public funding. The delivery of the school supports the social role of sustainable development in providing significant benefit to existing and proposed future residents."* The current Primary School may be large but it is not 'unmanageable' and is only necessary to deal with a problem that this development creates. No new houses in Hilton means no new school would be necessary.
- z) The current school is dealing with the current peak, which will level out before gently declining. The moment to have built a second school has long since passed, and the Council missed its opportunity. The Council would probably point to the fact that it wasn't planned to have this many houses, and therefore children, in Hilton. And this is

precisely the problem. Planning is uncoordinated, short-term and based on political expediency. It would be good to break that cycle this time.

- aa) There has been no discussion with the existing school and moving 320 current pupils to the new school would cut the school's size by almost half. Everything is currently set up to provide for 820 children - staffing, infrastructure, processes, recruitment etc. How would the two schools co-exist? How would Hilton Primary School adapt from 820 to 520 pupils? How would this affect children, their learning, teachers, recruitment, redundancy? At a delicate stage of the school's work towards achieving an Ofsted 'Good' rating, is it fair to create this level of significant disruption and uncertainty?
- bb) It would be irresponsible and damaging not to make firm plans about how the two schools would work for the children of Hilton. This is integral to St Modwen's redevelopment plans, which should go no further without a lot more work on the education situation (not to mention other vague references to infrastructure).
- cc) It seems to me that St Modwen has offered to build a school because they have to, in order to get planning permission on the residential side. The Council are fearful of a 100 pupil school (which is what the residential development needs) co-existing with an 800 pupil school so have asked for a 400 pupil school. Only 100 from the new build will attend it, meaning that Hilton Primary School becomes destabilised because the Local Authority has to fudge a solution. What if St Modwen don't bother building all those homes? Or they don't sell? And/or they don't build the second part of the new Academy? Hilton Primary School will simply be buffeted around on the winds of political and economic expediency.
- dd) A further issue is secondary school provision. The solution to this problem at John Port, is barely sketched out. To go ahead without a plan seems a dangerous thing to do.
- ee) With the site of the new school (and possibly some homes), I have personal concerns about being overlooked and a loss of privacy.
- ff) I have concerns for the safety of all re: The Mease. It will become parked up, with parents dropping off children, dashing across the road etc. It's a nice long stretch and cars go fast down it. There are real safety issues here. Indeed, did the Parish Council not previously object to development in this area precisely for the reason of road safety?
- gg) In the unfortunate event that you do build the school at your proposed location, it would need very considerable screening, as well as consideration of the volume of cars using the roads, noise, safety etc.
- hh) The plans take the school right up to the road side, rip out many trees including 'a mature oak' (quote from your report) and plans appear to be to provide 'shrub planting along the boundary as part screen' which doesn't sound very substantial.
- ii) Healthcare provisions are particularly vague. It would be nice to see research into what is required and how this will be delivered. For example, St Modwen notes the doctors' surgery is oversubscribed but do not offer a solution to how maybe 1000 new residents will receive their healthcare. The St Modwen proposals appear to do the bare minimum to address this, leaving 'the market' to fill the void.
- jj) There is no dentist in Hilton despite over 7,000 people living here, and there have been plenty of retail units available over the years. The market has not provided. Why should that change with this development?
- kk) Doctors, dentists, retail, secondary schooling - it seems like there is simply not enough certainty in place as to how Hilton deals with the influx of 1,000+ more people.
- ll) It was only a couple of years ago that much of the village was under threat from flooding. More building work, more concrete and tarmac, and fewer trees can't possibly help this situation.

- mm) The Planning Application itself admits, *'There would be some impacts as a result of the development...Adverse impacts on flood risk and drainage'*. On 6 July 2012, it was touch and go – another impact such as this development could have finished the job - It's a bad idea to build more here. Please don't let St Modwen be so blasé.
- nn) Why would an Environmental Impact Assessment not be appropriate, under Schedule 2?
- oo) How the Council will spend its £2.5m New Homes Bonus for the benefit of the people of Hilton.
- pp) Overall, I am concerned at the distinct lack of joined-up thinking happening within departments and between them.

One of the letters received is written by agents promoting an alternative housing site to the north of Hilton for development. They state that the flood risk Sequential Test applied is flawed in that part of the site lies within Flood Zone 3, even taking account of the information submitted, albeit that parts are within Flood Zones 1 and 2 and applies the outcome of flood defence works (which are unclear if they have been carried out). The proposals would change site levels to place the built development in Zones 1 and 2 but part of the site would remain in Flood Zone 3 and land uses integral to the scheme are within that area. The NPPF seeks to direct development away from areas of flood risk and states that development should not be permitted if reasonably available alternatives are available and on this point they consider there are. The guidance states that if, following the Sequential Test, this is not possible then the Exceptions Test can be applied and to pass this it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk and a site specific Flood Risk Assessment (FRA) demonstrates that the development would be safe for its lifetime taking account the vulnerability of its users, without increasing flood risk elsewhere and if possible reducing flood risk overall. Reference is made to para. 5 of the NPPF Technical Guidance again directing Local Planning Authorities to steer new development towards Flood Zone 1 and they consider that there are reasonably available sites within that zone.

They consider the submitted Sequential Test to be flawed, based on wrong data and therefore not reliable in regards to alternative sites and is skewed towards the application site. SHLAA site S0023 (the one promoted by this objector) is incorrectly scored as being partly within Zone 2 and undue weight given to the SSSI within the site. They also consider that the benefits of the new primary school are over emphasised with SHLAA site S0023 scoring less favourably due to location but evidence in this regard from the Local Education Authority (LEA) is at office level only. They conclude that the review of alternative sites is flawed, that a fair and balanced assessment of the merits has not been done and the benefits unproven and as such the Sequential Test and application should be rejected.

One of the letters received is also written by a doctor who represents the Partnership that owns the Wellbrook Medical Centre, the Hilton Pharmacy and Ashbourne Physiotherapy within the district centre. He has written to advise that the Wellbrook Medical Centre has a current list of 10,000 patients and could accommodate an additional 2,000 patients as exists. Additionally, there are detailed plans approved which would provide a potential extension of 4 consulting rooms which could accommodate an additional 4,000 to 6,000 patients. As a consequence they consider that there is no need for an additional Medical Centre within the application site. For clarification he also advises that about 6 to 8 months ago the patient list was temporarily closed due to staff shortages but that this is now remedied with the appointment of 3 additional partners. They do not anticipate the list closing again.

Development Plan Policies

South Derbyshire Local Plan Saved Policies:

Housing Policies 8 & 11
Employment Policy E2
Environment Policies 9, 11 & 14
Shopping Policies 2 & 3
Recreation and Tourism Policy 4
Community Facilities Policy 1
Transport Policies 6 & 7

Pre-Submission Local Plan Part 1 Policies

Policy S1: Sustainable Growth Strategy
Policy S2: Presumption in Favour of Sustainable Development
Policy S4: Housing Strategy
Policy H1: Settlement Hierarchy
Policy SD1: Amenity and Environmental Quality
Policy BNE1: Design Excellence
Policy BNE3: Biodiversity
Policy BNE4: Landscape Character and Local Distinctiveness
Policy INF1: Infrastructure and Developer Contributions
Policy INF2: Sustainable Transport
Policy INF9: Open Space, Sport and Recreation

Local Supplementary Planning Guidance

The Provision of outdoor playing space in new developments (as updated by the Council's S106 guide for developers),
Housing Design and Layout.

National Guidance

National Planning Policy Framework (NPPF), in particular:

Paras 6-10 (Achieving sustainable development)
Paras 11-14 (The presumption in favour of sustainable development)
Para 17 (Core principles)
Chapter 1 (Building a strong competitive economy)
Chapter 2 (Ensuring the vitality of town centres)
Chapter 4 (Promoting sustainable transport)
Chapter 6 (Delivering a wide choice of high quality homes)
Chapter 7 (Requiring good design)
Chapter 8 (Promoting healthy communities)
Chapter 10 (Meeting the challenge of climate change, flooding etc.)
Chapter 11 (Conserving and enhancing the natural environment)
Chapter 12 (Conserving and enhancing the historic environment)
Paras 186 & 187 (Decision-taking)
Para 193 (Local Planning Authorities should only request supporting information that is relevant, necessary and material to the application in question.)
Para 196 & 197 (Determining applications)
Paras 203-206 (Planning conditions and obligations)

Annex1 (Implementation)

Environmental Impact Assessment

Due to the nature and size of the proposal, it has been screened under Regulation 7 of the Environmental Impact Assessment (EIA) Regulations 2011. The proposal is considered to fall within paragraph 10b of Schedule 2 to those Regulations, being an infrastructure project. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to give rise to significant environmental effects in the context of EIA and the purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

Planning Considerations

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

- The principle and general sustainability
- Loss of employment land
- Affordable housing
- Extent of retail elements and impact on the vitality of the district centre
- Traffic and transport
- Impact on the character of the area
- Urban design & Open Space
- Ecology
- Archaeology
- Flood risk and hydrology
- Residential amenity
- Education and S106 Contributions

The principle and general sustainability

In co-operation with the neighbouring authorities, Amber Valley and Derby City, the Council has published its Pre-Submission Local Plan Part 1. The strategy is evidence based and identifies the application site as a preferred housing and employment site that would make a strategic contribution to meeting housing need of the district. However, the emerging Local Plan has yet to be publicly examined therefore limited weight can be given to this. Policy H7 of the Pre-Submission Local Plan Part 1 relates to this site and the commentary to that policy states that Hilton has seen considerable growth over the last 15 years due to the availability of brownfield land, its location close to Derby City and the strategic road networks of the A50 and A38. It states that the buildings on the site are beyond their expected life span having been built when the site was used for Ministry of Defence purposes and that the nature of the buildings means that there is a low density of employment provision. The policy states that this site offers an opportunity to provide for a suitably located new primary school and also would create additional jobs within Hilton for new and existing residents. Parts of the site currently lie within areas at higher risk of flooding although works around Scropton, Hatton and Egginton would redefine the actual flood risk locally. The site's location, its predominantly previously developed nature and the wider sustainable community benefits of the new primary school and the potential for additional jobs are seen as been widely beneficial to Hilton. The policy text provides for:

A. Residential development on land at Hilton Depot, Hilton for around 375 dwellings.

B. The Council would require the below listed site specifics and accordance with other Local Plan policies:

- i) The provision of a one-form entry primary school on site to address the capacity issues of primary school provision within Hilton;
- ii) Consideration will be given to retail and other service provision on the site;
- iii) Consideration will be given to community facilities in Hilton that require a new building or enhancement;
- vi) Provision will be made for high quality cycle and pedestrian access both within the site and linking to existing networks;
- v) Development proposals will need to be supported by an appropriate Flood Risk Assessment;
- vi) Retain existing woodland and deliver additional planting and habitat creation to screen the site from the south and west with these areas being opened up for public access wherever possible;
- vii) Development should reflect the location of Egginton Junction Gravel Pit County Wildlife Site and should where possible enhance nature conservation interests of that site;
- viii) An appropriate easement along watercourses on the site free of built development.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *“if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”*

Paragraph 14 of the National Planning Policy Framework (NPPF) states *“at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.”* The NPPF makes it clear that for decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or*
- *specific policies in this NPPF indicate development should be restricted.”*

Paragraph 215 states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework.

In terms of housing supply, paragraph 47 of the NPPF requires Local Planning Authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. In addition there is a burden on the Local Planning Authority to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of at least 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites. The Council cannot currently demonstrate a five year supply of housing.

In the terms of paragraph 14 of the NPPF the presumption in favour of sustainable development must apply unless there are adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. It has been made clear through appeal decisions made since the inception of the NPPF that any negative considerations would need to be substantial in order to justify refusal of an application that makes a meaningful contribution to strategic housing need. The mere presence of less than optimal planning circumstances for any given development is not likely to outweigh the presumption.

The objectively assessed housing needs of the Derby Housing Market Area has been agreed across the three local authorities, with South Derbyshire needing to provide 13,454 dwellings up to the end of the plan period in 2028.

Hilton is considered to be a sustainable location with appropriate services in terms of the presumption in favour of sustainable development and is one of the more sustainable settlements within the district. Hilton has access to a range of facilities, services and transport options, and in acknowledgement of the contribution that it would make towards meeting an identified strategic housing need, as well as retaining some employment opportunities, the primary school and mixed use development, the proposal represents sustainable development in principle. In the context of a Local Plan that is out of date in so far as policies for the supply of new housing are concerned, the presumption in favour of sustainable development would apply unless any adverse impacts would significantly and demonstrably outweigh the benefits.

In terms of policies in the current adopted Local Plan the site is an identified employment site and the proposal would result in the loss of land originally intended for that purpose. Saved Employment Policy 2 applies to this particular site as it is part of an employment allocation and it refers to employment development on it with no reference to housing or other uses. Saved Housing Policy 8 sets specific functional requirements applicable to new houses away from settlements. However, this policy complements a suite of housing site allocation policies in the 1998 Local Plan and in the case of this application, which is mainly concerned with housing supply, it is out of date. Therefore the presumption in paragraph 14 of the NPPF is clearly capable of outweighing it in this case.

Loss of employment land

The site is within Former MOD Vehicle Depot, Hilton site allocation defined in Local Plan Policy Employment 2 for industrial and business development B1, B2 and B8 uses. The application site forms part of an area allocated in the adopted Local Plan for redevelopment for industrial and business purposes, measuring 38.7 ha and was allocated in order to balance large scale housing development in Hilton, also proposed in the adopted Local Plan and now complete. Another part of the site originally allocated for employment development, to the north of the current application site, measuring 7.7 ha, has since been redeveloped for housing and as premises for a car dealership. Of the remaining area, 3.79 ha has been redeveloped for industrial and business purposes. The current application proposes the redevelopment of the majority of the remaining allocated area, leaving 4.45 ha to be redeveloped for industrial and businesses purposes and adding to this a further 3.25 ha adjacent to, but not forming part of, the allocated area. A further 3.7 ha of the original Local Plan allocation, outside the area of land in the ownership of the current applicant, would not be affected by this application. As there will be a loss of employment land through redevelopment it is appropriate for the quantum of development of employment area within

the scheme be fixed by condition to ensure a suitable amount is delivered alongside a trigger to ensure it is at an appropriate time.

The steer from Central Government is to promote and enable growth in terms of both housing and employment development. This is evidenced by the major housing and planning package outlined by the Prime Minister and Deputy Prime Minister, alongside the Communities Secretary Eric Pickles, on the 6 September 2012 introducing measures which seek to unlock and boost development.

The NPPF and subsequent ministerial statements highlight the need for the planning system to promote sustainable growth including the provision of sufficient land to meet housing and employment needs. To this end, Local Planning Authorities are required to both maintain a rolling five year supply of specific deliverable housing sites and plan proactively to meet the development needs of business.

The NPPF at para 7 identifies the economy as one of the three dimensions of sustainable development. It states that the planning system should contribute to *"building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation..."*.

Para 19 indicates that planning should *"operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system"*. Para 20 states that *"to help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business..."*.

Para 22 indicates that *"Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities."* This mixed use development would create a viable scheme that would bring forward both housing and employment development in a sustainable location.

It is noted that the development of this site for a mixture of housing and employment uses has been identified as a strategic site in the emerging Local Plan and that policy seeks to secure the provision of employment land within the development. However, the Local Plan is at a relatively early stage and has yet to be subject to examination in public, therefore this must be afforded limited weight in the determination of the proposal.

It must also be remembered that the Council currently has a shortfall in the 5-year supply and whilst preferred strategic allocations, such as this site in Hilton, identified in the emerging Local Plan would provide this supply, their overall deliverability has not been formally examined such that limited weight can be afforded to the relevant emerging policies at this time. The application site lies outside the village confines of Hilton, as defined under Housing Policy 5 of the Adopted Local Plan, and whilst that policy in itself can be considered to be up to date it is not considered to be relevant for Hilton in respect of this particular application and site. Nevertheless, the majority of the application site lies within an area designated for redevelopment for industrial and business purposes in adopted Local Plan Policy E2, which must be accorded due weight. As stated in NPPF at paragraph 11, planning law requires that applications for planning permission be must be determined in accordance with the development plan unless material considerations indicate otherwise. The requirements of the

NPPF in relation to housing land supply are a significant material consideration and must therefore be taken into account in determining the application.

The concerns of the Council's Economic Development Officer are noted and must be afforded due weight within the planning balance although his comments relating to the need for a relocation strategy being required before determination is not considered reasonable. However, the loss of the existing jobs and the creation of alternative employment opportunities within smaller, more market appropriate units, are considered to provide significant benefits in terms of investment and job opportunities. With his advice in mind it is considered that it would be prudent to ensure that an appropriate trigger is put in place to certify that adequate housing is delivered along with the early provision of the school as a priority, followed by further housing and then the employment floorspace being created. It is considered that the appropriate trigger level is 300 dwellings and at that point 929 sq m (GEA) of employment floorspace would need to be constructed, completed and available for occupation.

Whilst any overall loss of employment land is regrettable there are numerous competing and conflicting issues that need to be balanced during the consideration of this application. The emphasis placed upon the need to boost housing growth in the NPPF must be accorded due weight. Therefore, in accordance with Policy H7 in the Draft Local Plan, the potential offered by this application to contribute towards meeting housing needs is considered to carry greater weight than the loss of employment land. It is considered that looking at the proposal and the issues in the round, the redevelopment of the site for a mixed use of housing, employment, primary school and mixed use facilities is acceptable.

Affordable housing

The SHMA suggests, over the period of 2012 – 2017, there is a housing need for 1,723 affordable homes, (345 affordable homes per year), across South Derbyshire.

Hilton is a large rural parish located within the North West sub-market area of the District, which includes the Wards of Etwall, Hilton and Hatton. The estimated housing need for new affordable housing across these Wards is 49.6 per year.

The housing mix needs to reflect the both the demand for houses registered on District housing waiting list currently and the projected sub market area future demand. The SHMA recommends an affordable housing mix as follows for South Derbyshire of 10-15% one bedroom; 35-40% two bedroom; 35-40% three bedroom and 10-15% four bedroom properties.

The Council's Housing Strategy Manager has advised that the development should provide 30% affordable housing and the SHMA suggests that a split of 68% rent and 32% Intermediate housing would be appropriate for the site. Based on current evidence, in order to deliver the affordable housing need a proportion of affordable housing is sought, underpinned by Local Plan Saved Housing Policy 9 and Chapter 6 (para 50) of the NPPF. In this case, because of viability considerations (see Education and Section 106 Contributions assessment below), the provision of 30% affordable housing would have adverse implications for other contributions that are fundamental to the development's overall sustainability.

Extent of retail elements and impact on the vitality of the district centre

In addition to the new housing a small mixed use, neighbourhood centre is also proposed. Local Plan Saved Shopping Policy 2 provides for out of town shopping development subject to the following criteria:

- “a) New shopping development in town centres will be preferred to that in other locations. New shopping in out-of-centre locations will only be permitted provided that:*
- i. The development cannot be accommodated within or immediately adjacent to an existing major centre;*
 - ii. The scale and nature of the development, either individually or cumulatively, is not such as to affect seriously the vitality and viability of any existing nearby major centre as a whole;*
 - iii. The site is not required for industrial or business uses;*
 - iv. The development is not an intrusion into the countryside, and features of natural history or heritage importance are retained wherever possible;*
 - v. The site can be adequately served by public transport.*
- b) Any development which meets the above criteria will be permitted in out-of-centre locations where it consolidates existing out-of centre shopping.*
- c) New shopping development on industrial estates will not be permitted.”*

The retail element of the proposed development is of a scale that would be unlikely to undermine the vitality and viability of the main centre in Hilton and rather than compete with it, it would complement it. It provides the opportunity for residents of the scheme to access small scale retail and service uses, subject to market demand, reducing the need to travel. There is no evidence that there would be a significant adverse impact on Hilton district centre or any other centres and in the circumstances the retail development would not be in conflict with Saved Shopping Policy 2 and would be in accord with paragraphs 24, 26 & 27 of the NPPF. Appropriate conditions in accordance with paragraphs 203-206 of the NPPF would ensure that the impacts of the retail development would not exceed those identified in the Planning Statement by limiting, in particular, the size of the A1 retail element.

Local Plan Saved Shopping Policy 3: ‘Local Shopping’ states *“Proposals for small shops will be permitted provided they do not adversely affect the amenities of neighbouring properties and adequate access, car parking and servicing facilities are provided.”* This supports the small retail units proposed within the proposed development, which are also in accord with Saved Community Facilities Policy 1 and NPPF Chapter 8.

Traffic and transport

Chapter 4 of the NPPF is entitled ‘Promoting Sustainable Transport’. Paragraph 38 highlights *“For larger scale residential developments in particular, planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site. Where practical, particularly within large-scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties.”*

The application proposes key facilities within the site and is accompanied by a preliminary Travel Plan to encourage use of a range transport modes including walking cycling and bus services. It is intended to provide bus stops adjacent to the site which would be secured through conditions and in addition the site is within reasonable walking distance of existing local facilities and services. As such the proposal is in accord with the sustainable transport objectives of the NPPF.

The proposed means of access to the site are acceptable to both the Highways Agency as well as the County Highway Authority and the proposal is thus considered to be in conformity with Local Plan Saved Transport Policy 6.

Whilst the development would have an impact on the highway network and thus the potential to affect the wider transport infrastructure, the NPPF makes it clear in paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In this case there is no evidence that the cumulative impact would be severe.

The County Council requested amendments to the on-site design of the development scheme to ensure safe access for pedestrians and cyclists and the applicant has omitted the access to Egginton Road. Comments relative to the access to the employment site and use of it by cyclists and pedestrians are noted, however, it is noted that the County Highway Authority do not raise this issue. It is noted that the Planning Policy Officer at Derbyshire County Council in their response requested financial contributions of £128,000 towards the creation of 2km of new Greenway to the south of the development site as well as provision of a Greenway (with segregation for horseriders from cyclists and pedestrians) as part of the on-site design of the development scheme, along with a financial contribution of £43,520 towards future maintenance. It is considered undesirable for such a route to be created on site as the engineering works and clearance needed to create the route on the southern and western sides of the site would be damaging to the woodland and wildlife. Furthermore it is noted that the contribution towards the extension of the Greenway route on the former railway route is not required in terms of making the development safe in terms of highway safety. Notwithstanding these matters it is considered that the proposals contained within the Masterplan includes provision for safe, convenient and pleasant conditions for cyclists as well as pedestrians although final details would be secured at reserved matter stage in accordance with the relevant Local Plan policy.

Impact on the character of the area

Given the proximity of the site to The Mease as well as the Greenway route to the north-east/east, there would inevitably be an impact on the character of the area. However, the existing development both in terms of buildings and open land, does not present the most attractive of settings for the village when approaching from the Greenway to the east and The Mease to the north. Whilst the existing buildings are functional there is a clear opportunity to provide a built form that creates a higher quality environment incorporating local distinctiveness in accord with paragraph 60 of the NPPF and Saved Housing Policy 11 of the Local Plan. Whilst the detail would be considered at reserved matters stage, the submitted Masterplan and Design and Access Statement provide a sound basis for this to happen and the development would appear as a logical extension to the existing village.

Urban design & open space

The application is in outline only therefore it is not possible to carry out a full Building for Life assessment at this stage. Nevertheless the site presents some key aspects that would form the basis of a good scheme in urban design terms. It is reasonably well served by the public transport and includes commercial and community facilities on site that would help to make it a sustainable development. The Masterplan indicates a main spine road running through the development as well as a pedestrian/cycle route through the housing linking the school and mixed use centre. It also positions the mixed use block near to the main access which is shared with the existing and proposed commercial units with the school and possible crèche (D2 leisure use) on the opposite side but still adjacent to The Mease.

Issues relating to design and layout of the houses, how they relate to spaces, crime reduction measures and the provision of parking would be addressed through reserved matters submissions, although the principle objectives for these can be secured by conditions at this stage.

In view of the urban design and open space matters considered above the proposal would accord with Chapter 8 of the NPPF and Saved Recreation and Tourism Policy 4 of the Local Plan.

Ecology

With regards to wildlife on site, surveys found only small numbers of Smooth Newts (no Great Crested Newts) along with Common Toad. 21 species of birds were found including three of High Conservation Concern (Song Thrush, Willow Tit and House Sparrow), three of Medium Conservation Concern (Dunnock, Goldcrest and Bullfinch). A small heronry was also present and the report recommends a flat gravelled island is provided in one of the attenuation ponds to provide replacement nesting habitat for Plovers and this has been incorporated within the Masterplan. Buffer zones around the heronry and protected species would also be required within the development.

Derbyshire Wildlife Trust considers that the ecological works have been undertaken to a thorough standard using methodologies that accord with best practice and that they enable an accurate assessment to be reached. Their comments in respect of the SuDS details, various birds, the management of the wildlife areas as well as a constructional management plan as well as landscape and ecology management plans and site clearance can be appropriately secured through the imposition of suitably worded conditions.

Subject to the recommended conditions of Derbyshire Wildlife Trust biodiversity at the site would be protected and enhanced.

Archaeology

On the advice of the Development Control Archaeologist the applicant was requested to provide a Heritage Statement as he stated that the remains of the army's former Central Vehicle Depot, Hilton meant that the site has WW2 origins the surviving infrastructure and buildings on site largely relate to the site's Cold War development (1950s and 1960s). An assessment was submitted and the report concluded that their loss would have limited effect upon heritage interests and their retention is not justified. The County Archaeologist states that the submitted information provides a robust assessment and that the loss of historic features should be addressed through a condition to secure a programme of recording. This approach is considered to be appropriately proportionate and as such would be compliant with Saved Environment Policy 14 and NPPF Chapter 12.

Flood risk and drainage

The site is predominantly located in an area of moderate flood risk according to the Council's Strategic Flood Risk Assessment (SFRA), although it is noted that the Environment Agency's (EA) website indicates that this site is in an area of high flood risk but is defended by existing defences to at least 1:100-years). In addition further discussions with the EA indicate that the recent flood alleviation scheme for the river Dove has further reduced flood risk associated with flood flows from the west of the site. It is also noted that a letter has been received from agents acting on behalf of a landowner promoting an alternative site in Hilton

for housing which is in a lower flood risk. It has to be accepted that there are sites at lower risk of flooding identified which could be capable of meeting strategic growth needs within the village and these have been identified through the Sequential Test process. Through this process it has been concluded that the effects of new built development on this site in respect of flooding (in locations within flood risk zones 1 and 2) are outweighed by the wider sustainability benefits that would arise from development on this site. In particular there are benefits in respect of achieving national policy objectives to encourage the effective use of land by reusing land that has been previously developed (para 17 NPPF); protecting and enhancing public rights of way and access (para 75); remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land (para 109) and the promotion the preservation, restoration and recreation of priority habitats (para 117). Given that the sequential approach set out in the NPPF and NPPG has been followed in identifying preferred housing sites and that the proposed uses on site are acceptable when considered against the flood risk vulnerability classification table (Table 2) of the NPPG, the Council is satisfied that the sequential test included in the NPPG has been followed and the site is appropriate for development. There is no requirement to undertake the Exceptions Test given the vulnerability classification of proposed development and the location of built development wholly in Flood Zone 1 and Flood Zone 2. The applicants have undertaken a Site Specific FRA for the site as part of the application and it is considered that there are wider sustainability benefits that would result from the development of this site, such as that this site is predominantly brownfield and would offer opportunity to remediate an existing contaminated site and reuse previously developed land consistent with national policy objectives, restore part of a culverted watercourse which flows underneath the proposal site, improve flood risk locally, provide a new primary school (in a location away from the existing school) and open up a site which has been inaccessible to the public since it was first used for a MOD ordnance depot after the war. In light of the above it is considered that in terms of the principle of the development of the site, the Sequential Test is satisfied. With regards to the detailed FRA, the Environment Agency is satisfied that the development would not increase risk subject to a suitable sustainable drainage scheme being required by condition, therefore, subject to the recommended conditions, the development would be in accord with Chapter 10 of the NPPF and the NPPG.

Residential amenity

The site is somewhat detached from the established residential areas in Hilton and as a result, notwithstanding the comments received, the only issues in connection with residential amenity relate to the internal arrangements of individual dwellings which would be assessed at reserved matters stage. The site therefore provides ample scope for reasonable amenities in terms of light, air and privacy for, both existing and new dwellings; safe, functional and convenient layouts; private amenity space, and space for landscaping in accordance with Local Plan Saved Housing Policy 11.

The report identifies noise sources as being from road traffic on the A5132 (as well as the A38 and A50 to a lesser extent), sporadic train and aircraft noise and noise from the commercial activities on the site. The report concludes that noise levels would be “reasonable” during the day with windows open and “good” with them closed. The Environmental Health Manager raises no objection to the proposal or evidence submitted and outstanding matters would be secured by conditions along with measures to minimise noise as well as other impacts that may result from the commercial elements of the proposal.

Education and S106 Contributions

The Education Authority requires the provision of a one-form entry primary school on site, designed with core facilities to allow its cost effective expansion to a two-form entry primary school if and when required in the future. In addition they also request £1,253,860 towards 73 secondary pupil places, and £540,209 towards post-16 pupil places provision at John Port Academy and these matters are considered to be a high priority.

The applicant as well as the County Education Authority initially looked to ensure a two-form entry school was provided on site in order to address concerns raised through their pre-application public consultation process and in line with the terms of the Emerging Local Plan Policy H7 which seeks its delivery. However, when looking at the viability of the scheme as well as what would be appropriate to deliver, it has to be remembered that the emerging Local Plan Policy H7 is at an early stage and has not been formally examined in public and as such must be afforded limited weight. From a planning point of view legislation states that there are legal tests for when a S106 agreement can be utilised and these are set out in regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 as amended (and as set out in para. 204 of the NPPF). S106 agreements, in terms of developer contributions, need to address the specific mitigation required by the new development. The tests are that they must be:

1. necessary to make the development acceptable in planning terms
2. directly related to the development; and
3. fairly and reasonably related in scale and kind to the development.

In this case it is accepted that the provision of a primary school to serve the development is compliant in principle, the point of concern relates to its size, i.e. whether it is a one-form entry or two-form entry. It is accepted that the existing school could not accommodate the development and indeed already has capacity issues. This development of 485 dwellings needs to be accommodated on site, however, whilst it is acknowledged that a developer should not be required to provide infrastructure that is disproportionate to the scale of the development, in terms of planning gain, the proposal is to provide the land and build a one-form entry primary school which has enough land and is designed to be easily and cost effectively be extended to a two-form entry in the future i.e core facilities such as hall, office space, dining facilities, etc. would be at a level normally provided for a two-form entry primary school. The developer and Education Authority have accepted this approach and this would form the basis of the S106 Agreement and it is anticipated that the school would be open for students in September 2016, although clearly there are other procedures, including approval of reserved matters that need to be addressed for that to happen. Financial contributions for secondary education and post-16 education would also be secured through the S106 agreement. Notwithstanding the comments submitted and those made by Hilton Parish Council, the educational needs of students resulting from the development can be adequately accommodated by provision of the one-form entry primary school on site as well as through significant financial contributions for off-site improvements at John Port Academy for secondary and post-16 education.

The Scheme Viability Submission has been independently assessed by the District Valuer and discussions with the applicants and the Council have taken place to reach agreement. The District Valuer has produced a valuation based on the applicant's report. The full requested S106 contributions, including 30% affordable housing originally requested by the Council's Housing Strategy Manager, produces a negative Residual Land Value (RLV). Appraisals have been undertaken exploring a variety of combinations but it is clear that the provision of the new primary school, contributions for educational improvements for secondary and post-16 education, public open space/SUDs, and affordable housing made by the Council's Housing Strategy Manager cannot be achieved in terms of viability. However,

when the scheme is appraised without the affordable housing obligation but with all of the other requested S106 contributions, a positive RLV is produced. On this basis the scheme is viable and the surplus demonstrates that an amount of affordable housing can be sustained by the scheme. If the full S106 package including public open space and SUDs, as well as a contribution for education is maintained, the affordable housing that can be provided (based on an appropriate tenure split of 75% social rent and 25% shared ownership) is 10%. This equates to 49 affordable units comprising 37 social rent and 12 shared ownership units. The choice on how best to utilise the available S106 monies that the scheme can sustain is down to the priorities of the council.

The Committee therefore has to consider the priorities in terms of how the sum should be divided up between the competing causes.

NHS England have requested £551 per dwelling which amounts to £267,235. However, representations have been received from the Partnership running the Wellbrook Medical Centre in Hilton, which would be appropriate to accommodate the new patients, in which they have stated that their existing facility can accommodate the new patients that NHS England expect to be generated by the development without physically altering the centre. They have also advised that the list for new patients is open and that there is room for new patients and that previously when the list was closed this was as a result of staff shortages which has been addressed. In view of this information it is considered that a contribution towards healthcare is not required in this instance. NHS England also advised that they would be unlikely to support the provision of additional, small on-site GP provision as part of the development, something the Masterplan indicates could be accommodated on site, if necessary and subject to demand. The Masterplan provides for a mixed use neighbourhood centre and specifies the types of uses and these include, amongst other things, a doctors surgery and dentist. The provision of a dental practice would be a matter for market demand and is beyond the remit of the consideration of this planning application other than there is an opportunity for a dental practice to open as part of the development within the mixed use neighbourhood centre.

Recreation matters would be addressed by the on-site provision of formal and informal open space and outdoor facilities along with a financial contribution towards built facilities. The applicant has yet to finalise whether it is their intention for the council to adopt the open space alongside the SuDs measures but if that was the case then a financial contribution would be needed within the S106 for the future maintenance of those elements.

It is noted that Derbyshire County Council requests financial contributions secured through a S106 Agreement for of £13,875.85 towards Household Waste Recycling Centre enhancements at Newhall (Bretby); £128,000 contribution for off-site Greenway extension; the creation of an on-site Greenway and a sum of £43,520 towards its future maintenance; £1,253,860.41 towards the provision of 73 secondary pupil places, £540,209.10 towards the provision of 29 post-16 pupil places and new homes designed to Lifetime Homes standards. Their request for a financial contribution towards Household Waste Recycling Centre is considered reasonable. However, the provision for the contribution for the Greenway extension, and building the homes to Lifetime Homes standards are not considered reasonable and would not pass the tests in relation to legal tests referred to above.

The County Highway Authority's requests in respect of S106 matters must also be provided within the S106 Agreement in order to ensure that the development does not have an adverse impact on highway safety and in the interests of sustainable development. These relate to securing a maximum financial contribution of £37,500 (index linked) for traffic and pedestrian monitoring in relation to establishing the need for the provision of a pelican

crossing and where a material impact is identified; a maximum contribution of £2,500 per annum for 5 years for the annual assessment of the Travel Plan and a contribution of £4,000 over 5 years towards their future maintenance of a bus stop.

At this stage it has yet to be decided whether the POS and SuDS would be adopted by the Council, however, the provision of those elements and an appropriate financial contribution for their future maintenance if the Council is to adopt, or a Maintenance Management Company and Management Plan if not, would need to be secured in the S106 alongside a financial contribution for Built Facilities in line with the Council's adopted standards.

In summary, the new single-form entry primary school and education contributions for secondary and post 16 education as well as highway related contributions, POS and SuDs adoption are paramount, along with Household Waste Recycling Centre. This would leave the remainder available for affordable housing, and the viability assessment suggests that 10% affordable housing with a 75/25 split of affordable rent/shared ownership could be delivered, although the precise percentage/quantity of which would alter with the size and tenure of dwellings to meet specific need.

Conclusions

The application relates to one of the Council's preferred sites put forward for mixed use development through the Local Plan process and proposes up to 485 homes. The development is likely to be able to contribute to the early delivery of homes, helping the Council meet its requirement for a five year supply of deliverable housing. By reference to the NPPF's (Para 7) three sustainability dimensions (economic, social, environmental) the provision of new housing would support economic growth, ensuring an attractive place to live for South Derbyshire's economically active population as well as helping to supporting the vitality and viability of Hilton. Construction jobs and new jobs alongside the retail provision and primary school would be created. This is supported by the site's accessibility to Hilton, Derby as well as Burton upon Trent, served by public transport. New on-site primary education and the mixed use neighbourhood centre would all help to further reduce people's need to travel by car.

The proposed scheme would have a significant positive impact on local communities by providing new homes (market and affordable). In terms of healthy communities the illustrative Masterplan includes extensive green infrastructure and open space. Pedestrian/cycle links would help to support active lifestyles and encourage alternatives to the car for accessing local facilities and employment opportunities. The provision of a new neighbourhood centre would also serve existing residents in Hilton, enhancing the range of services and facilities on offer in the area. Developer contributions would also be made towards education provision.

The reports accompanying the application explain how a range of environmental factors have been taken into account to ensure sustainable development (including landscape, ecology, noise pollution, archaeology, and water). Mitigation has been included within the scheme to ensure the conservation and enhancement of key features. The scheme also helps to mitigate future climate change through reducing CO2 emissions by building new homes in a highly accessible location and reducing the need to travel by car. In terms of resilience to climate change impacts, the scheme has been designed to take this into account, namely through provision of a sustainable drainage strategy and extensive network of green infrastructure.

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

Recommendation

GRANT permission subject to the applicant entering into a Section 106 Agreement with the Council to secure the contributions referred to in the planning assessment of the report, and subject to the following conditions:

1. The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To conform with Section 92(2) of the Town and Country Planning Act 1990.

2. Application for approval of all reserved matters for the first phase of the development hereby permitted shall be made to the Local Planning Authority before the expiration of 7 years from the date of this permission and applications for approval of reserved matters for subsequent phases shall be made to the Local Planning Authority within 5 years from the date of this permission.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

3. Approval of the details of the layout, scale, appearance and the landscaping (hereinafter called "the reserved matters") for each phase of the development shall be obtained from the Local Planning Authority in writing before any development is commenced in that phase. Plans and particulars of the reserved matters for each phase of the development shall be submitted in writing to the Local Planning Authority and the development of each phase shall be carried out as approved.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

4. Notwithstanding the submitted details, details of the means of access to the proposed buildings, recreation areas and of the proposed pedestrian and cycle route roads shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

5. The reserved matters submitted in accordance with condition 3 and details submitted in accordance with any other condition of this planning permission shall accord with the principles outlined in the concept Masterplan for the development contained within the revised Hilton Depot Redevelopment Design and Access Statement Rev. A received by the Local Planning Authority on 15th April 2014.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.

6. Notwithstanding the submitted details, no development shall commence until a scheme for phasing of the development has been submitted to and agreed in writing by the Local Planning Authority. The scheme for phasing shall show the boundaries of the proposed phases of the development and shall include reference to the provision of the children's play spaces and other open spaces shown on the approved concept Masterplan for the development contained within the revised Hilton Depot Redevelopment Design and Access Statement Rev. A received by the Local Planning Authority on 15th April 2014, and the pedestrian and cycle routes. The development shall be carried out in accordance with the approved scheme.

Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory and that the development proceeds in an orderly manner.

7. No development of any phase shall take place until full details of both hard and soft landscape works for each respective phase of development have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved, unless otherwise agreed in writing by the Local Planning Authority. These details shall include trees to be retained showing their species, spread and maturity; proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration.

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

8. The soft landscape works referred to in condition 7 above shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation programme.

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

9. All hard and soft landscape works shall be carried out in accordance with the approved details and finished not later than the first planting season following completion of the relevant phase of the development unless an alternative timescale has been agreed in connection with condition 8 above.

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

10. No development of any phase shall take place until a detailed scheme for the boundary treatment of the each element of that particular phase, including position, design and materials, and to include all boundaries or divisions within the site, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed as approved before the respective building(s) or land use is/are first occupied unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the area, to prevent crime and disorder and to protect the amenity of residents.

11. The development of any phase of the development which contains a footpath link shall not commence until full details of measures that are to be employed to prevent motorcycles

accessing the extended footpath network, including a timescale for their provision, have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out strictly in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: To prevent crime and disorder.

12. Before the development is commenced details of measures to be provided for enhancing features for wildlife, including provision of bat roosts opportunities and bird boxes to be located within the site or within the structure of any of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and the measures shall thereafter be retained in those positions throughout the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that measures to encourage wildlife habitat creation within the site are provided.

13.

a) The development shall not be commenced until a scheme to identify and control any contamination of land, or pollution of controlled waters has been submitted to, and approved in writing by, the Local Planning Authority (LPA); and until the measures approved in that scheme have been implemented. The scheme shall include all of the measures (phases I to III) detailed in Box 1 of Section 3.1 the South Derbyshire District Council document 'Guidance on submitting planning applications for land that may be contaminated', unless the LPA dispenses with any such requirement specifically and in writing.

b) Prior to occupation of the development (or parts thereof) an independent verification report must be submitted, which meets the requirements given in Box 2 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

c) In the event that it is proposed to import soil onto site in connection with the development, this should be done to comply with the specifications given in Box 3 of Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

d) If required by the conceptual site model, no development shall take place until monitoring at the site for the presence of ground gas and a subsequent risk assessment has been completed in accordance with a scheme to be agreed with the LPA, which meets the requirements given in Box 4, Section 3.1 of the Council's 'Guidance on submitting planning applications for land that may be contaminated'.

Reason: In the interests of protecting human health.

14. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented to the satisfaction of the LPA.

Reason: In the interests of protecting human health.

15. Prior to the commencement of the development an assessment of noise & dust levels resulting from activities during the construction phase of the development at the nearest noise sensitive premises that address the impact that the activities will have in terms of noise & dust, on nearby residential properties and to include mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The development shall then only be implemented in accordance with the approved details.

Reason: In the interests of residential amenity.

16. The development shall be implemented in full accordance with the noise mitigation measures set out in the Noise Assessment dated December 2013 produced by Atkins.

Reason: In the interests of residential amenity.

17. Prior to the commencement of the construction of any commercial buildings on the site a scheme of noise which specifies the provision to be made for the control of noise emanating from the site which addresses the impact that the activities inside and outside the commercial buildings will have in terms of noise on nearby residential properties shall be submitted to and approved in writing by the Local Planning Authority. The scheme and mitigation measures agreed shall be implemented in full.

Reason: In the interests of residential amenity.

18. No deliveries shall be taken or despatched from any of the commercial units hereby approved except between the hours of 08:00 and 1800 Monday to Friday and between the hours of 0800 and 1300 on Saturday. No deliveries shall be taken on Sundays and Bank Holidays.

Reason: In the interests of residential amenity.

19. None of the commercial premises located with the neighbourhood centre hereby approved shall be open to customers except between 0800 and 2200 hours Monday to Saturday, between the hours of 1000 and 2200 hours Sunday. There shall be no opening on Bank Holidays.

Reason: In the interests of residential amenity.

20. Prior to the commencement of the construction of any of the commercial premises located with the neighbourhood centre that are to be used for A3 (restaurants and cafes), A4 (drinking establishments) or A5 (hot food takeaways) purposes, details of the extraction and filtration of cooking odours shall be submitted to, and approved by, the Local Planning Authority. The approved scheme shall be implemented in full before any of those uses commence and the measures shall be retained throughout at all times that the buildings are in any of those uses.

Reason: In the interests of residential amenity.

21. Prior to the commencement of the construction of any commercial buildings on the site details of all external lighting equipment shall be submitted to and approved by the Local Planning Authority. Any lighting agreed by this condition must be erected and directed so as to avoid nuisance to any residential accommodations in close proximity and be designed to provide a standard maintained illumination (LUX) of between 5 and 20 LUX with the lower

level being the preferable one. No other lighting equipment may then be used within the development.

Reason: In the interests of residential amenity.

22. Prior to the demolition of any existing employment units, the applicant shall submit to the Local Planning Authority for approval a Relocation Strategy Assistance Plan setting out how the applicant proposes to work with existing occupiers to assist in potentially accommodating them within the new employment areas, or identifying other opportunities for their relocation. The employment development will proceed in accordance with the Relocation Strategy Assistance Plan.

Reason: In order to mitigate against the loss of employment opportunities.

23. No more than 300 dwellings shall be occupied before a minimum of 929 sq m (GEA) of employment floorspace is constructed, completed and available for occupation.

Reason: To ensure that an appropriate level of employment opportunities are delivered in a timely manner in the interests of sustainability.

24. The development must contain a minimum of 7.7ha of employment land, as detailed in the approved concept Masterplan for the development contained within the revised Hilton Depot Redevelopment Design and Access Statement Rev. A received by the Local Planning Authority on 15th April 2014.

Reason: To ensure that an appropriate level of employment land is delivered in the interests of sustainability.

25. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

26. The plans and particulars submitted in accordance with the reserved matters application shall include a Ecological Management plan (EMP) for all retained and created habitats. The content of the EMP shall include the following.

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The EMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

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

The development must be implemented in accordance with the approved details.

Reason: In the interests of protecting and enhancing ecology at the site.

27. The plans and particulars submitted in accordance with the reserved matters application shall include details of access limitations measures in relation to protected species within some areas of the green corridors

Reason: In order to mitigate against adversely affecting the species interest associated with the site.

28. No development shall take place until a Written Scheme of Investigation for historic building recording has been submitted to and approved by the Local Planning Authority in writing, until all on-site elements of the approved scheme have been completed to the written satisfaction of the Local Planning Authority, and until the provision to be made for analysis, reporting, publication and dissemination of the results and archive deposition has been secured. The Written Scheme of Investigation shall include an assessment of significance and research questions and:

1. The programme and methodology of site investigation and recording.
2. The programme and provision for post-investigation analysis and reporting.
3. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
4. Provision to be made for archive deposition of the analysis and records of the site investigation.
5. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

Reason: To ensure that the historic interests within the site are suitably recorded.

29. The development hereby permitted shall not be commenced until such time as a scheme to ensure adequate compensation for the loss of flood plain to the development up to a 1 in 100 year critical flood event, as defined by the flood levels included in the Flood Risk Assessment (reference: 5094693; version 4.0; dated 18 December 2013), has been

submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency. The scheme shall demonstrate through the submission of plans, drawings and calculations that the area of floodplain to be created exceeds the loss of floodplain for each and every phase of development as well as upon completion of the overall development.

The scheme to be submitted shall also show the location of the excavation works and provide detailed designs of the compensation area through the submission of plans and cross-sectional drawings.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Environment Agency.

Reason: To ensure flood plain lost to the development is adequately compensated for at each and every phase of development and upon completion of the overall development.

30. Upon completion of the scheme of floodplain compensation required for each phase and prior to first occupation of each development phase, an 'as built' topographical survey of the area of floodplain compensation will be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency.

Reason: To ensure that the floodplain compensation area is constructed in accordance with the approved scheme.

31. There shall be no raising of ground levels or erection of any building, structure or any other such obstruction to flood flows within the area of floodplain compensation hereby approved under condition 29, unless otherwise agreed in writing by the Local Planning Authority in consultation with the Environment Agency.

Reason: To safeguard the efficient workings of the area of floodplain compensation from inappropriate development.

31. Prior to the commencement of any phase of the development hereby permitted which includes the existing culverted watercourse detailed designs and alignment for the reinstatement of the culverted watercourse to open channel, as indicated on the Illustrative Masterplan for the proposed development (Figure 7 on page 24 of the Design and Access Statement (Revision A)), shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The detailed designs shall demonstrate through the submission of plans, drawings, calculations and (where necessary) modelling, the following:

- the alignment of the watercourse, including a minimum 4 metre easement/maintenance access strip from top of channel edge to any built development, along one side of the watercourse
- the designs for any crossings pedestrian and/or vehicular
- that the channel is capable of conveying flood flows without increasing the risk of flooding to third parties
- how the design makes a net positive contribution to biodiversity
- the incorporation of an unobstructed access for maintenance purposes

The works shall be implemented in accordance with the approved detailed designs and a

timetable of construction to be submitted to and approved in writing by the Local Planning Authority in consultation with the Environmental Agency.

Reason: To ensure the reinstated watercourse is designed to manage flood risk; make a positive net contribution to biodiversity; and to secure its long term maintenance.

32. Prior to the commencement of any works affecting the flood plain/existing culverted watercourse, including any demolition works, within each Phase of the development, detailed Construction Method Statements for the flood plain compensation and separately the reinstatement of the watercourse to open channel shall be submitted to, and approved in writing by, the Local Planning Authority in consultation with the Environment Agency. The approved statements shall be adhered to throughout the construction period. The Statements shall provide for:

- methods used for all flood plain and /or channel and bank-side/water margin works including temporary and permanent works
- machinery to be used
- location and storage of plant, materials and fuel
- access routes to the works, access to the banks of the watercourses
- method of protection of the site and any areas of ecological sensitivity and importance
- site supervision
- location of site office, compounds and welfare facilities

Reason: To protect the water environment from pollution during the flood plain compensation and watercourse reinstatement construction works.

33. No development hereby permitted shall take place until details of finished floor levels for each phase of development are submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The details to be submitted shall demonstrate that finished floor levels are set higher than the predicted flood level for that phase of development.

Reason: To reduce the risk of flooding to the development and its future occupants/users.

34. Development hereby permitted shall not begin until a surface water drainage scheme for each phase of the site, prepared using the design parameters and maximum permitted flow rates set out in the Flood Risk Assessment (reference: 5094693; version 4.0; dated 18 December 2013), and based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. Each phase of development shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall demonstrate:

- Surface water drainage system(s) have been designed in accordance with the National SuDs Standards, or CIRIA C697 and C687, whichever is in force at the time the condition is discharged.
- Limiting the discharge rate and storing the surface water run-off generated by all rainfall events up to the 100 year plus 30% for residential (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- Provision of surface water run-off attenuation storage to accommodate the difference

between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% for residential, 20% for commercial (for climate change) critical rain storm.

- Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
- Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and ensure future maintenance of the surface water drainage system.

35. Before any other operations are commenced, space shall be provided within the site curtilage for the 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: In the interests of highway safety.

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

Reason: In the interests of highway safety.

37. No development shall take place until a Construction Management Plan or Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved plan/statement shall be adhered to throughout the constructions period. The plan/statement shall provide for the storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking of vehicles for site operatives and visitors, routes for construction traffic, hours of operation, method of prevention of debris being carried onto the highway, pedestrian and cyclist protection, proposed temporary traffic restrictions and arrangements for turning vehicles. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason: In the interests of highway safety.

38. Prior to any other works commencing, plans shall be submitted to and approved in writing by the Local Planning Authority for the provision of a 2m wide footway on The Mease, extending from the Nene Way roundabout to the school staff car park entrance. Prior to the school being taken into use, the footway shall be laid out and constructed in accordance with the approved plans to Derbyshire County Council's specifications for adoptable highways. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

39. Prior to the school hereby approved being first taken into use, the staff car park access shall be formed to The Mease. Notwithstanding the submitted details, the access shall have a minimum width of 5.5m and be constructed as a splayed vehicular crossover in accordance with Derbyshire County Council's specification for vehicular accesses to the public highway. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

40. Prior to the first occupation of any new dwelling, the additional footway, bus stop, shelter and boarding facilities shall be provided on The Mease in accordance with application drawing 5094693-ATK-GE-DR-C-0008 rev P02, laid out and constructed in accordance with Derbyshire County Council's specifications. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

41. Upon first occupancy of the 250th dwelling (or as otherwise may be agreed with the local Planning Authority), the proposed improvements/mitigation measures at the Derby Road/Hilton Common Lane shall be implemented. The works shall be laid out in accordance with application drawing 5094693/TP/GA/001 (Appendix 1, Mitigation Drawing of the Transport Assessment) and constructed in accordance with Derbyshire County Council's specifications for works within the public highway. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason: In the interests of highway safety.

42. Notwithstanding the submitted drawings, the internal layout of the site shall accord with the Highway Authority's policy document "6Cs Design Guide" and national guidance in "Manual for Streets".

Reason: In the interests of highway safety.

43. The plans and particulars submitted in accordance with the reserved matters application shall include a swept path diagram to demonstrate that HGV's, emergency and service vehicles can adequately enter, manoeuvre within the site and leave in a forward gear.

Reason: In the interests of highway safety.

44. The new dwellings shall not be occupied until the proposed new estate street, between each respective plot and the existing public highway, has been laid out in accordance with the approved application drawings to conform to the County Council's Design Guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

45. No building shall be occupied/taken into use until a sustainable drainage scheme for the site has been completed in accordance with details first submitted to and approved in writing.

The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: In the interests of highway safety.

46. No building shall be occupied/taken into use until parking and manoeuvring space has been provided within the site in accordance with the 6C's Design Guide. The facilities shall be retained throughout the life of the development free from any impediment to their designated use.

Reason: In the interests of highway safety.

47. Notwithstanding the submitted details no building or use hereby permitted shall be occupied or the use commenced until a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed travel Plan Targets.

Reason: In the interests of highway safety.

48. No development shall take place until a scheme for the provision of foul sewerage for the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a timetable for implementation. The scheme shall be implemented as approved and in accordance with the timetable.

Reason: In the interests of pollution control.

49. A landscape management plan, including phasing and implementation strategy, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters submission in accordance with conditions 2 and 8. The landscape management plan shall be implemented as approved.

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

50. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become, established, or becomes seriously damaged or diseased, or dies, or for any reason is removed, shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved in writing by the Local Planning Authority.

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

51. No site clearance works or development of a phase shall take place until there has been submitted to the Local Planning Authority for their written approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedgerow to be retained in that phase. The scheme shall comply with BS5837:2005. No site clearance works or development of any phase shall be commenced in the vicinity of the protected tree or hedgerow until such a scheme is approved in writing by the Local Planning Authority and thereafter the development hereby permitted shall only be carried out in accordance with the approved scheme. The area surrounding each tree or hedgerow within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

- (i) There shall be no changes in ground levels;
- (ii) No material or plant shall be stored;
- (iii) No buildings or temporary buildings shall be erected or stationed;
- (iv) No materials or waste shall be burnt within 20 metres of any retained tree or hedgerow; and
- (v) No drain runs or other trenches shall be dug or otherwise created without the prior written consent of the Local Planning Authority.

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

52. No development of a phase shall take place until details of the materials proposed to be used on the surfaces of the roads, footpaths, car parking areas and courtyards along with samples of the materials to be used on the external surfaces of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development of each phase shall be carried out using the approved materials unless otherwise agreed in writing with the Local Planning Authority.

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

53. Before use commences of any building for retail or commercial uses (within Use Class A1-A5) or of the proposed community school or day care nursery centre, details of all external lighting equipment associated with the proposed use of those buildings shall be submitted to and approved in writing by the Local Planning Authority and the development implemented in accordance with the approved details. No other external lighting equipment may then be used on that building except with the approval in writing of the Local Planning Authority.

Reason: In the interests of the amenities of nearby residents and the appearance of the area.

54. During the period of construction of any phase of the development which abuts any occupied dwelling, no construction work shall take place outside the following times: 0730 - 1900 hours Monday to Friday and 0730 - 1330 hours on Saturdays and at any time on Sundays, Bank and Public Holidays.

Reason: To protect the amenities of nearby residents.

55. The total gross internal floor space for the mixed use areas within the development including the neighbourhood centre shall not exceed a total of 2,500 sq m, of which the proposed local retail uses (Use Class A1) within the development shall not exceed 500 sq m; financial and professional services (Use Class A2); restaurants and cafes (Use Class A3); hot food takeaways (Use Class A5), doctors/dentists/crèche *Use Class D1) or dance studio/leisure (use Class D2) of the 2,500 sq m mixed use areas, including any mezzanine floorspace, unless planning permission has first been granted by the Local Planning Authority.

Reason: To ensure that the commercial element is commensurate with the residential development in the interest of sustainability.

56. No development of a phase shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected within that phase. The boundary

treatment shall be completed in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

57. Bin stores shall be provided within each phase within private land at the entrance to shared private accesses, in accordance with a scheme for each phase to be submitted and approved in writing by the Local Planning Authority, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In the interests of highway safety.

58. The permission shall relate to the amended concept Masterplan for the development contained within the revised Hilton Depot Redevelopment Design and Access Statement Rev. A received by the Local Planning Authority on 15th April 2014, as well as drawings Site Access 1 Roundabout Improvements – 5094693-ATK-GE-DR-C-008 Rev P05; Site Access 2 Roundabout Improvements - 5094693-ATK-GE-DR-C-0007 Rev P02 and Site Access 3 Junction Improvements - 5094693-ATK-GE-DR-C-0009 Rev P02.

Reason: For the avoidance of doubt, the original submission being considered unacceptable.

59. There shall be no vehicular through route between the development site onto Egginton Road.

Reason: In the interests of highway safety.

Informatives:

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions/seeking to resolve planning objections and issues/suggesting amendments to improve the quality of the proposal. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

2. The applicant is advised that the Crime Prevention Design Adviser at Derbyshire Constabulary notes that the existing police office is located within a pavilion building and requests discussions be undertaken through Derbyshire Police estates and Services Department at the Police Headquarters in Ripley to explore opportunities for that to be relocated within the proposed development to accommodate the expanding Hilton population.

3. The applicant is advised that following consultation with Network Rail the following issues were raised which may influence the details that will need to be submitted in respect of the conditions above:

Drainage: All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plans all soakaways must be located so as to discharge away from the railway infrastructure. The following points need to be addressed:

1. There should be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts.
2. All surface water run-off and sewage effluent should be handled in accordance with Local Council and Water Company regulations.
3. Attenuation should be included as necessary to protect the existing surface water drainage systems from any increase in average or peak loadings due to normal and extreme rainfall events.
4. Attenuation ponds, next to the railway, should be designed by a competent specialist engineer and should include adequate storm capacity and overflow arrangements such that there is no risk of flooding of the adjacent railway line during either normal or exceptional rainfall events.

The existing surface water drainage strategy (as enclosed in the FRA) is not quite sufficient for us to be satisfied that the level of surface water run-off will not have a detrimental effect on the culverts under the railway, both in terms of capacity and any scour protection measures required as a result of the increased water flow. However as it is still at outline stage we would expect a detailed condition relating to surface water control and disposal to be included in any consent. It should address the following points:

We need to see a schematic of the modelled network mentioned in the report relative to the site layout.

We require sight of two sections along the drainage runs and the watercourses/culverts. We need to be able to see the water levels and sections within the storage areas and in particular the water storage areas adjacent the railway - the sections should also extend upto and including the railway boundary. This will help to ascertain the impact on our culverts.

Fail Safe Use of Crane and Plant: All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

Excavations/Earthworks: All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rails infrastructure or railway land.

Security of Mutual Boundary: Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

Fencing: Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. This is particularly important as on the indicative Masterplan as a significant element of public open space is shown adjacent to the boundary woodland. It is inevitable that paths will be created through the woodland and thus security of the railway boundary is important. Network Rail's existing fencing / wall must not be removed or damaged.

Method Statements/Fail Safe/Possessions: Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

Once planning permission has been granted and prior to the commencement of any works on site, developers must contact Network Rail to inform them of their intention to commence works. This must be undertaken a minimum of 6 weeks prior to the proposed date of commencement. Please contact the Asset Protection Project Manager at the address below.

Demolition: Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

Encroachment: The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Noise/Soundproofing: The Developer should be aware that any development for residential use adjacent to an operational railway may result in neighbour issues arising. Consequently every endeavour should be made by the developer to provide adequate soundproofing for each dwelling. Please note that in a worst case scenario there could be trains running 24 hours a day and the soundproofing should take this into account.

Trees/Shrubs/Landscaping: Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should preferably be positioned at a minimum distance greater than

their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Acceptable: Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrus Communis*), Fir Trees – Pines (*Pinus*), Hawthorne (*Crataegus*), Mountain Ash – Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (Shrubby *Salix*), Thuja Plicatata "Zebra"

Not_Acceptable: Alder (*Alnus Glutinosa*), Aspen – Poplar (*Populus*), Beech (*Fagus Sylvatica*), Wild Cherry (*Prunus Avium*), Hornbeam (*Carpinus Betulus*), Small-leaved Lime (*Tilia Cordata*), Oak (*Quercus*), Willows (*Salix Willow*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), London Plane (*Platanus Hispanica*).

A comprehensive list of permitted tree species is available upon request.

Access to Railway: All existing roads, paths or ways providing access to any part of the railway undertaker's land (if present) shall be kept open at all times during and after the development.

Children's Play Areas/Open Spaces/Amenities: It is our strong advice that no children's play areas are located near the railway; similarly open spaces and amenity areas must be protected by a secure fence along the boundary of the railway by one of the following kinds, concrete post and panel, iron railings, steel palisade or such other fence approved by the Local Planning Authority acting in consultation with the railway undertaker to a minimum height of 2 metres and the fence should not be able to be climbed (see also fencing above).

4. The applicant is advised that following consultation with Severn Trent Water, they advise that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over, or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals and they will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

5. The applicant is advised to providing access to broadband services for future residents as part of the development, in conjunction with service providers.

6. Submitted with this application was Ground Investigation and Piling Limited's Factual Ground Investigation and Test Report (Ref: DAP/21404, October 2013) and Atkins Limited's Phase 2 Geo-environmental Interpretative Report and Outline Reclamation Strategy (Ref: 5094693/RPT/001, November 2013) for the site. I have reviewed these reports and I am happy that the investigatory and environmental interpretive work goes as far as to satisfy part of the conditions above. I would recommend Phase 2 report's conclusions and proposed further work (Section 9 to 13) forms an agreed scheme of remedial and protection measures;

which I look forward to seeing the completion of, along with associated validation and monitoring work.

The above phased risk assessment should continue be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 2A. The contents of all reports relating to each phase of the risk assessment process should comply with best practice as described in the relevant Environment Agency guidance.

For further assistance in complying with planning conditions and other legal requirements applicants should consult "*Developing Land within Derbyshire – Guidance on submitting applications for land that may be contaminated*". This document has been produced by local authorities in Derbyshire to assist developers, and is available from http://www.south-derbys.gov.uk/environment/pollution/contaminated_land/default.asp. Reports in electronic formats are preferred, ideally on a CD. For the individual report phases, the administration of this application may be expedited if a digital copy of these reports is also submitted to the Environmental Protection Officer (contaminated land) in the Environmental Health Department: thomas.gunton@south-derbys.gov.uk.

Further guidance can be obtained from the following:

CLR 11: Model Procedures for the Management of Contaminated Land
CLR guidance notes on Soil Guideline Values, DEFRA and EA
Investigation of Potentially Contaminated Land Sites - Code of Practice, BSI 10175 2001.
Secondary Model Procedure for the Development of Appropriate Soil Sampling Strategies for Land Contamination, R & D Technical Report P5 - 066/TR 2001, Environment Agency.
Guidance for the Safe Development of Housing on Land Affected by Contamination
Environment Agency. ISBN 0113101775.

7. The applicant is advised that following consultation with Derbyshire Wildlife Trust they advise that no site clearance work must take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before such works are commenced. You are advised to provide written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site to the Local Planning Authority.

8. The applicant is advised that following consultation with Derbyshire Wildlife Trust they advise that further checks for protected species are carried out prior to commencing each phase of the development.

9. The applicant is advised that following consultation with Derbyshire Wildlife Trust they advise that with regards to the surface water attenuation pond proposed within the southern boundary green corridor it is essential that such a feature is incorporated in order to provide suitable habitat for the UK BAP priority species Common Toad that was recorded on the site. Whilst a gravel island is proposed to provide suitable habitat for little ringed plover they advise that that further areas of gravel/bare ground should be provided around the proposed pond in order to provide suitable habitat for lapwing as well as the little ringed plover. The creation of areas of wildflower-rich grassland within the green corridors would provide significant biodiversity benefit to the area.

10. The applicant is advised that following consultation with the Derby and Derbyshire Development Control Archaeologist, he advises that he will be responsible for monitoring the conditioned work on behalf of the Local Planning Authority, and the applicant/agent should

contact him in the first instance for advice on the production of the written scheme of investigation (WSI) required by condition 28. His contact details are:

Steve Baker MA MIfA, Derby and Derbyshire Development Control Archaeologist, Economy, Transport and Environment, Derbyshire County Council, Shand House, Dale Road South, Matlock, Derbyshire DE4 3RY (Tel: 01629 539773).

11. The applicant is advised that following consultation with the Environment Agency, they advise the following:

During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowzers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.

Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from impermeable parking areas and hard standings should be passed through trapped gullies with an overall capacity compatible with the site being drained.

Only surface water from roofs and paved areas not accessible to vehicles should be discharged directly to any soakaway, watercourse or surface water sewer.

The Water Framework Directive

The Water Framework Directive (WFD) River Basin Management Plans require that water courses continue to show improvements in overall quality in line with the quality standards specified in these documents. An objective of the WFD is to prevent the deterioration in the water quality of water courses. The Hilton Brook is adjacent to this development and is currently failing for Phosphate. Measures should be put in place to minimise potential pollution from the development. Guidance on this can be found in PPG 6 Working at Demolition and Construction Sites available on our website. Please see following link: <http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>

The increased amount of waste water and sewage effluent produced by the new development will need to be dealt with to ensure that there is no deterioration in the quality of the water courses receiving the extra volume of treated effluent. As such there may be a requirement for the expansion and upgrading of current sewage treatment systems, if the volume of sewage requiring treatment within the district increases.

It is unclear whether there will be sufficient headroom at the relevant sewage treatment works, therefore the sewerage undertaker will need to confirm that the sewage treatment works have enough capacity in the consented dry weather flow to accept all the foul flow from further developments. If there is insufficient headroom then the consent to discharge for the sewage treatment works will have to be reviewed to accommodate the additional flow. If river modelling shows that the consent limits need to be tightened beyond Best Available Technology in order to comply with no deterioration in the watercourse under WFD then the volume of foul flow arriving at the sewage treatment works may be limited.

It should also be demonstrated by the appropriate sewage undertaker that the increase in foul waste water entering the sewerage system will not cause any deterioration in the operation of any combined sewer overflows on the system either upstream or downstream of the development. There must be no increase in the spill frequency or volume of the combined sewer overflows on the sewerage network and the additional flow must not create the need for any new combined sewer overflows. If the sewerage network does not have the capacity to accept the flows then development must be phased in with the upgrading of the network and foul flows can only enter the system once the upgrading work is complete. The Water Resources Act 1991 states that any use of water greater than 20 cubic metres per day (20m³/d) requires an abstraction licence.

Waste

It is important that waste management be considered alongside other spatial planning concerns such as transport, housing, economic growth, natural resources and regeneration, recognising the positive contribution that effective waste management can make to the development of sustainable communities.

Site design should take a holistic approach to waste management, and ensure the design will contribute towards sustainable management of waste throughout the lifecycle of the development. Therefore we would expect the development to consider the following points:

- The design of communities and supporting services should encourage and enable communities to follow the waste hierarchy – reduce, re-use, recycle, recover, with landfill as the last resort.
- Ensure the design provides adequate interior and exterior space for storage and segregation of waste.
- Give thought to spatial issues for waste collection (routing / access for waste collection vehicles, implications of the proposed “shared surfaces” and dwellings with no direct vehicular access should be considered).
- Ensure that there is suitable provision for recycling in public spaces, seeking opportunities to expand the range and scope of recyclables collected.
- Consider the choice of building material with respect to repair, maintenance and eventual decommissioning of the buildings. Consider incorporating recycled / recyclable material wherever possible.
- Seek solutions that provide multiple benefits, including contributing to ‘zero carbon’ development
- Carefully consider novel ‘in house’ systems for segregation (and collection) of materials, and how these could be successfully integrated with local authority waste collection arrangements.
- Ensure adequate provision of on-site sustainable waste management facilities, where appropriate.
- Aim to reduce transport-related emissions resulting from waste management.
- Ensure sufficient buffering between conflicting development types such that they do not disadvantage each other, particularly with regard to amenity issues such as noise, odour and litter/dust (e.g. housing and waste management facilities).

Water Efficiency

The Code for Sustainable Homes has water consumption targets as well as energy targets. Part G of the Building Regulations set a whole building standard of 125 litres per person per day for domestic buildings. From a water efficiency point of view, the Environment Agency would recommend that any new homes should achieve the ‘water efficiency component’ of level 3/4 of the Code for Sustainable Homes (as a minimum). This relates to a level of 105 litres per person per day. Code level 5/6 goes further and has a water efficiency

target of 80 litres per person per day. This, however, should not compromise the achievement of zero carbon.

For non-residential buildings the developers should also demonstrate that they have considered water efficiency and conservation in the design and maintenance of the buildings. Where standards currently exist for a particular building type, the developers should aim for BREEAM Very Good or Excellent standards and we would request that maximum points are scored on water.

Ground Contamination

We have reviewed the report 'Hilton Depot, Hilton, Derbyshire – Phase 2 Geo-environmental Interpretative Report and Outline Reclamation Strategy' (Atkins, November 2013) submitted in relation to this Planning Application (9 2013 1044). We have the following comments to make which relate solely to the protection of 'Controlled Waters', matters relating to Human Health should be directed to the relevant department of the Local Authority.

Reference to the 1:50,000 scale geological map Sheet 141 (Loughborough) indicates that the site is located on Triassic Mercia Mudstone which is designated a 'Secondary (B) Aquifer' by the Environment Agency. Superficial deposits of Alluvium and Sand & Gravel are indicated for the site which are designated as 'Secondary (A) Aquifers' by the Environment Agency. Un-named tributaries of Hilton Brook are present in and adjacent to the site.

The information submitted identifies that the site has been used as a Royal Army Ordnance Corps storage depot including a sewage works. The site is currently used for machinery sales and storage, steel shelf manufacturing, vehicle maintenance and a builder's yard. Such land use has the potential to have caused contamination which may currently be impacting 'Controlled Waters' receptors of the groundwater in the underlying Secondary Aquifers and the local watercourses. Furthermore there is potential for re-mobilisation of any contaminants during site development.

Samples of the soils and groundwater of the site have been collected and analysed for a general suite of contaminants. This analysis has indicated the presence of limited concentrations of contamination which the report concludes are unlikely to pose a significant risk to 'Controlled Waters' receptors. Consequently we have no requirement for any further works (i.e. remediation) of this site.

It should be noted that the Environment Agency has not had any influence or control over the selection of site investigation locations or any aspect of the sampling and analysis undertaken. Therefore, the Environment Agency must assume that the information submitted to it, is both genuine and representative of site conditions and treat it in good faith.

Additionally, it should be noted that in accordance with Government Policy detailed in the National Planning Policy Framework (paragraph 120), *'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'*. Therefore, should any significant contamination, not assessed by virtue of this report/project, subsequently become apparent responsibility remains with these parties.

Furthermore if during site development any areas of significant contamination are suspected, then the materials should be sampled, tested and suitable remediation carried out in consultation with the Local Planning Authority.

The applicant / developer should refer to our 'Groundwater Protection: Principles and Practice' (GP3) document, available from our website at www.environment-agency.gov.uk. This sets out our position on a wide range of activities and developments, including:

- Storage of pollutants and hazardous substances
- Solid waste management
- Discharge of liquid effluents into the ground (including site drainage)
- Management of groundwater resources
- Land contamination
- Ground source heat pumps

All precaution must be taken to avoid discharges and spills to ground both during and after construction. For advice on pollution prevention measures, the applicant should refer to our guidance 'PPG1 – General guide to the prevention of pollution', available from our website.

If any controlled waste is to be removed off site, then the site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably permitted facility.

The applicant is advised to contact the Environment Management team at Chris Withnell Office on 01785 782540 or refer to guidance on our website <http://www.environment-agency.gov.uk/subjects/waste>

The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable for any off-site movements of wastes. The developer as waste producer therefore has a duty of care to ensure all materials removed go to an appropriate permitted facility and all relevant documentation is completed and kept in line with regulations.

In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that your SWMP should contain depends on the estimated build cost, excluding VAT. You must still comply with the duty of care for waste. Because you will need to record all waste movements in one direction, having a SWMP will help you to ensure you comply with the duty of care.

Further information can be found at <http://www.netregs-swmp.co.uk>

A wheel wash should be installed to minimise the loss of silt/ mud from the site caused by vehicle movements. This will help to protect the Hilton Brook as WFD failures for phosphate are linked to sediment loss.

12. The applicant is advised that following consultation with the County Highway Authority, they advise the following:

- a. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Economy, Transport & Environment Department at County Hall, Matlock. The applicant is advised to allow at least 12 weeks in any programme of works to obtain a Section 278 Agreement.
- b. Pursuant to Section 38, and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable

standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Department of Economy, Transport & Environment at County Hall, Matlock.

- c. Traffic management measures may be necessary during the construction works. All traffic management details shall be submitted to and approved in writing by Derbyshire County Council's Traffic & Safety section (01629 538664).
- d. The applicant is required to contact Derbyshire County Council's Public Transport Unit regarding the details of the provision of bus stop facilities which will need to be submitted to and approved in writing.

13. The applicant is advised that following consultation with Severn Trent Water, they advise that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals who will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

14. The applicant is advised to seriously consider the installation of a sprinkler system to reduce the risk of danger from fire to future occupants and property.

Item **1.2**

Reg. No. **9/2014/0247/FH**

APPLICANT:
MR JEFFERY ELEY
24A UTTOXETER ROAD
HATTON
DERBY
DE65 5PX

AGENT:
MR ALAN TYRES
63 KINGS DRIVE
LITTLEOVER
DERBY
DE23 6EX

Proposal: **ERECTION OF AN EXTENSION AT 24A UTTOXETER ROAD HATTON DERBY**

Ward: **HATTON/HILTON**

Valid Date: **12/03/2014**

Members will recall deferring determination of this application from the meeting of 25 June until a visit to the site had taken place. The report below is unchanged.

Reason for committee determination

Councillor Bale (ward member) has requested that the Planning Committee determine this application as local concern has been expressed about a particular issue.

Site Description

The property in question is a large two-storey detached dwelling situated centrally in a large plot fronting Uttoxeter Road (A511). The house and the neighbouring houses are located outside of the main core of Hatton and the street scene is mixed; some older cottages interspersed with more modern, larger infill 'development'. The housing here is mainly on the northern side of the road. There are though a small number of properties on the southern side of the road including one directly opposite this site.

Proposal

The proposal is an extension to the side of the house which would supplement the garaging/storage provision on the site. It would be of a single storey height (2.8m at its tallest point) and feature a lean-to mono-pitch roof. Its full depth is some 12m.

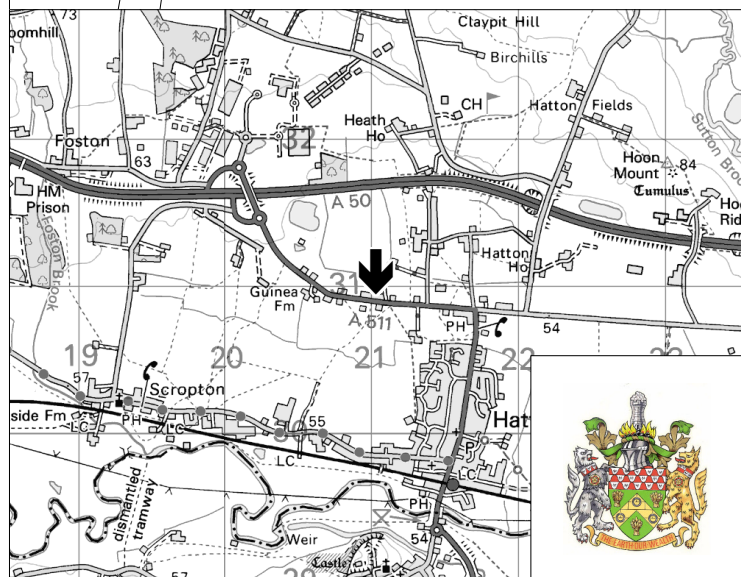
Applicants' supporting information

None.

Planning History

No relevant history.

9/2014/0247 - 24a Uttoxeter Road, Hatton, Derby DE65 5PX



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South Derbyshire District Council. LA 100019461. 2014

Responses to Publicity

County Highways – No objections.

Neither Foston & Scropton nor Hatton Parish Councils object.

Two neighbour comments have been received. Their comments are summarised as:

- The development will block daylight to nearby windows and general 'views' will be obstructed
- The extension is out of context with the nearby properties. It would also resemble a farmyard and not the ideal country location used to.
- Extension is badly thought out;
- Extension would lead to an unacceptable loss of light to adjacent windows
- Allowing an extension may set a precedent in regards development in front of the building line;
- Out of scale and overbearing, being disproportionately large in relation to the cottages alongside;
- Potential dangers to road safety (exiting the site etc.). Concern in regards a wall shown on the plans

Development Plan Policies

Local Plan Housing Policy13

Supplementary Planning Guidance (SPG): Extending Your Home.

National Guidance

National Planning Policy Framework (NPPF), paragraphs 14, 17 and 56

Planning Considerations

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

- The impact on the character and appearance of the locality;
- The impact on neighbours assessed against the Council's adopted standards.

Planning Assessment

The impact on the character and appearance of the locality

The part of the extension adjacent to the existing garage has no adverse impact on either the character of the area or on neighbouring amenity. Where the proposal projects 'forward' of the existing built forms though, its mass/finished height is modest and wholly subservient to nearby built forms. Views of its forward projection could be effectively screened by cars, hedges and existing boundary treatments (that 'screening' including the present 1.6m high boundary fence between Nos. 24a and 22 Uttoxeter Road. At other points along this stretch of road are built forms (dwellings, garages or fencing/walls) immediately adjacent to the pavement, the result of more modern development (infill plots). One neighbour objects because it would have a farmyard appearance. Although this is not thoroughly understood, the property is in a semi-rural situation with a variety of land uses in the locality including farm type/agricultural premises nearby.

The impact on neighbours assessed against the Council's adopted standards

There is no reasonable case for overbearance/loss of light caused by this development. Supplementary guidance 'Extending your Home' looks to protect nearby primary ground floor windows from overbearance caused by, in the main two storey forms – this development is single storey. Whilst it is acknowledged there may be a change to light levels, a permissible 2m high boundary wall would cause a similar loss of light/aspect. The roof pitch is shallow and also favourable in regards it sloping away from the boundary.

The situation is helped further by the fact that No 22 Uttoxeter Road (and indeed the affected living room window) is set away from the boundary as opposed to being hard up against it. It is judged therefore that the extension would not unduly affect the neighbours' amenity.

One of the objectors raises a concern in regards highway safety (exiting the site in a car etc.). Whilst the development may alter the existing arrangements, the Highway Authority has offered no objection.

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

Recommendation

GRANT permission subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: To conform with Section 91(1) of the Town and Country Planning Act, 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).
2. All external materials used in the development to which this permission relates shall match those used in the existing building in colour, coursing and texture.
Reason: To safeguard the appearance of the existing building and the locality generally.
3. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the height of the boundary treatment (that shown on the 'impression' drawing) to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.
Reason: In the interests of the appearance of the area.

Item **1.3**

Reg. No. **9/2014/0287**

APPLICANT:
ALEXANDER BRUCE ESTATES LTD
12A WHITE FRIARS
CHESTER
CH1 1NZ

AGENT:
BHB ARCHITECTS
24 BIRD STREET
LICHFIELD
WS13 6PT

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR ACCESS TO BE RESERVED) FOR THE RESIDENTIAL DEVELOPMENT OF 22 DWELLINGS WITH ASSOCIATED OPEN SPACE AND HIGHWAYS WORKS ON LAND AT SK3925 1974 STATION ROAD MELBOURNE DERBY**

Ward: **MELBOURNE**

Valid Date: **07/04/2014**

Reason for committee determination

The application is brought before the Committee as the application is for a major development that has attracted more than two objections and is not in accord with the development plan.

Site Description

The 0.8 hectare site is located on Station Road, Melbourne, immediately adjacent to the north east boundary of the Millbrook development by Davidson Homes, with properties on Sweet Leys Way and Carr Brook Way adjacent. The site is a rectangular piece of land measuring between 51-64m in width and 138-144m in length. The land slopes to the south east and surrounding land rises again at the boundary with Carr Brook. The land is rough grassland and there is a 3m high mature hedgerow along the Station Road boundary.

Proposal

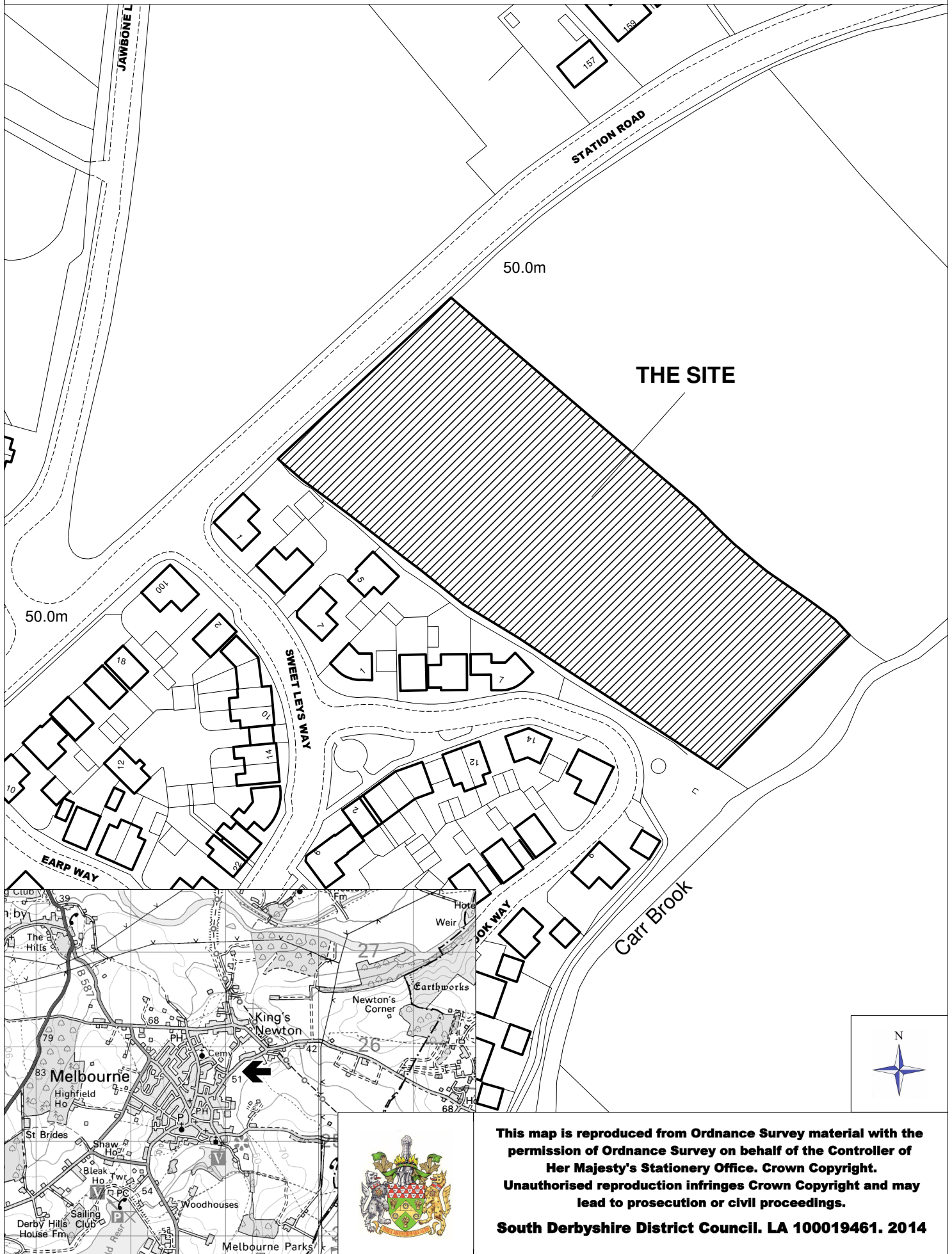
Outline planning permission is sought for residential development of 22 dwellings including 7 affordable units, with approval of access sought at this stage whilst all other matters are reserved for future approval. The application is accompanied by an indicative site layout plan shows predominately semi-detached dwellings with some properties fronting Station Road with the access 65m north east of the Sweet Leys Way junction. Within the remainder of the site the indicative layout plan shows the dwellings fronting the main estate road with parking and garaging set back to the side or rear. An area of open space is shown adjacent to the north eastern boundary where the internal 'T' junction is proposed. A footpath link to the Millbrook development is shown on the south western boundary. The access location has been amended during the application process to be more centrally located on Station Road in light of comments from the Highway Authority.

Applicants' supporting information

Supporting Statement

This document describes the site, the application proposal and discusses the relevant planning policy. It outlines other material considerations such as highway issues, flood risk, noise, biodiversity and sustainability.

9/2014/0287 - Land at SK3925 1974 Station Road, Melbourne, Derby
(DE73 8LE)



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South Derbyshire District Council. LA 100019461. 2014

Noise Assessment

The main source of noise affecting the site is aircraft over-flights as the site lies close to the flight path for East Midlands Airport. The assessment found that with suitable design specifications such as roof insulation, appropriate roof tiles, thick insulated ceilings and suitably specified double glazing, internal noise levels suitable for the protection of residential amenity would be achieved.

Ecological Appraisal

This report assesses the habitat and categorises trees and hedgerows in terms of high and low potential for protected species. No protected species were found on site and the report states that as the majority of the boundary features would be retained and enhanced any impact on commuting/foraging corridors would be minimal. Further survey work on the presence of reptiles has been completed and none were found.

Design and Access Statement

This document identifies the principal viewpoints and describes the site in context. The site slopes from c.42m to 50m AOD over 154m. The site is well bounded along its north, east and south perimeters by existing hedgerow and to the west by development along Sweet Leys Way and the south is bounded by Carr Brook. The design process is detailed with a series of plans starting with site constraints with the historic core and different styles of housing being assessed and a development that produces a density of 28 units per ha. An artist's impression of the dwellings is included.

Planning History

None.

Responses to Consultations

Melbourne Parish Council objects to the application as there have been significant developments within the Parish but new proposals are coming in quick succession and they would have no opportunity to adapt to the growth should they be granted. Therefore, having regard to the statement in the Parish Plan for no new development and the oversubscription of places at the local primary school they unanimously object.

The County Highways Authority states that as the application is in outline only with all matters reserved for future approval except the access to the site, only the main site access onto Station Road has been considered rather than individual accesses within the site as the layout is, at this stage, indicative. On this basis they have no objections subject to conditions in respect of relocating a street lighting column; the creation of a temporary access for construction purposes; the provision of a site compound; the provision of wheel washing facilities; the laying out of the new access; the internal layout complying with guidance; the sustainable drainage details being secured; a swept path diagram being provided at reserved matters and the provision of the estate streets, parking, gates and bins stores.

The Environment Agency has reviewed the application and considering that it is a development of less than 1 hectare in Flood Zone 1 it does not fall within a high risk category and thus they do not wish to comment further and guidance can be obtained from their standing advice. Carr Brook along the south eastern boundary is within Flood Zone 3 but no development is proposed within this area of the site. The standing advice states that for developments (other than changes of use) of less than 1 ha in Flood Zone 1, the main flood risk issue to consider is usually the management of surface water run-off. Drainage from new development must not increase flood risk either on-site or elsewhere. Government policy strongly encourages a sustainable drainage system (SuDS) approach to achieve these objectives.

The Council's Land Drainage Officer has no record or knowledge of flooding within the application site location.

The Contaminated Land Officer has no objections.

The Environmental Health Manager accepts the findings of the Noise Assessment and recommends a condition requiring a scheme of sound attenuation as detailed in the report.

The Council's Strategic Housing Manager considers that the 32% affordable housing figure can be justified in this location as there is a large waiting list but more detailed comments shall be reported verbally at committee.

East Midlands Airport has not responded at the time of writing but any comments received will be reported verbally at committee.

The Police Crime Prevention Design Advisor has no objection in principle but the two plots on the road frontage have a weak outlook. The layout proposes a parking court which no supervision at ground floor level which may mean people do not use it and park on the road. If it were gated then this would be improved.

Severn Trent Water has yet to comment but any comments received will be reported verbally at committee.

Derbyshire County Council requests the following contributions:-

- £629.42 (£28.61 per dwelling x 22 dwellings) towards the provision of a new Household Waste Recycling Centre to provide additional waste management capacity;
- Access to high speed broadband services for future residents (in conjunction with service providers);
- Undertaking a full ground investigation to fully explore the option of ground infiltration to manage surface water;
- £8,000 financial contribution towards improvements along Station Road to connect the site to the proposed multi-user route on Jawbone Lane;
- £45,596.04 financial contribution towards the provision of 4 primary school pupils (2 infant and 2 junior) at Melbourne Infant School and Melbourne Junior School;
- New homes designed to Lifetime Homes standards.

In relation to education provision the calculation is based on 22 dwellings. The proposed development falls within, and directly relates to, the normal areas of Melbourne Infant School, Melbourne Junior School and Chellaston Academy (Derby City). It is anticipated that the proposed development would generate the need to provide for an extra 4 primary school pupils (2 infant, 2 junior). Secondary provision is delivered by Derby City. Melbourne Infant School has a current net capacity of 180 pupils and currently has 192 pupils on roll. Projections indicate numbers remaining static during the next 5 years. Melbourne Junior School has capacity for 235 pupils with 243 currently on roll. Projections indicate pupil numbers increasing to 267 pupils during the next 5 years. Current numbers on roll and projections for Melbourne Infant School and Melbourne Junior School indicate that these primary schools would not be able to accommodate the increase in pupil numbers from the proposed development. The County Council, therefore, requests a financial contribution of £45,596.04 towards the provision of 4 primary school pupils.

Derbyshire Wildlife Trust is satisfied that there are unlikely to be any protected species issues arising with this application. The retention and enhancement of the existing boundary hedgerows within a landscape buffer and the provision of a development-free stand-off to the Carr Brook should be fully reflected in any reserved matters application and secured by a planning condition. Conditions are recommended in respect of submission of an Ecological Design Strategy, implementation of mitigation measure set out in the report and a restriction on hedgerow removal within the birds nesting season.

The NHS had not responded at the time of writing. Comments will be reported verbally at committee.

Melbourne Civic Society objects on the basis that it is contrary to the existing Local Plan and the Draft Local Plan. The Draft Local Plan does not identify Melbourne as a site for any major housing development. As an extension to the Millbrook development it would constitute a major extension to the village and is premature. The siting of the access is clearly to facilitate development of the adjacent field. This proposal would set a precedent for development of the south side of Station Road and would turn Melbourne into another suburb of Derby. Any new developments after adoption of the new Local Plan would have to take into consideration the availability and adequacy of local infrastructure and services. The site is not served by public transport and existing services are inadequate and there is inadequate primary and secondary educational provision in Melbourne for extra housing development.

Responses to Publicity

Thirty two letters of objection have been received from together with an online petition containing 257 signatures which make the following points:

- a. The increased traffic impact of the development on Station Road and the already congested Melbourne centre with potentially 44 - 52 vehicles.
- b. It would increase traffic on Swarkestone bridge
- c. There is already a severe lack of capacity in local schools where local children are not getting places which would be increased by this development.
- d. The proposed footpath link to the Davidson's development would increase pedestrian traffic on Carr Brook Way and may lead to anti-social behaviour and loss of privacy to a living room window.
- e. Adequate Public Open Space would be provided within the site and not be reliant on the adjacent site's provision.
- f. It would increase demand for parking.
- g. There is currently a 2 week wait for an appointment at the Local GP surgery and this development would further increase pressure on this service.
- h. The development is not in keeping with the character of the 'rural village' and market garden heritage.
- i. The Millbrook development meant a significant increase in traffic and eroded the village character and views of the countryside.
- j. Chellaston Academy is at capacity and this scheme would be in the 'excluded list' for the 2015 admissions criteria.
- k. It would involve the loss of wildlife such as birds, hedgehogs, foxes etc.
- l. Development should wait for the Draft Local Plan to be finalized in order to plan properly for services. A moratorium on development until the services issue is resolved should be considered.
- m. The removal of the hedgerow for the footpath is detrimental.
- n. Overshadowing of No. 7 Carr Brook Way's garden.
- o. Separation between Melbourne and Kings Newton should be retained.
- p. The proposal is contrary to Local Plan Policy EV1 and the Draft Local Plan states there shall be no strategic growth in Melbourne.
- q. Green spaces should be protected from development.
- r. Recreation facilities will be insufficient.

Three letters have been received in response to re-consultation on the amended access plan which make the following comments:-

- aa. The footpath access to Carr Brook Way has moved further down and is now opposite No.16's driveway which is worse from a safety perspective.
- bb. The amendments increase the number of dwellings in close proximity to their property and plans to strengthen the hedgerow in the area would be critical.
- cc. Concern raised in relation to the safety of the access, close to a bend to the west.

- dd. The revised plans do not address the main objections which are lack of capacity at schools and doctors surgeries.

Development Plan Policies

The relevant policies are:

Adopted Local Plan:

Saved Housing Policies H5, H8, H9 & H11

Saved Environment Policies EV1, EV9, EV10 & EV12

Saved Transport Policy T6

Saved Recreation and Tourism Policy 4

Housing Design and Layout SPG

Emerging Local Plan:

Policy S1: Sustainable Growth Strategy

Policy S2: Presumption in Favour of Sustainable Development

Policy S4: Housing Strategy

Policy H1: Settlement Hierarchy

Policy SD1: Amenity and Environmental Quality

Policy BNE1: Design Excellence

Policy BNE3: Biodiversity

Policy BNE4: Landscape Character and Local Distinctiveness

Policy INF1: Infrastructure and Developer Contributions

Policy INF2: Sustainable Transport

Policy INF9: Open Space, Sport and Recreation

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 10,11, 12, 13,17, 32, 34, 47, 49, 55, 56, 57, 60, 61, 72, 118, 120, 121, 123
- National Planning Practice Guidance (NPPG) 2a, 3, 8, 23b, 26, 30 and 37

Planning Considerations

- The principle of the development
- Residential amenity
- Highway safety
- Biodiversity
- Noise
- Section 106 contributions

Planning Assessment

The principle of the development

The site lies outside the village confines as defined within the Local Plan and thus the application is not in accord with the development plan. Local Plan Housing Policy 8 restricts housing developments outside settlements to that necessary for the operation of a rural based activity, where it can be demonstrated that a countryside location is necessary. The proposal does not accord with this policy. However, the NPPF indicates that Local Plans should meet the full objective need for market and affordable housing in the housing market area. It states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 49 of the NPPF states:

"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites".

There are two arms to this paragraph: (1) that the application should be considered in the context of the presumption in favour of sustainable development, and (2) SDLP housing supply policies should not be considered to be up-to-date if a 5-year housing supply cannot be demonstrated. In regard to point (2), paragraph 47 of the NPPF seeks "to boost significantly the supply of housing". It is therefore clear there is considerable emphasis on bringing forward significant housing provision as soon as possible. This is achieved through a rolling supply of deliverable sites sufficient to provide five-years of housing against projected requirements (a "5-year supply"). Where local planning authorities have failed to deliver a 5-year supply, an additional buffer of 20% is required. There is currently a shortfall in the 5-year supply. Whilst preferred strategic allocations in the emerging Plan would provide this supply, their overall deliverability has not been formally examined such that limited weight can be afforded to the relevant emerging policies at this time. As such the relevant SDLP policies pertaining to new housing delivery cannot be considered up-to-date and the proposal must be considered in the context of the presumption in favour of sustainable development.

The site lies adjacent to the built framework of Melbourne, which is classed as a Key Service Village in the emerging Plan's Settlement Hierarchy (Policy H1). Such settlements are envisaged to be capable of providing appropriate scale developments up to and including small strategic sites. However, this hierarchy presently carries limited weight and whilst the proposed development is of the scale envisaged for a Key Service Village, the site lies outside the village boundary, as defined by adopted Local Plan, Policy H5. The proposal therefore remains to be considered on first principles.

The connectivity of the settlement is considered to assist in demonstrating its sustainability. Melbourne is served by hourly bus services from Swadlincote and Derby. A multi-user Greenway runs close by connecting to Derby to the north and with regards to facilities, there is a Post Office, a convenience store and other shops, a dentist, a primary school, a leisure centre, a library, playing pitches and public houses nearby. Local children attend the Chellaston Academy in Derby.

Since the Local Planning Authority is unable to demonstrate a 5-year supply, the presumption in favour of sustainable development, as set out in paragraph 14 of the NPPF, applies. This means:

"...where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or

"specific policies in this Framework indicate development should be restricted"

However it is important to note that the NPPF provides a presumption in favour of sustainable development - not a presumption in favour of development. It is necessary, as a preliminary issue, to determine whether the proposed development is sustainable. Paragraph 6 of the NPPF states that "the policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development...means in practice...". Paragraphs 7 and 8 go further to split sustainable development into three roles: economic, social and environmental, whilst highlighting that these dimensions are mutually dependent (i.e. they should be sought jointly and simultaneously). It is thus reasonable to conclude that conflict with other parts of the Framework, and indeed Development Plan policies, could lead to the proposal being defined as unsustainable.

The focus therefore is to first consider whether the proposal is sustainable, or can be made sustainable through planning obligations and conditions, before considering whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits arising. The assessment so far establishes an 'in principle' acceptance of sustainability. In order to reach a

conclusion as to whether the presumption would prevail, consideration needs to be given as to whether there are significant and demonstrable adverse impacts arising.

The NPPF, para 17, identifies the recognition of the intrinsic character and beauty of the countryside as part of a core planning principle. There is concern that the site lies within the countryside and is surrounded on three sides by open land with no clear limits to development to the north. Nevertheless the development would be relatively small scale and located immediately adjacent to existing housing. Furthermore, the potential visual impact could be reduced through the retention of existing hedgerows and trees and the provision of substantial landscape screening along the north eastern boundary. Each application is assessed on its own merits and it cannot be determined at this stage if further adjacent sites will come forward for development.

The Council is currently unable to demonstrate a five year supply of housing land. In these circumstances, the NPPF indicates that planning permission should be granted unless adverse impacts would significantly outweigh the benefits, assessed against the policies in the NPPF. On balance, therefore, it is considered that the contribution the development could make toward addressing the five year housing land supply deficit would outweigh any impact upon the rural character of the area.

Residential amenity

The application is in outline with all details reversed except for access, therefore only an indicative layout has been provided and no details in terms of the houses are known at this stage. However, comments in relation to the proposed footpath link are relevant as any link would need to be secured at this outline stage. The indicated proposed location is considered acceptable and at reserved matters stage the layout can be designed to ensure that it benefits from natural surveillance, such as dwellings directly overlooking it. The footpath is considered necessary to make the site more accessible and link it to footpath along the brook within the adjacent development. An assessment of any potential overshadowing of No.7 Carr Brook Way would be undertaken at reserved matters stage. However, the existing hedge is indicated as being retained adjacent to that property's garden area. Any reserved matters application would be assessed against the Council's adopted space about dwellings standards. In regards to anti-social behaviour this is likely to be controlled by the proximity of dwellings when the layout is finalized at reserved matters stage and it is noted that the Police Crime Prevention Design Advisor has not raised any concerns.

Highway safety

The application was amended during the consideration of the application and the access onto Station Road was relocated into a more centrally located position. The changes were made at the request of the County Highway Authority and in this revised location the access is considered acceptable in terms achieving the appropriate visibility and in terms of highway safety. The internal estate roads have not been assessed at this stage as they are only indicative and will be assessed at reserved matters stage.

Biodiversity

The habitats present comprise of a field of improved grassland bordered by hedgerows on the north-western and south-western boundaries that meet the definition of UK BAP priority habitat and the Carr Brook which forms the south-east boundary of the site. The submitted report is considered to be adequate in terms of assessing the impact on biodiversity and no protected species have been found on site. It is noted that no objection has been raised by Derbyshire Wildlife Trust who recommend the retention and enhancement of the existing boundary hedgerows within a landscape buffer and the provision of a development-free stand-off to the Carr Brook should be fully reflected in any reserved matters application. Landscaping of the site is a reserved matter and the indicative site layout plan shows such a feature accommodated within the scheme. As such in terms of impact on wildlife and ecology this outline proposal is considered to be acceptable in principle, subject to the appropriate conditions requested by Derbyshire Wildlife Trust.

Noise

The main source of noise affecting the site is aircrafts over-flights as the site lies close to the flight path for East Midlands Airport. The assessment found that with suitable design specifications such as roof insulation, appropriate roof tiles, thick insulated ceilings and specified double glazing; internal noise levels suitable for the protection of residential amenity would be achieved. The Environmental Health Manager accepts the findings of the noise report and recommends a condition requiring a scheme of sound attenuation as detailed in the report. This approach is considered to be reasonable and would ensure that the future occupiers of the site are suitably protected from noise.

Section 106 contributions

Public Open space within the development would be secured through a S106 Agreement in line the Council's Adopted SPG which requires contributions for recreation open space, outdoor facilities and built facilities of a rate of £715 per person. The commuted sum shall be in addition to on-site provision of a play area.

32% affordable housing is proposed which equates to 7 units.

Derbyshire County Council has requested the following contributions:

- £629.42 (£28.61 per dwelling x 22 dwellings) towards the provision of a new Household Waste Recycling Centre to provide additional waste management capacity;
- £8,000 financial contribution towards improvements along Station Road to connect the site to the proposed multi-user route on Jawbone Lane;
- £45,596.04 financial contribution towards the provision of 4 primary school pupils (2 infant and 2 junior) at Melbourne Infant School and Melbourne Junior School
- A financial contribution secondary school provision to accommodate Melbourne pupils using the city yield which equates to 4 pupils.

The request for access to high speed broadband services for future residents (in conjunction with service providers) and new homes designed to Lifetime Homes standards cannot be secured as there is no policy basis.

In conclusion it is recommended that the following contributions would comply with the tests set out in the CIL Regulations:

- £372 per person for open space, £220 per person for outdoor facilities and £122 per person for built facilities;
- £629.42 (£28.61 per dwelling x 22 dwellings) towards the provision of a new Household Waste Recycling Centre;
- £8,000 financial contribution towards improvements along Station Road to connect the site to the proposed multi-user route on Jawbone Lane;
- £45,596.04 financial contribution towards the provision of 4 primary school pupils (2 infant and 2 junior) at Melbourne Infant School and Melbourne Junior School;
- A financial contribution to be agreed for secondary and post 16 provision ;
- A contribution towards medical facilities should the necessary evidence be forthcoming.

(N.B. In terms of the provision of medical facilities, information on capacity has been requested directly from Melbourne Medical Centre together with the NHS Area Team for Derbyshire and Nottinghamshire and should a response be received then this will be reported verbally at committee.)

Conclusion

The above assessment demonstrates that there are no adverse impacts that cannot be adequately addressed through a Section 106 Agreement and conditions that outweigh the benefits of the scheme. The impact on the rural character of the area can be mitigated to an extent through the

retention of existing hedgerows and the provision of additional perimeter planting. On balance, therefore, it is considered that the contribution the development could make toward addressing the five year housing land supply deficit would outweigh any impact upon the rural character of the area.

Recommendation

That subject to the receipt of a signed unilateral undertaking for the provision of commuted sums as set out in the S106 contributions section above; **GRANT** permission subject to the following conditions:

1. (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
(b) The development hereby permitted shall be begun 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(2) of the Town and Country Planning Act 1990.
2. Approval of the details of the layout, scale, appearance and the landscaping shall be obtained from the Local Planning Authority in writing before any development is commenced.
Reason: The application is expressed to be in outline only and the Local Planning Authority has to ensure that the details are satisfactory.
3. Notwithstanding the originally submitted details, this permission shall relate to the amended drawing no's 2965-01 Rev A , 2965-02 and 2965-02 Rev A proposed access.
Reason: For the avoidance of doubt, the original submission being considered unacceptable.
4. No development shall take place until details of a scheme for the disposal of surface and foul water have been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be carried out in conformity with the details which have been agreed before the development is first brought into use.
Reason: In the interests of flood protecting and pollution control.
5. No part of the development shall be carried out until precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the appearance of the existing building and the locality generally.
6. If during development any contamination or evidence of likely contamination is identified that has not previously been identified or considered, then the applicant shall submit a written scheme to identify and control that contamination. This shall include a phased risk assessment carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part IIA, and appropriate remediation proposals, and shall be submitted to the LPA without delay. The approved remediation scheme shall be implemented in accord with the approved methodology.
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.

7. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority plans indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with the approved details before the development is occupied or in accordance with a timetable which shall first have been agreed in writing with the Local Planning Authority.

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

8. No development shall take place until an ecological design strategy (EDS) addressing ecological mitigation, compensation, enhancement and restoration has been submitted to and approved in writing by the local planning authority.

The EDS shall include the following measures

- a) Retention and protection of existing habitats, including the boundary hedgerows and the Carr Brook, during construction.
- b) Provision for wildlife corridors, linear features and habitat connectivity.
- c) Tree, hedgerow, shrub, rough grassland and wildflower planting and establishment.
- d) Soil handling, movement and management.
- e) Creation, restoration and enhancement of semi-natural habitats.
- f) Creation of new wildlife features, e.g. bat, bird and insect boxes across the site on buildings and trees.

Reason: In the interests of ecology.

9. Any reserved matters application shall include the submission of a landscape and ecological management plan (LEMP) detailing long-term design objectives for nature conservation, management responsibilities and maintenance schedules for all landscape areas which are not in the ownership of individual properties to be approved in writing by the local planning authority. The LEMP should be carried out as approved.

Reason: In the interests of ecology.

10. The reptile mitigation measures detailed in paragraphs 4.25 and 4.26 of the Ecological Appraisal dated June 2014 shall be implemented in full.

Reason: In the interests of ecology.

11. Prior to commencement of development, the street lighting column, located within the proposed access, shall be relocated in accordance with a scheme first submitted to and approved in writing by the local Planning Authority and County Highway Authority.

Reason: In the interests of highway safety.

12. No development shall be commenced until a temporary access for construction purposes has been provided in accordance with a detailed design first submitted to and approved in writing by the Local Planning Authority. The access shall be retained in accordance with the approved scheme throughout the construction period, or such other period of time as may be agreed in writing by the Local Planning Authority, free from any impediment to its designated use.

Reason: In the interests of highway safety.

13. Before any other operations are commenced, excluding construction of the temporary access referred to in Condition 12 above, 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: In the interests of highway safety.

14. Prior to any other works commencing within the application site curtilage (excluding conditions 11-13 above), the new access shall be laid out in accordance with the application drawing (2965-02 rev A), drained, lit and constructed in accordance with Derbyshire County Council's specification for new estate streets, having a 5.5m carriageway, 2 x 2m footways, 6m radii and visibility sightlines of 2.4m x 43m in each direction, the area forward of which shall be level, constructed as footway and not form any plot or other sub-division of the site.

Reason: In the interests of highway safety.

15. Throughout the period of development 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 interests of highway safety.

16. The internal layout of the site shall be in accordance with guidance contained in the 6C's Design Guide and Manual for Streets.

Reason: In the interests of highway safety.

17. No building shall be occupied until a sustainable drainage scheme for the site has been completed in accordance with details first submitted to and approved in writing by the local Planning Authority. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: In the interests of highway safety.

18. A swept path diagram shall be submitted at Reserved Matter stage to demonstrate that emergency and service vehicles can adequately enter/ manoeuvre within the site and leave in a forward gear.

Reason: In the interests of highway safety.

19. Any new dwellings shall not be occupied until the proposed new estate street, between each respective plot and the existing public highway has been laid out in accordance with the approved application drawings to conform to the County Council's design guide, constructed to base level, drained and lit in accordance with the County Council's specification for new housing development roads.

Reason: In the interests of highway safety.

20. Space shall be provided within the site for the parking of two vehicles per 2/3 bedroom dwellings and three vehicles per 4+ bedroom dwellings, laid out and maintained throughout the life of the development free of any impediment to their designated use.

Reason: In the interests of highway safety.

21. No gates or other barriers shall be erected within 5m. of the highway boundary and any gates elsewhere shall open inwards only.

Reason: In the interests of highway safety.

22. Bin stores shall be provided within private land at the entrance to shared private accesses, in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority, to prevent refuse bins and collection vehicles standing on the new estate street for longer than necessary causing an obstruction or inconvenience for other road users. The facilities shall be provided prior to the first occupation of the dwellings to which they relate and shall be retained thereafter free from any impediment to their designated use.

Reason: In the interests of highway safety.

23. Prior to commencement of development a scheme of sound attenuation shall be submitted and agreed in writing by the Local Planning Authority and the scheme shall be implemented in accordance with the agreed details.

Reason: To protect the amenity of future occupiers from aircraft noise.

Informatives: You are advised:

This permission is the subject of a unilateral undertaking or agreement under Section 106 of the Town and Country Planning Act 1990.

That the hedgerows on the application site may contain nesting birds. It is an offence under the Wildlife and Countryside Act 1981 to intentionally kill, injure or take any wild British breeding bird or its eggs or damage its nest whilst in use or being built. The nesting season normally encompasses the months March to July inclusive. If you are in doubt as to requirements of the law in this regard you should contact English Nature, Peak District and Derbyshire Team, Manor Barn, Over Haddon, Bakewell, Derbyshire, DE4 1JE.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through suggesting amendments to improve the quality of the proposal and quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

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

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.

Item 1.4

Reg. No. NSIP/2014/0001

APPLICANT:
GOODMAN SHEPHERD
C/O AGENT

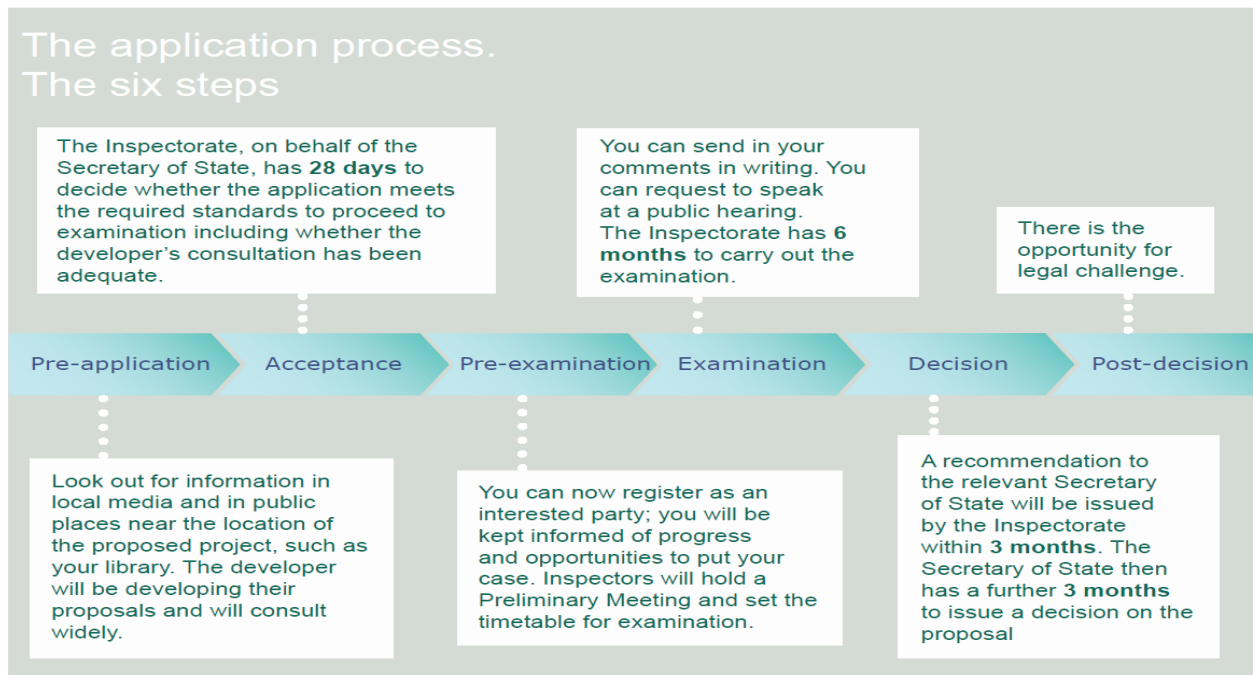
AGENT:
MR S FLISHER
BARTON WILMORE
THE OBSERVATORY
SOUTHFLEET ROAD
EBBSFLEET
DARTFORD
DA10 0DF

Proposal: AN EAST MIDLANDS INTERMODAL PARK ON LAND
SOUTH OF A50 AND WEST OF A38

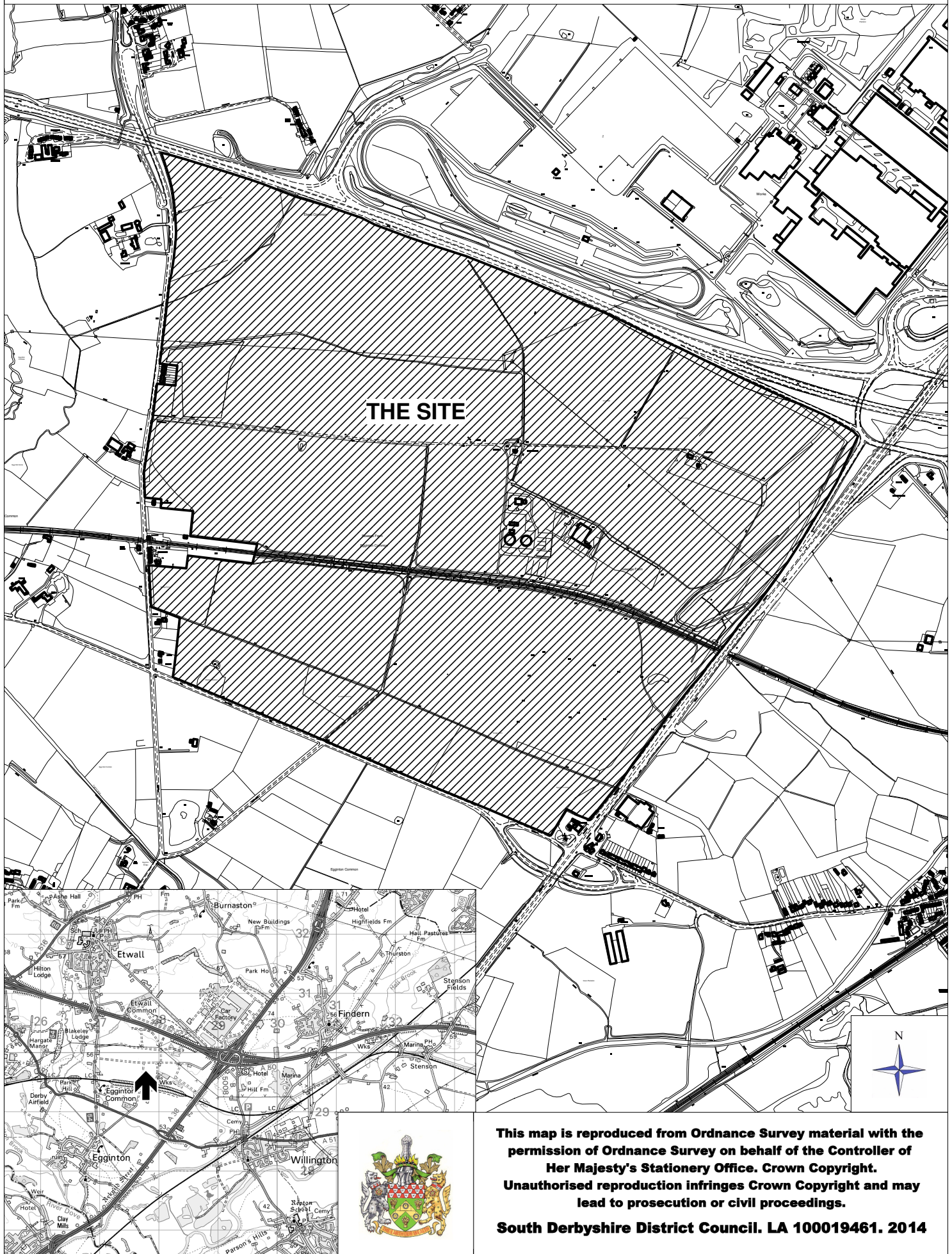
Ward: ETWALL

Introduction

This proposed development has been the subject of presentation to members over the past months and the subject of widespread press coverage. The development is described in detail in the Proposal section below. This is an application for a development to be determined by the Secretary of State for Transport, via the Planning Inspectorate (PINS), as a Nationally Significant Infrastructure Project (NSIP), a process introduced by the Planning Act 2008. The illustration below shows the process that the development must go through in order to secure approval. This type of strategic development must go through a different statutory process to achieve a Development Consent Order (the strategic equivalent to a planning permission) issued by the Secretary of State.



East Midlands Intermodal Park (DE65 6GX)



The process has only recently commenced and is an informal element of the Pre-application stage. To date, the applicants have requested feedback from the Council on two aspects of the process so far.

- A. The Consultation Strategy, for the applicants to ascertain the opinion of the various stakeholders and consultees in the process of determining a favoured masterplan option. The Council's view regarding the applicants' Consultation Strategy was formulated at the June meeting of the Environmental and Development Services Committee. It was resolved that, given that there was no information available to indicate how the various options for the development of the site had been arrived at or what their impact might be, the consultation had been commenced too early to allow the public to arrive at an informed opinion on the various options and what the impact of each would be. The Committee therefore took the view that the Consultation Plan was flawed.
- B. The second aspect is a request for the Council's choice of the Master Plan options, the main purpose of this report. (Members can view all the current information on the Development Company web site at www.emipark.co.uk) Various community consultation events have been held in the area over the past month which started on 16 June in Repton.

Site Description

The site comprises some 255 hectares to the south west of the main interchange of the A38 and the A50 trunk roads on the opposite side of the A50 to the Toyota car plant. The site lies fairly centrally between Egginton to the south west, Hilton to the west, Etwall to the north west, and Willington to the east.

In greater detail, the site is bounded by four roads, the north by the A50, the east by the A38 the south by Carriers Road and the west by Etwall/Egginton Road, (the name of the road changes at the Parish boundary). On each of these boundaries, there are lines of hedges interspersed by trees or larger groups of trees. The larger groups of trees on the boundaries are the subject of a TPO. The landscaping adjacent to the A50 is less well developed than on the other roads. Running east- west through the site is the Derby to Crewe railway line that lies in a cutting and is crossed by an internal road that joins the north part of the site to the south. There is one national cycle route on the Egginton – Etwall Road with another in the vicinity of the site that currently connects to the centre of Hilton.

There are three dwellings, a sewage sludge de-watering plant and a significant composting facility that takes green waste from South Derbyshire on the site. The site also contains the Willington Reservoir, adjacent to the A38 on the eastern side, which is designated under the Reservoir Act 2005.

The site is contaminated as a consequence of its previous use as a disposal area for processed sewage sludge pumped to the site from the Clay Mills Works. Although this activity ceased in this manner some years ago, the contamination means that the land

cannot be used to grow crops for human consumption. Crops currently growing on the site are used for bio-fuel.

Within the site is a WW2 Pill box associated with the defence of the former RAF Burnaston airfield. The box was designed in Derby and is one of ten that were erected to defend the airfield as well as other airfields in the country.

Proposals

Three options for a potential Master Plan for the development of the site have been put forward for public and stakeholder comment. Each plan shows the same road and rail access points and strategic landscaping. These common elements will be described first followed by a description of the individual Master Plan options.

The options for road access have been on display at the various exhibitions held recently by the developers. Each option proposes closing the off slip to the A38 northbound and the on slip to the A50 westbound. These would be replaced by new road links within the site to provide access to Toyota, the A38 and a new island would be formed to service the west bound traffic from the A38 and serve as the main access to the proposed development site.

The developers state that there are various elements that are common to the site whichever Option is finally selected. These are summarised as follows: -

- Establishing an access for HGV to the site
- High voltage overhead power lines, one of which serves the Toyota Factory; that need to be retained on the site.
- The access to the composting facility has to be retained
- Ensuring that any road links to Carriers Road and Etwall/Egginton Road are controlled to exclude access by HGV'S other than emergency vehicles whilst providing access for Public Service Vehicle's, cyclists and pedestrians
- Provision of adequate drainage for the site both surface water and foul.
- Draw up and implement a Strategic Landscaping scheme for the site
- Provision of a road bridge to serve the whole site
- Provision for the potential construction of a bridge over the A50 to facilitate access to the Toyota site if demand requires it.

In the light of the constraints and opportunities listed above, the following three options have been drawn up by the developers. The Plans for each option will be displayed at the meeting.

Option A

The rail solution for Option A would provide a centrally located intermodal facility alongside a curved railhead extending within the eastern part of the Site, which would be capable of

accommodating full length trains. Option A would incorporate a separation between the infrastructure and existing properties on Egginton Road of some 200 metres and would also retain existing trees within the western part of the site.

Buildings are indicated to be clustered together. Unit sizes are shown ranging from 21,800sqm up to 92,900sqm, with the ability to provide cross-docking where appropriate. Units would be directly rail-linked adjacent to the central intermodal facility and in the eastern part of the site. Flexible development plots would be created by virtue of the position of the rail solution and internal estate roads; allowing a variation in unit sizes across the site. This option also shows an intermodal area near to where the link to the Toyota factory would enter the development site.

Option B

Option B would provide a western railhead which would run parallel with Egginton Road, in addition to the intermodal facility. The necessary length and radius of the railhead would require the existing landscaping alongside the western part of the site to be reconfigured. An over-bridge or underbridge would also be provided across the western railhead in order to provide a controlled vehicular access between the site and Egginton Road. Option B would require the reconfiguration of the existing waste water treatment facility.

This option provides a similar range of unit sizes to Option A. The development plots that would be created would include units with the potential for direct rail connectivity to the west of the site. In this option there is no direct access to/from rail for the Toyota site and should this option be selected, the company would use the main intermodal area should it decide to use the development site as a part of its logistics operations.

Option C

Option C is similar to Option A, in terms of the layout of the buildings and intermodal facilities, but differs in that the eastern railhead would be aligned around the eastern periphery of the existing reservoir area. An intermodal area is present in this option close to where the potential link to the Toyota site would be.

Applicants' supporting information

The applicants state that the following benefits would accrue if the development were consented: -

"EMIP would enable the region's businesses to efficiently and sustainably transport goods across the UK by rail, encouraging a modal shift away from road-based freight movements. It represents a significant investment in the area which could boost the region's infrastructure capacity for rail and road freight. This could provide a catalyst to the local economy and help industry in the area to thrive, particularly manufacturing and exporting businesses.

"It could offer existing businesses in the area the opportunity to transport goods by rail as well as attracting new businesses to the site itself.

"It is estimated that EMIP could deliver up to 7,000 new jobs locally when the site is fully developed as well as temporary jobs during the construction process.

“It has the potential to deliver a range of community benefits including investment in training, local transport enhancements and an improvement in the current local drainage arrangements”

In seeking to justify the development in terms of National policy and guidance, regional studies and emerging Local Plan policy the Developers have commented as follows:

“In principle, the proposed SRFI would function as a sustainable form of transport infrastructure and could therefore provide benefits including reduced road congestion and reduced carbon emissions at a national level and economic growth;

“The East Midlands Intermodal Park provides an opportunity to expand the network of SRFIs;

“There is a compelling need for this form of development;

“The East Midlands Intermodal Park is one of only a limited number of strategic intersections between the major road and rail networks that are able to accommodate a SRFI;

“The East Midlands Intermodal Park has the potential to enable rail use by existing businesses in the area in addition to new businesses located on the Site itself;

“The Site is located in an excellent position relative to the market and business requirements;

“The Site is located within an area of unmet [rail freight] need;

“The potential of the East Midlands Intermodal Park to support economic growth within the East Midlands and as part of a national network carries significant weight as a planning consideration;

“The Derby Housing Market Area in general and the East Midlands Intermodal Park in particular have been identified as a preferred location within which a new SRFI could be accommodated. The Site meets the relevant SRFI locational criteria in terms of the quality of its road and rail access, its market context, its access to a good labour force and the site specific environmental factors.”

[The relevant policy and guidance together with research documents are listed later in this report].

The Developers promote themselves as an organisation that have a wide experience of delivering large scale employment development including a SRFI at another location in the Country. On the basis of this experience, the Developers have set out commentary of a day in the life of the future East Midlands Intermodal Park. The text can be seen in full in the Overview of the Proposals Document on the project web site at www.emipark.co.uk on pages 24 – 26. In summary the commentary is as follows:

- The site starts operations between 0500 and 0600. Operations on the site would occur 24/7 over 365 days each year
- Staff at the site arrives by car, bus, cycle or foot.
- Trains are manoeuvred for either loading or unloading

- HGV Lorries arrive just before scheduled arrival/departure of trains. As far as is practicable, movements would be controlled to avoid peak hour traffic times.
- The security of the site would be maintained to a high standard commensurate with the Channel tunnel facility i.e., the site would function as an inland port. Site security is monitored on a random basis by the Department of Transport to ensure its high standards are met
- Once Lorries or trains are unloaded material is shifted within the site by designated tractor units.
- Loading/unloading trains would be undertaken by reach-stacker units that grasp the containers and lift them on to flatbed intermodal trucks/lorries. [A picture of a reach stacker will be displayed at the meeting]. Long-term, gantry cranes may be utilised.

In the light of the 'Proposals' above, the developers have suggested the following factors have been used to arrange the buildings within the site. The following is a direct quote from the supporting documentation: -

- "Steel portal frames are generally adopted as the structural system for buildings of this type in the UK. The maximum efficient span for a steel portal frame is around 35m and these are generally set out at 8m centres.
- "In addition to pallets, a further deciding factor in the design of large scale distribution solutions is the way in which goods are brought in and out of the building. Articulated Lorries reversing onto buildings using dock shelters and levellers allow easy transfer of goods. This incorporates a change in floor level between the lorry yard and the slab of the warehouse of around 1200mm in order to allow the bed of the lorry to be accessed by fork lift trucks. Within the buildings, marshalling zones are provided in order to organise goods for transit or storage. These zones sit in front of the main storage areas – usually incorporating high racking.
- "Each building in turn requires a servicing yard. Each dock loading position would be 4m wide by 16.5m deep. The turning circle of the lorry also has to be considered. This requires yards which have a minimum depth of 35m up to a maximum of 50m where additional lorry parking is required. Additionally, operators often have fleets of vehicles which require on-site parking provision. While buildings of up to 18,600sqm (200,000sqft) can operate from a single elevation, larger buildings often require lorry access from both sides, known as cross-docking. When ancillary items and plant are also taken into account, (such as sprinkler tanks and vehicle wash areas) a single occupier alone can have quite detailed plot-specific expectations.

Given these functional and operational considerations, the developers argue that careful attention to detail can be critical in the design process. The treatment of rooflines and the use of colour become of paramount importance together with the careful articulation of any ancillary office elements. The developers therefore propose to introduce the following elements at the East Midlands Intermodal Park: -

- Colour banding – darker shades generally at lower levels to add gravitas to the base of the building, with colours to generally lighten up the building to enhance the visual appearance of each building.
- Human scale – feature changes at a height around 2.5m to provide a sense of human proportion to the ground level – most commonly detailed around doors, windows, curtain walling, loading docks and cladding interfaces;

- Cladding profiles and orientation – by subtly mixing the cladding profiles (flat, micro-rib, trapezoidal) and the orientation of profiles, elevations can be broken down into smaller sections of interest, whilst combining to make a balanced appearance;
- Flashings – by detailing flashings, which complement the overall colour palette and tone of the elevation, larger sections of cladding can be broken up;
- Canopies and shelters – personnel canopies, vehicular canopies and shelters can add depth to elevations and add interest at low level;
- Office treatments – by looking at changing the cladding profiles and details around semi-detached office elements, a focus can be achieved which is both aesthetically pleasing, but also useful in terms of way-finding.”

Planning History

Large parts of the site have been the subject of quarrying and landfill over the years as those parts of the site have become surplus to sewage spraying operations for which the site was primarily used from the 19th century until pumping of raw sewage finally ceased in the 1990's. Within the site is the Severn Trent Water sludge dewatering plant that lies next to the in-vessel composting plant both of which have had recent planning applications. The documentation states that the access to the composting plant will be maintained as a part of the development. The dwellings on the site pre-date planning legislation. The Willington Reservoir was constructed in the early-mid 1990s.

Responses to Consultations

The Developers are responsible for undertaking both statutory and non-statutory consultation throughout the process leading to the grant or refusal of a Development Consent Order. Under the Consultation Plan the developers are responsible for collating and responding to the responses received from consultees and incorporating the developer's proposals to address those replies. The ultimate aim for the Planning Inspectorate is to have an application for Development Consent that contains familiar issues for all of the parties involved. The Local Planning Authority is consulted by PINS on the adequacy of the Consultation process (this comes later in the process).

Responses to Publicity

Responsibility for all publicity rests with the promoters of the Development. As a part of their consultation plan, they are required to note all comments/objections received from the public as a result of the various stages of the pre-application consultation. The developers must also demonstrate how they have responded to the comments received and demonstrate that the consultation process has been a meaningful exercise. The Local Planning Authority is consulted by PINS on the adequacy of the Publicity process.

National Guidance

National Planning Policy Framework (NPPF)

The NPPF has numerous paragraphs that will be relevant to the Planning Inspectorate when it determines the application for Development Consent. The Local Planning Authority would also need to take the NPPF into account when preparing its Local Impact Statement. The following paragraphs are considered relevant to the Council in determining which of the Master Plan options may be most suitable: -

Paragraphs - 7, 14, 17, 18-20 (Delivering a Competitive Economy), 28 (Supporting a prosperous rural economy) 29 – 37(Promoting sustainable transport), 41, 58, 94, 99- 103 (Flood Risk), 156 &162 (Delivering Infrastructure for NSIP projects).

Planning Practice Guidance

The recently published Planning Practice Guidance sets out the legislative framework behind the advice in the NPPF and how that legislation and regulations should be applied to preparing Local Plans and determining planning applications. Given that this report deals solely with the Master Plan options the Guidance would not play a significant role in selecting whichever option if any that is currently before the Council; it would be for the Developers to demonstrate that they have complied with all such legislation and guidance. The Planning Authority, in consultation with its solicitors, will monitor the application for compliance.

Strategic Rail Freight Interchange Policy Guidance and the Draft National Policy Statement for National Networks including SRFI

The first document is the current Government Guidance on the SRFI and itemises the main objectives of Government policy, which are to reduce road congestion and carbon emissions; to develop a network of SRFIs in appropriate locations to serve our major conurbations; and to support growth and create new employment opportunities. It sets out the Government's vision and policy for the future development of Nationally Significant Infrastructure Projects [NSIPs] on the national road and rail networks and provides guidance for promoters of NSIPs and the basis for decisions by the Secretary of State on such projects.

The second document remains in draft form and is intended to be a consolidation of all current advice and guidance in respect of National networks including SRFI s, including the above document. It is probable that the document will be published in its final form before the East Midlands Intermodal Park is determined.

Development Plan Policies

The relevant policies are:

Local Plan: Saved Employment Policies 2, 4, 5, 6, 8, 10; Saved Environment Policies 1, 9, 11, 13, 14; Saved Transport Policies 6, 7, 8,

The Pre-Submission South Derbyshire Local Plan (March 2014). Policies S1, 2, 3, 6; SD1, 2, 3, 4, 6; BNE 1, 2, 3, 4; INF 1, 2, 3 [Strategic Rail Freight Interchange], 4, 6, 7, 9.

D2N2 Strategic Economic Plan

The Local Enterprise Partnership's Strategic Economic Plan highlights the need to invest in strategic road and rail freight corridors to significantly improve capacity and reliability for freight movements to key ports. It recognises Derby as the leading city in the UK for transport manufacturing and engineering and its position at the heart of the UK's road and rail network, with emerging SRFI proposals having the potential to deliver large scale economic benefits.

It recognises that there are several major employers that lack suitable facilities to access the rail network.

Sub Regional Evidence

Strategic Distribution Site Assessment - Study for the Three Cities Sub Area

This site and many others in the East Midlands were subject to an assessment under the auspices of the East Midlands Development Agency, the findings of which were published in May 2010. The project site was one of four identified in the study area as being potentially suitable for an SRFI, the others being at Sinfin Moor, Markham Vale and Castle Donington. It indicated that the site could support companies already established in the area, national distribution centres and international and domestic containers/swap body operations.

The project site was considered by the researchers to have potential for very good rail access, although trains travelling toward Birmingham and the South West would need to travel first to Toton to turn around. Whilst the site offered good access to the A38, A50 and M1 there were significant concerns regarding highway connections to the site due to capacity constraints at the A38/A50 junction. It was also found that development could lead to increased journey times on the A38, particularly in advance of the proposed A38 Derby junctions grade separation scheme. Public transport access to the site was also found to be poor.

Access to labour markets was considered to be of average standard, a large population being present in South Derby, but with poor public transport connectivity.

Environmental constraints were found to be minimal, except for the Tree Preservation Orders.

Planning Considerations

The main issues central to the determination of the Committee's consideration of the Master Plan Options are:

Planning Policy Issues

- National Planning Policy and Guidance.
- The Development Plan and emerging Local Plan Policy.
- Regional Research and sub-regional studies

Development Site Issues

- Strategic Landscaping
- Local Impact.
 - Wider Landscape.

- Mitigation – as proposed at local level
- Mitigation – as proposed for the wider landscape.
- Road and Rail Access
- Flood Risk
- Noise
- Lighting
- Contamination

Master Plan Options

- Option A
- Option B
- Option C
- Consideration of alternative Options

Overall conclusions

Planning Assessment

Planning Policy Issues

Government Guidance

The NPPF is very specific in its requirement for planning applications and Local Plans to be based on a clear and up to date research base. In this case the Strategic Distribution Site Assessment - Study for the Three Cities Sub Area research base is partially out of date in respect of the SRFI provision for the Derby/Nottingham/Leicester area. That research would require updating before the Developers could rely on it as a basis for justifying their development proposals.

The Local Plan and Emerging Policy

The adopted Local Plan is largely out of date in so far as it does not include any policy which specifically addresses this type of development. Employment Policy 6 allows exception sites for employment development that cannot be accommodated on other land designated for employment development in South Derbyshire. That relates to single employers and not sites that can accommodate a variety of employers as is the case here.

Accordingly, policies in the Pre-submission Draft Local Plan (March 2014) have been referred to as this is more up to date and is based on a satisfactory evidence base.

Whilst numerous policies in the emerging Plan have been referred to above the most relevant policies have been incorporated into Policy INF 3 - Strategic Rail Freight

Interchange with a cross reference to INF 2 that makes reference to Road and Rail Infrastructure.

For ease of reference, the emerging policy Local Plan requirements (INF3), that are of course subject to independent inspection following formal submission to the Secretary of State, are set out below: -

A Any proposal for the development of a Strategic Rail Freight Interchange shall meet all the following criteria:

- i) an operational connection, to Network Rail track and signalling standards, to main trunk rail routes with sufficient available capacity and gauge capability of at least W8;*
- ii) railway wagon reception and inter-modal handling and container storage facilities capable of accommodating 775 metre freight trains carrying modern wagons.*

B The elements of the development identified above shall be completed before any business units on the site are occupied.

- i) An acceptable means of access to the trunk road network and parking for all goods vehicles shall be provided and operational arrangements shall minimise the use of local highways by heavy goods vehicles; and*
- ii) there shall be no undue amenity or safety impacts including noise, vibration, odours, light pollution and traffic generation; and*
- iii) the proposal shall be well designed and shall not cause undue harm to the character of the local landscape; and*
- iv) the proposal shall preserve the character or setting of any listed buildings, conservation areas or other heritage assets; and*
- v) the proposal shall not cause undue harm to features of ecological or environmental value and, where possible, shall result in biodiversity gain and enhanced environmental value; and*
- vi) the proposal shall not increase the surface water run-off rate from the site and shall not increase flood risk elsewhere; and*
- vii) an appraisal shall be made of the potential for the utilisation of waste heat from power stations for heating and cooling on the development site; and*
- viii) appropriate provision shall be made for convenient access to the site on foot, by cycle and by public transport.*

The requirements of Section A of the emerging policy are likely to be met outside of this process by the time the site becomes operational. Network Rail is currently upgrading the rail line between Donington and Crewe to accommodate freight trains up to the W10 standard and each of the suggested options contains adequate intermodal facilities. If PINS accept that this policy is relevant to the consideration of the scheme, then it is likely that the Developers would be able to demonstrate that the proposal complies with this part of emerging policy.

The ability to assess the proposed options against the technical criteria in Part B of the emerging policy is hindered by the lack of submitted information currently available.

Regional Research and Sub Regional Studies

The Developers will need to address the relevance of this research to their project and ensure that it is up to date in order that it can be taken into account as a part of the process. In terms of the options before this council, the contents have been summarised above and both the D2N2 Economic Report and the Strategic Distribution Site Assessment - Study for the Three Cities Sub Area confirm the need for a hub(s) in the Derby Nottingham area. Two of the sites in the latter study are now being pursued for Development Consent Orders by Developers.

Development Site Issues

In this part of the report, Members would expect to see an analysis of the various Planning Considerations and how those relate to the various options provided by the developers for consideration by the Committee in the light of Section B of emerging policy INF3.

Currently there is no evidence presented to support the contentions of the Developers that the site can be adequately served by road access or whether the development's impact in the Trent and Dove Valleys can be mitigated, or whether adequate provision can be made for drainage etc. The exhibitions contained posters that sought to assure the public that work is underway to address the criteria set out in the policy. In the absence of information to enable a proper consideration of these issues it is not possible to select an option as the consultation requires.

Alternative options for Committee Consideration

Notwithstanding the lack of substantive information to assess the impact of the development, it is considered to be worth pointing out certain issues with the applicants which appear more obvious. There are several of these matters relating to the impact of the development as follows:-

Context for the site

On the north, A50 boundary, each of the suggested options has buildings in relatively close proximity to the road with limited space for strategic landscaping. This is in contrast to the Toyota site to the north of the A50. It is suggested that the buildings be moved such that additional space is provided adjacent to the A50 for more strategic landscaping. This is suggested in order to improve views into the site from that road and improve the visual context of the site. This should be undertaken before adoption of a preferred Master Plan.

Another consideration is the removal of all built development from the land south of the Derby – Crewe railway line. It is considered that this could significantly improve the rural setting of Egginton and further separate the land from the immediate environs of Carriers Road that has the feel of a rural road. It would also ensure that the longer distance views of the site from for example; Knights Lane have a more rural foreground to developed land.

It is anticipated that the Developers would suggest that the land be reserved for a future phase of the development in the same way that Toyota has other land in its ownership to accommodate further factory expansion. If this were the case then the structural landscaping shown of the various master plan options should be implemented at the first stage of the development in order that it is established prior to the construction of any buildings on that

part of the site. In this case the master plan should make it clear that the land is forming the final phase of any development that may be permitted.

Previously Developed Land

The applicants assert that the land is previously developed land and that this counts in favour of the development.

It is contended that the development in terms of its visual impact should be assessed as though it formed part of the countryside rather than as a previously developed site; the housing, composting facility and sludge de-watering plant forming only a part of what is land in primarily agricultural use. The land has clearly been assimilated into a part of the countryside rather than what would normally be expected to be seen as 'brownfield' land. Any landscape and Visual Appraisal would be challenged if it assumes that the site as a whole is 'brownfield'.

If Members wish to pass on individual comments to the developers directly about their presentation, the Developers web site makes provision for such comments to be made at www.emipark.co.uk

Overall Conclusion

Options A, B & C are essentially the same form of development for the land, of these Option A preserves most existing tree cover. However there are alternative options that are set out in the recommendation below that it is considered should form the basis of further consideration by the Developers prior to a final selection of a Master Plan. The contents of the recommendation are suggested as a basis for comment back to the Developers but this is not exhaustive and members may have other comments.

In the light of this it is recommended that the Council advise the developers that the lack of supporting information make it difficult to form an opinion of which of the three options would best suit the site and offer no opinion at this stage. It is a part of the Development Consent process that the Developers are required to undertake a further round of statutory consultation once an option is determined. At that stage much more information will have to be available and a more balanced consideration of the Planning Considerations would be possible. Information to support an EIA would also be available at that time. Thus the Committee may have the opportunity to then influence the development.

Recommendation

- A. It is recommended that the Developers be advised that the information currently available is insufficient to allow a proper assessment of the various Options and that the Council reserves its position in respect of the invitation to comment on the proposals. The developers should be aware that any comments made at this stage by the Council is not intended to give the impression that all other aspects of the scheme are acceptable.
- B. That the Committee consider that the development of land south of the railway should be excluded from the Master Plan in order to provide significant separation between

the developed site and Egginton village and provide a broader landscaped boundary to the site when viewed from elevated locations in the wider countryside.

- C. That the landscaping north boundary adjacent to the A50 is increased to provide a significant offset between the road and any built development on the site in the same manner that was imposed on the Toyota Development site.
- D. That a further round of Pre-application publicity be undertaken with far more technical detail and examination of impacts prior to the selection of a preferred option for the Master Plan.

2. PLANNING AND OTHER APPEALS

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

Reference	Place	Ward	Result	Cttee/Delegated
9/2013/0093	Willington	Willington & Findern	Dismissed	Delegated

Costs Decision

Hearing held on 24 April 2014

Site visit made on 24 April 2014

by Gareth Symons BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 June 2014

Costs application in relation to Appeal Ref: APP/F1040/A/13/2208310 Land off The Castle Way, Willington, Derbyshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by South Derbyshire District Council for an award of costs against Mr Patrick Maloney.
 - The hearing was in connection with an appeal against the refusal of planning permission for a material change of use of land to use as a residential caravan site for 4 Gypsy families, each with two caravans including no more than one static mobile home, together with the laying of hardstandings and the erection of two amenity buildings and the formation of a landscaped bund.
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Decision

1. The application is refused.

The submissions for the Council

2. The appellant was unforthcoming in evidence from the application stage through to the appeal. He did not provide items asked for, there was no clarity and he did not justify certain matters. The basis of the claim falls into three main areas.
3. The first is in relation to the issue of drainage which was the fourth reason for refusal. This was not resolved by the appellant until just before the appeal statements were due by which time the Council had completed its statement. This was a material change that necessitated a rewrite of this part of the statement. The appellant did not review the case promptly. It was the Environment Agency (EA) that sought to resolve this issue. This should have been resolved prior to the determination of the application. It was not as simple as just offering to connect to the public sewer. There was a need to check matters such as the capacity and fall of the sewer. There was no reference to drainage in the appellant's grounds of appeal.
4. Second, in relation to the noise issue, there was no proper noise assessment despite multiple emails asking for one. There was no response at all. This is a principal issue and if the Inspector finds the scheme unacceptable for this reason it must follow that the appeal had no chance of success.
5. The third strand of the costs claim is based on a lack of clarification of certain matters and material changes to the proposal. During the course of the

application concerns were raised about the accuracy of the layout plan. An amended plan was not submitted until the appeal stage. This should have been done much earlier and the appeal parties have still been left guessing in relation to bunding. There was a general lack of engagement by the agent who only sent one reply. The appellant's transport assessment was done 1-2 months before the appeal statement deadline. Had this been made available beforehand an agreement about certain aspects of the highway concerns may have been reached.

6. The right to appeal should be the last resort and a revised planning application could have been submitted.

The response by Mr Maloney

7. Regarding drainage, the Council knew from the EA before the application was refused that a public sewer ran in the verge next to the appeal site. A telephone call to the EA with the commitment to connect to the public sewer was all that was needed for the EA to withdraw its objection. There was no need to assess detailed matters. There was accordingly no basis to refuse the application on drainage grounds in the first place.
8. There were two main concerns with the application – highway safety and noise. The appellant did seek to resolve the highway issue in the context of the guidance in Manual for Streets (MfS) but the Council indicated that the Highway Authority (HA) maintained its objection based on the view that the standards in Design Manual for Roads and Bridges (DMRB) should be applied. The Council was clearly going to refuse the application anyway and so it would have been unreasonable for the agent to incur the expense of a noise assessment. Reasons for refusal have to be substantiated and in relation to highway safety this was not done.
9. As for layout this could have been dealt with by a condition such as a site development scheme, as happens in the majority of Gypsy appeals, which would have resolved the matter.
10. There are other residential properties in the area already enduring noise from the A38. Noise could be addressed by mitigation measures.
11. The appellant did not behave unreasonably.

Reasons

12. Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
13. The drainage issue could have been resolved by the appellant earlier in the process. However, the EA had advised the Council that the site was in a publicly sewered area before the application was determined. This could have been dealt with by a planning condition that required the development to be connected to a public sewer if planning permission was to be granted. I am not convinced that this should have even been a reason for refusal. I do not share the Council's concerns about matters of clarification and site layout for reasons given in my appeal decision.

14. Regarding highway safety even though the highway consultant's evidence was prepared before the appeal statement deadline, there was about 3.5 months from then to the hearing that could have been used by the Council and the LHA to review its position. Given the concessions made by the LHA at the hearing it is clear that the onus was on the Council and the LHA to reach an agreed position and not the appellant.
15. In terms of noise I have not been satisfied that the potential harm to the site's occupants has been addressed. However, the appellant's evidence responded to the reason for refusal by reference to WHO guidelines, British Standards of insulation that mobile homes have to conform to and a noise mitigation strategy. This was respectable evidence. It does not follow just because I have found this is the reason why the appeal has failed that this in itself constitutes unreasonable behaviour by the appellant.
16. The above matters do not demonstrate unreasonable behaviour by the appellant. Consequently the application for costs, whether that is partial or full, is refused.

Gareth Symons

INSPECTOR

Costs Decision

Hearing held on 24 April 2014

Site visit made on 24 April 2014

by Gareth Symons BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 June 2014

Costs application in relation to Appeal Ref: APP/F1040/A/13/2208310 Land off The Castle Way, Willington, Derbyshire

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Patrick Maloney for a partial award of costs against South Derbyshire District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for a material change of use of land to use as a residential caravan site for 4 Gypsy families, each with two caravans including no more than one static mobile home, together with the laying of hardstandings and the erection of two amenity buildings and the formation of a landscaped bund.
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Decision

1. The application succeeds in the terms set out below in the Cost Order.

The submissions for Mr Maloney

2. The partial claim relates to the highway safety issue. There were four parts to this issue. For parts (a) and (b), visibility for emerging drivers and forward visibility by drivers already on the highway, the Council could not substantiate these concerns. The Local Highway Authority (LHA) representative conceded that speeds are below 30mph and that both Manual for Streets (MfS) and Design Manual for Roads and Bridges (DMRB) visibility splays could be achieved. The appellant's speed data showed that traffic speeds are below the 30mph estimated by the LHA at paragraph C8 of its statement.
3. In relation to part (c), the movement of slow moving vehicles, it is not part of any guidance that different visibility standards should apply. MfS and DMRB cover all traffic and all lengths of vehicle. The (c) concern was groundless.
4. For ground (d), conflicts with vehicles using the accesses opposite the appeal site, particularly the garage, the Highways Agency (HA) did not object to the application in terms of vehicles leaving the A38. The HA was not troubled about highway safety at all. There is no substantive evidence to show that turning movements at the garage would conflict with vehicles turning into the appeal site. There is no evidence of accidents relating to the use of the private driveways opposite.
5. The LHA did not direct the Council to refuse planning permission. It is clearly the role of the Council to decide whether to accept or reject the advice of the

LHA. The appellant's highway consultant did try to agree certain matters with the LHA on the Tuesday before the hearing. The LHA did not concede any points.

6. The Council's highway witness gave up on grounds (a) and (b). Grounds (c) and (d) were not founded in evidence or guidance.

The response by the Council

7. It is not clear whether the claim is against the Council or the LHA. The Council refused the application based on advice from the LHA.
8. There was always going to be a need for the appellant to have a highway consultant to deal with the highway safety issue. The speed data produced by the consultant was not available until the appeal statement stage and so until then all four items of concern stood. It was only at the hearing that a discussion took place based on that data. The LHA reference to speeds at paragraph C8 of its statement was made without prejudice to what the actual speeds are.
9. For items (c) and (d) these were matters of opinion that needed local circumstances to be taken into account. It is not agreed that these points could not be substantiated. The Council did ask the LHA whether it was maintaining its objection to the appeal development.

Reasons

10. Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
11. It is the Council as the local planning authority that refused the planning application. The appeal is against that decision by the Council. The second reason for refusal relating to highway safety was based on an objection from Derbyshire County Council in its role as the LHA. It is for the Council to decide whether to follow that objection and advice or to set it to one side. The Council very clearly followed the advice which was a position maintained in the appeal. In these circumstances the application for costs is against the Council.
12. A key dispute between the LHA and the appellant was whether it should be the visibility standards from Design Manual for Roads and Bridges (DMRB) that apply to the proposed site access or those from Manual for Streets 2 (MfS2). I have outlined in my appeal decision that based on a speed survey undertaken by the appellant's highway consultant the LHA officer at the hearing accepted that both the DMRB and the MfS2 standards could be achieved. Parts (a) and (b) of the second reason for refusal therefore fell away.
13. It is acknowledged that the appellant's speed data was not available until the appeal statement stage. However, that was about 3.5 months before the hearing took place. There is no indication that either the Council or the LHA reviewed their positions in the light of this evidence apart from contact made by the appellant's consultant just before the hearing. An early review might have led the LHA to concede its position on visibility well before the hearing thus saving further expense. Furthermore, the onus was on the Council to substantiate its highway reason for refusal. The LHA did not have time to do

its own speed survey but if it had done one, ideally before the application was refused, it would have been realised that the visibility splays were adequate.

14. Even if there had been active discussion and review between the Council, the LHA and the appellant's agent, conceding a key point at a hearing based on evidence submitted within the appeal timetable and therefore available to both sides well before the day, clearly runs the risk of an allegation of unreasonable behaviour. Against this background the Council did act unreasonably and caused the appellant unnecessary expense.
15. Turning to parts (c) and (d) of the second reason for refusal I have misgivings about the strength of the Council's case but they are matters that required a greater application of judgement based on local circumstances. Therefore, although I have gone against the Council on these points for the reasons given in my appeal decision, these are not further areas of unreasonable behaviour.
16. The application for costs therefore succeeds insofar as it relates to parts (a) and (b) of the second reason for refusal of planning permission.

Costs Order

17. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Derbyshire District Council shall pay to Mr Patrick Maloney his costs relating to parts (a) and (b) of the second reason for refusing planning permission only, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
18. Mr Patrick Maloney is now invited to submit to South Derbyshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Gareth Symons

INSPECTOR

Appeal Decision

Hearing held on 24 April 2014

Site visit made on 24 April 2014

by Gareth Symons BSc Hons DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 June 2014

Appeal Ref: APP/F1040/A/13/2208310

Land off The Castle Way, Willington, Burton-on-Trent, Derbyshire

- 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 Patrick Maloney against the decision of South Derbyshire District Council.
 - The application Ref: 9/2013/0093, dated 8 March 2013, was refused by notice dated 8 May 2013.
 - The development proposed is a material change of use of land to use as a residential caravan site for 4 Gypsy families, each with two caravans including no more than one static mobile home, together with laying of hardstandings and the erection of two amenity buildings and the formation of a landscaped bund.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. At the Hearing applications for costs were made by the Council against the appellant and by Mr Maloney against the Council. These applications are the subjects of separate Decisions.

Preliminary Matters

3. The Council considers that there are a number of technical matters over the planning application drawings. These include lack of details regarding proposed bunds, site layout discrepancies and alterations to the access not being within the red line shown on the site plan or within the appellant's ownership. In my view matters of site layout and landscaping could be readily addressed by suitable conditions very commonly used on proposed change of use applications for Gypsy sites. The same would apply regarding the site access details. In this case the access arrangements would involve land either within the appellant's ownership or within the limits of the public highway. It would thus be possible to impose negatively worded Grampian conditions.
4. Any changes brought about by complying with the details of planning conditions would still be over land within the same red line, the access position would not change, the applicant would be the same as would the number of proposed pitches, caravans and amenity blocks and they would all be arranged in the same half of the site. As such, the scheme would not change materially.

5. With the appellant's appeal statement an amended site layout plan was submitted giving more details about proposed bunds and acoustic fences in particular which sought to address the Council's noise concerns. While the site layout was different from that originally submitted, again it did not materially alter the proposed development such that I could not take it into account. Moreover, the plan was in the public arena as part of appeal documentation available for members of the public to inspect and, if they wished, to raise their concerns about by attending the planning hearing.
6. Having considered these matters and discussed them at the hearing, I do not share the Council's concerns regarding the technical matters or the amended layout plan. I am very satisfied that none of the above matters cause any procedural problems or injustice to the appeal parties.
7. South Staffordshire Water Plc is concerned that its right of way to a pumping station across the appeal site might be impeded by vehicles parked on the access road if the site layout did not allow sufficient internal car parking and manoeuvring space. Whatever the final layout of the site I have no doubt that it would be large enough to accommodate all of the associated parking. Overspill parking would not therefore be an issue.

Main Issues

8. Before the hearing the appellant agreed to connect to main foul drainage instead of using a package treatment plant. Consequently the Environment Agency withdrew its objection to the scheme. The Council's fourth reason for refusal has therefore been overcome. Thus the main issues now are:
 - Whether the appeal site is in a reasonably accessible location;
 - The effect of the proposed development on highway safety;
 - Whether road traffic noise would be likely to significantly adversely affect the health and quality of life of the site's occupants;
 - Whether any harm in relation to the main issues and any resulting conflicts with the development plan would be outweighed by other considerations.

Planning Policy

9. In refusing planning permission the Council identified conflicts with housing policy 15 *Gypsy Caravan Sites* and transport policy 6 *New Development* from the adopted South Derbyshire Local Plan (LP). In relation to the issue of the site's location criterion (iv) of policy 15 requires Gypsy sites to be reasonably accessible to community services and facilities. As far as noise issue is concerned criterion (iii) requires sites to be acceptable in environmental terms. Part B to policy 6 requires development to have adequate access which is also a requirement of criterion (vi) of policy 15. These requirements of the planning policies are in line with the aims of the National Planning Policy Framework (NPPF) and so they should be accorded significant weight.
10. The Council also has an emerging South Derbyshire Pre-Submission Local Plan Part 1 which contains policy H21 *Sites for Gypsies and Travellers and for Travelling Showpeople*. The consultation period for the plan closed recently and the Council anticipate submitting the plan for examination in May 2014. Due to its stage along the local plan process the plan should only have limited

weight. Nevertheless, as far as the main issues are concerned the most relevant criteria from policy H21 broadly reflect those of the adopted policies. Consequently policy H21 does not contain anything materially new on which the cases of the appeal parties necessarily turn.

11. There is no dispute that the appellant and the intended occupants of the site are Gypsies and I am satisfied that this is the case. Thus the planning policy regime relevant to Gypsies is engaged such as that contained in Planning Policy for Traveller Sites (PPTS) published by the Department for Communities and Local Government (DCLG) in March 2012.
12. The Council has also referred to the DCLG *Designing Gypsy and Traveller Sites Good Practice Guide*. However, the guidance is primarily intended to cover social site provision and it is recognised that it will not be possible to meet all aspects of the guidance in every respect on every site. In the case of small private site development it should also be recognised that they are designed to meet the individual and personal preferences of the owner. The guidance should not therefore be used in isolation to decide whether a private application for site development should or should not be given planning permission. The practice guide therefore has very limited relevance to this appeal. In any event, the concerns raised by the Council about this site are adequately covered by the aims of the adopted planning policies.
13. Also relevant to the issue of noise is the Noise Policy Statement for England (NPSE) published by the Department for Environment Food and Rural Affairs March 2012.
14. Since the appeal was submitted the national Planning Practice Guidance (PPG) was launched on 6 March 2014. This has cancelled various Government guidance and policy documents. The hearing took place in the knowledge of the PPG and the cases of the appeal parties have not been materially affected.

Reasons

Location

15. There is a range of services in Willington including shops, a post office, village store, doctor's surgery, primary school, and public houses. There are also bus stops and a railway station. These facilities are between 1.0 to 1.7km away from the appeal site which is within a reasonable walking and cycling distance. There is a lit footway opposite the appeal site that links into the village. Despite concerns about residents of the site crossing the road to get to the footpath I do not share those for the reasons set out under the Highway Safety section below. Even if travel to Willington was undertaken by vehicle the distance would not be far and when in the village there would be greater access to public transport to go further afield to larger centres such as nearby Burton-on-Trent and Derby. The nearest secondary school is further away. However, overall the site has reasonable access to local services and facilities.
16. The Gypsy site would be well related to other development very nearby that includes a ribbon of houses, a petrol filling station with a shop, and a restaurant. The appeal site is thus not in an isolated position in open countryside or away from an existing settlement in sustainability terms.
17. Sustainable development is also about more than just where a site is. There are economic and social aims as well. The appeal site would provide a settled

base for the families concerned and the benefits that would bring in terms of attendance of children at school and access to health services. It is recognised that there is a lot of local opposition to the scheme but that is almost wholly on material planning grounds very much around the main issues in this appeal. In my experience Gypsies seeking to provide their own family sites are respectful people and I am satisfied that this modest proposal for four pitches could successfully co-exist peacefully next to its neighbours.

18. The scheme would meet the location of development aims of LP policy 15 and the PPTS.

Highway Safety

19. The Castle Way to the north of the appeal site, from where the appeal site access would be located, allows for entry on to and off the southbound carriageway of the A38. However, The Castle Way is not an acceleration and deceleration slip road. The entry and exit slip roads are on the A38 itself. Drivers coming off the high speed A38 decelerate on the trunk road and very soon after the tight left turn into The Castle Way the speed limit is signed at 40mph. Drivers coming west along The Castle Way to go on to the A38 are in a 40mph zone until after the appeal site access point and it is only then that drivers accelerate away into the high speed trunk road environment.
20. Moreover, The Castle Way has an access and egress point to a petrol filling station, shop and a restaurant close to the junction with the A38. There are also direct frontage accesses to seven houses and an access into the appeal site, where the new modified access would be, that serves a water pumping station. Although The Castle Way links vehicles onto and off the A38 it is not part of the strategic road network and it has other highway functions.
21. In terms of highway advice on visibility requirements the Department for Transport (DfT) *Design Manual for Roads and Bridges* (DMRB) and the later *Manual for Streets 2 Wider Application of the Principles* (MfS2) (published in 2010 by the Chartered Institution of Highways and Transportation and endorsed for use by the DfT) take different approaches to the required length of the appropriate visibility splay. In terms of the Y component of a splay, which is the distance over which emerging drivers can see left and right to see whether it is safe to pull out and the corresponding forward visibility of oncoming drivers to see the pulling out vehicle, DMRB is based on a requirement to maintain continuous traffic speed on the priority route. The principle behind MfS is the ability of a vehicle to stop safely in order to avoid a collision. Derbyshire County Council in its role as the Local Highway Authority (LHA) considers that the longer Y standards from DMRB should apply.
22. A speed survey undertaken by the appellant's highway consultant, verified correct by the LHA, shows that the 85th percentile speed of traffic along The Castle Way is below 30mph. Based on this the LHA accepted at the hearing that the Y splays under both MfS2 and DMRB could be achieved. While looking to the right in particular the splay to the nearside carriageway edge would involve slight trimming back of overhanging vegetation, but this and the planting the other way is within the limits of the highway and could therefore be legitimately cut back and maintained by the appellant or the LHA.
23. Some vehicles will travel along the road faster than the 85th percentile speed, but this is a well established and accepted approach to assessing vehicle

speeds in relation to highway safety. Also a speed limit is not an indication of the appropriate speed to drive at. It is the responsibility of drivers to travel within the speed limit at a speed suited to the conditions. Moreover, the visibility splays accepted by the LHA are those taken conventionally to the nearside carriageway edge. It is however not the kerb that emerging drivers are looking at. It is whether or not they can see oncoming vehicles. To the left there are views beyond the standard splay up to the splitter island just before the A38 and so vehicles coming round the corner off the A38 can be seen for more than required to pull out safely. In the other direction there are also views of oncoming vehicles beyond the standard splay.

24. There is no basis to find that drivers on The Castle Way would have inadequate visibility of vehicles using the appeal access as the Y distance is based on the Standard Stopping Distance (SSD). Furthermore, drivers on The Castle Way would not need to slow down if encountering vehicles turning right into the appeal site across the flow of traffic or out of the site because the DMRB standard is achievable. Equally for the driver waiting to turn right into the appeal site they would see an oncoming driver over a safe distance. In any event, vehicles associated with the houses opposite already cut across flows of traffic or cause traffic to slow down on The Castle Way. Collision data from the Derbyshire Constabulary over the most recent five year period does not record any accidents related to the use of these individual direct frontage accesses.
25. Furthermore, for whatever reasons vehicles sometimes pull up on The Castle Way already and there is no evidence of recorded personal injury accidents to show that this in itself harms highway safety. In fact what this probably does is slow vehicle speeds down even more on those occasions as drivers from both directions have to wait either to go round a parked vehicle or give way to a driver already passing the stationary vehicle. MfS2 advises that parking in visibility splays does not appear to create significant problems in practice either. Where speeds are low, as is the case here, some encroachment into splays may be acceptable. Drivers on the minor X arm tend to nose out carefully until they can see oncoming traffic.
26. The LHA is also concerned that slow moving vehicles pulling caravans emerging from the appeal access would be a risk to highway safety. However, the design guidance on Y splays does not change based on the type of vehicles using the minor arm. In addition what has been applied for is a permanent residential caravan site. Thus for the majority of the time non-towing domestic size vehicles would be using the access. The number of times that the site occupants would go to and fro with touring caravans would only be when away travelling on a relatively limited number of occasions each year.
27. As for the drivers coming off the A38 and having to wait for a vehicle turning right into the Gypsy site, the Highways Agency which is responsible for the operation of trunk roads has not raised any concerns about the possibility of vehicles trailing back onto the A38. The appeal access is also offset by about 21m from the garage access which would allow drivers to assess priorities over who should manoeuvre first similar to many other offset junction arrangements. Research also shows that direct frontage accesses in situations like this are unlikely to have significant disbenefits in road safety terms.
28. Given the proximity of the garage access on The Castle Way to the A38 there must be numerous times when vehicles coming off the A38 encounter at very

short notice, without standard forward visibility, vehicles pulling into and out of the garage. I saw this happen on the two short occasions when I visited. The referred to accident data does not show that this causes a significant safety problem in the context of the volume of traffic using The Castle Way.

29. There are local concerns that pedestrians, particularly children, could be at risk from crossing The Castle Way when going to and from the appeal site. However, bearing in mind the available visibility and the traffic speeds I do not share these concerns. There have been two previous refusals of planning permission to develop this site. One in 1979 for a bungalow and garage that was also dismissed at appeal. The other in 1987 for the siting of a mobile home. Concerns about highway safety were partly why the applications were refused. However, I do not know, or have any of, the evidence that led to those decisions and whether the applications were supported by the high level of detail as I have now. I therefore place very limited weight on the previous decisions. In any event, each case should be considered on the basis of its individual circumstances.
30. Many local residents view the road safety situation differently. I have read the concerns, listened to them at the hearing and viewed various photographs including one apparently showing a vehicle incident in November 2013. I have also noted the traffic count undertaken by local residents. However, even taking account of this local knowledge and personal accounts of the traffic situation and how this has changed over the years, I am satisfied that the appeal proposal would not unduly risk highway safety.
31. Therefore, the scheme would meet the highway safety aims of policies 6 and 15 from the LP.

Noise

32. The appeal site is surrounded by roads. The A38 carries high volume fast moving traffic and The Castle Way to the north of the appeal site carries an average weekday traffic flow of in excess of 5000 vehicles. The part of The Castle Way to the south of the site is at a higher level as it leads to a flyover section across the A38. It is the effect of traffic noise and its consequences on the health and quality of life of the site's occupants that is the issue of concern.
33. The Council's Environmental Health Officer (EHO) measured average noise levels at the appeal site entrance on a mid-week day at around 2245 of 62db(A). Bearing in mind the late evening time when the reading was taken, when it would be reasonable to assume that traffic levels were not at their peak, this is a high noise level above what might be considered a generally accepted day time standard.
34. The appellant's agent has referred to World Health Organisation (WHO) guidelines which are that internal noise levels should be by day 35 db(a) LAeq 16hr and 30db(a) LAeq 8hr in bedrooms during the night time. By reference to British Standards of noise insulation to which modern static mobile homes have to comply it is suggested that, based on the Council's measurement, the internal noise levels would be below the WHO day guideline and only just above the night time guideline. However, this does not take account of having windows open to main habitable rooms. It is generally accepted that there is a reduction factor of between 10db to 15db for noise entering an open window. On this basis the WHO guidelines would be exceeded. The incessant drone of

- passing vehicles is a noticeable and intrusive noise meaning that, where there is no alternative means of ventilation, windows would need to be closed.
35. Mechanical ventilation to negate the need to open windows might be possible. However, there is no technical evidence of how practical or effective this would be specifically in relation to the acoustic context of this site. The Council's reading was also not done where the caravans might be located and there is no account taken for the differences in land levels and the impact that these might have on the acoustic environment. While at the appeal site visit at around 1830 conversation was audible without having to speak louder, the traffic noise was nevertheless persistent and very prevalent.
36. The benefits of proposed bunds and acoustic fences as part of an overall traffic noise mitigation strategy to dampen sound levels inside the caravans and protect outside areas such as the proposed children's play space also cannot be properly evaluated from the basis of a single noise reading. The noise reading was a single snapshot which does not take account of possible peaks and troughs of noise at different times and therefore establish true average 16 hour day and 8 hour night time noise levels. References to the anticipated attenuation benefits of acoustic fences have little basis in the absence of a proper understanding of the noise levels across the site.
37. There are houses on the other side of The Castle Way some of which are closer to the A38 than where the Gypsy caravans would be located. They though are not surrounded by roads and the noise environment is probably therefore different. Unlike many other pollutants, noise pollution depends not just on the physical aspects of the sound itself, but also the human reaction to it. Traffic noise can be annoying and sleep disturbing. Based on the available evidence it has not been shown that there would not be a likelihood of significant adverse effects occurring from noise on the quality and health of the site's occupants.
38. Leaving the issue to be dealt with later by planning conditions would not be appropriate as this is uncertain under the circumstances of this case and what could be required may not be reasonable. Other Inspectors may have imposed noise mitigation conditions but I am not aware of the evidence before them to show that planning permission was acceptable on this basis. The appeal scheme as it stands would not be acceptable in environmental terms. Thus it would conflict with LP policy 15 and the first aim of the NPSE.

Other Considerations and Planning Balance

39. Based on the Gypsy and Traveller Accommodation Assessment undertaken for Derbyshire in 2008 the identified need for a further 19 pitches was met and slightly exceeded. The Council argues that this excess might be rolled forward into a subsequent five year assessment period and that based on projections of need it can demonstrate it has a five year deliverable supply. The appellant does not agree with this approach in that the GTAA figure was a minimum level of provision and based on a 3% rate of household growth there is a further need for 10 pitches which this site for four pitches would help meet.
40. Whatever the realities are, the Council has not since 2008 updated the GTAA although it is understood that this is being worked on. Also there is not, in accordance with the PPTS, an identified supply of specific developable sites or broad locations for growth for years six to ten and, where possible, for years 11-15. It is also not clear how any need for sites across Derbyshire will be

delivered by working collaboratively with neighbouring planning authorities. It may be that a greater proportion of sites have to be delivered in South Derbyshire beyond the need expected to arise from household growth. Furthermore, while the emerging South Derbyshire Pre-Submission Local Plan Part 1 will set the framework for sites to come forward the Part 2 Local Plan, which is where sites would be identified and allocated, may be two years away.

41. Added to this background is the fact that the appellants are Irish Travellers whereas the majority of gypsy sites in South Derbyshire accommodate Romany Gypsies. Although not relied upon by the appellant I have also taken account of the best interests of the children who would live at the site. However, even if it is accepted that there is a shortfall of sites, the total weight of these factors would not outweigh the significant weight that should be accorded to the concern about noise and the adverse consequences of this on the health and quality of life of the site's occupants. I have considered whether a temporary planning permission would be appropriate. However, the greater weight to be attached to that still would not overcome the concerns relating to traffic noise.

Other Matters

42. The site is bounded by hedges and in places there are gaps in them. However, they could be strengthened by additional planting. The hedges would then screen the site effectively even after roadside trimming to secure the required visibility splays. Also, although the appeal site is outside of a defined settlement limit this is not an area devoid of other built development whereby the caravans and the amenity blocks would be isolated intrusions into open countryside. The appeal scheme would not harm the character and appearance of the area.
43. Residential use of land is not in itself noisy. Commercial activities and uses could be prevented by planning conditions. The caravans would be away from the houses on the other side of The Castle Way and not cause other alleged harm to amenity such as loss of privacy and overshadowing. Loss of property value is not a material planning consideration and there is no evidence to substantiate concerns that crime rates would increase.
44. I have considered all other matters raised by all parties. None either outweigh the above findings or add to the reasons why the appeal should be dismissed.

Conclusion

45. The harm identified in relation to noise would be significantly adverse and the consequent conflicts with planning policies are not outweighed by other considerations. It is thus concluded that the appeal should be dismissed.

Gareth Symons

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Philip Brown BA (Hons) MRTPI	Philip Brown Associates Ltd
Mr Jeremy P Hurlstone BSc (Hons) CMILT MCIHT	The Hurlstone Partnership
Mr Patrick Maloney	The appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Chris Nash BSc (Hons) MA MRTPI	Area Planning Officer, South Derbyshire District Council (SSDC)
Ms Sue Highley	Derbyshire County Council (DCC)
Mr John Mills MSc MCIEH AMIOA	Environmental Health Officer, SSDC
Mrs Gaynor Richards	Enforcement Officer, SSDC

INTERESTED PERSONS:

Mr Adrian Pegg	Local resident
Mrs Sue Bussey	Local resident
Mr Andrew Bussey	Local resident
Mrs Topliss	Local resident
Mr Bishop	Local resident
Mr Christopher Timothy BSc (Hons) DipTP MRTPI	CT Planning on behalf of South Staffordshire Water Plc
Mr Graham Broome	Highways Agency
Sir Henry Every	Eggington Parish Council
Cllr Brown	SSDC
Cllr Ford	DCC

DOCUMENTS

Doc 1	Policy H21 from the South Derbyshire Pre-Submission LP Part 1
Doc 2	Copies of emails between SSDC and the Environment Agency
Doc 3	Statement to the hearing from Mrs Bussey on behalf of residents of Willington
Doc 4	Statement to the hearing from Mr Pegg