

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

SECTION 1: Planning Applications

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

1. PLANNING APPLICATIONS

This section also includes reports on applications for: approvals of reserved matters, listed building consent, work to trees in tree preservation orders and conservation areas, conservation area consent, hedgerows work, advertisement consent, notices for permitted development under the General Permitted Development Order 1995 (as amended) responses to County Matters and strategic submissions to the Secretary of State.

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

1. The issues of fact raised by the 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. **9/2015/0257/SSA**

Applicant:
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c/o BDO 55 Pearmat Solar 2 Ltd
Baker Street
London
W1U 7EU

Agent:
Mrs Stephanie Smith-Clarke
TUV SUD PMSS
19/20
Charles Parade
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BA1 1HX

Proposal: **CREATION OF A 5MW SOLAR FARM WITH
ASSOCIATED INVERTER/TRANSFORMER
INFRASTRUCTURE, ON-SITE SUBSTATION,
PERIMETER FENCING, CCTV AND EXPORT CABLE ON
LAND AT SK3220 9010 SHORT HAZELS FARM
MANCHESTER LANE HARTSHORNE SWADLINCOTE**

Ward: **WOODVILLE**

Valid Date: **23/03/2015**

Reason for committee determination

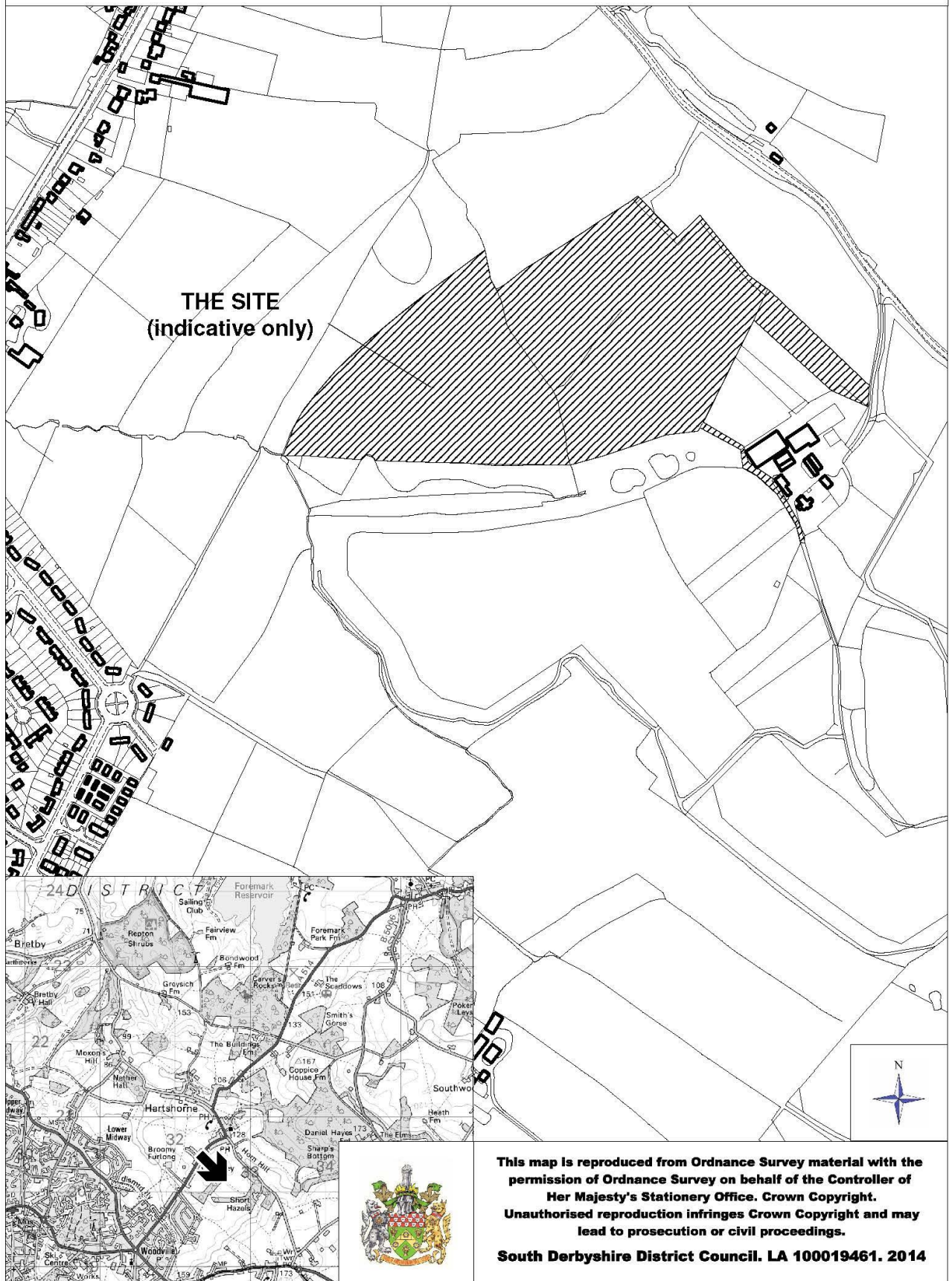
The application is brought to committee because it is a major development having received more than two letters of objection.

Site Description

The site comprises three arable fields formerly separated by hedgerow and occasional trees. Presently only the trees and associated hedgerow ditch remain in central 'Y' formation. These fields lie some 150m north-west of Short Hazel Farm, off Manchester Lane running south-east to north-west to the north of the site. There are a handful of dwellings set in a ribbon along the northern side of Manchester Lane in this location. To the northern edges semi-mature National Forest woodland encloses the site, with further mature stream corridor trees and woodland to the southern boundary. The Goseley Dale estate lies beyond further fields to the south-west.

The land rises reasonably steeply to the north towards Manchester Lane. Beyond the site confines a ridge runs along Horn Hill to the north of the Lane and wraps around the east of the farm, down towards Woodville. This ridge is traversed by footpaths to the south which lead down close to and through the site and adjoining woodland, before converging and leading north towards Hartshorne.

9/2015/0257/SSA - Land at SK3220 9010 (Short Hazels Farm)
Manchester Lane, Hartshorne DE11 7BD



The site is not part of any national, regional or local ecological, geological, heritage or landscape designation, although Short Hazels Farmhouse is a Grade II listed building.

Proposal

It is proposed to install around 18,680 solar photovoltaic (PV) arrays on the land assembled on framework to measure 1.7m high at the rear (highest point) and 0.6m at the front (lowest point). Three combined inverter and transformer stations would be set along the southern edge of the site, with a substation erected to the eastern side of the site. Access tracks would be provided around the site, predominantly to the southern and eastern edge, which would also provide for construction purposes. A 2m high deer fence would surround the arrays, allowing a corridor for the public footpath which passes through the site, and CCTV would be erected on 4m poles in various locations around the site. Export of electricity to the grid would be achieved via a new cable run installed across land to the south of the site linking up with Goseley Dale and eventually a sub-station in Woodville.

Applicant's supporting information

The Design and Access Statement (DAS) notes the proposal has been designed through consultation with officers and relevant consultees, constraints analysis and the results of surveying to produce a layout sensitive and in keeping with the local landscape and environment. The construction period for the site would last for approximately four months and the potential impact of HGV traffic associated with the proposed site would be in the order of 71 deliveries over the initial 2 months of the build, with additional transport of site workers.

A Planning Statement outlines the site was selected to ensure negligible overlap with ecological and heritage designations. Upon inspection the site was found to be of a low agricultural grade and well screened from view. The applicant considers the site to be appropriate to accommodate the proposed solar farm without adversely affecting the landscape character and appearance of the surrounding area, or the amenities of residents in the vicinity. The reversible nature of the development, together with the proposed measures to enhance and encourage the ecological diversity of the site, would ensure that in the long term the site can not only be restored to its current use, but would also be improved. The information provided with the application demonstrates that the proposed solar farm development would be in accordance with planning policy at both national and local level. It would provide a reliable energy source which is not dependant on the use of fossil fuels and contribute to both local and national renewable energy targets.

A Landscape and Visual Impact Assessment (LVIA) demonstrates that it would be possible to construct a solar farm on the Short Hazel Farm with minimal effects on both landscape and visual receptors, avoiding conflict with local planning policy relevant to landscape and visual matters. Any changes occurring would be of a temporary nature, and the landscape would revert to its current condition after the solar farm has been decommissioned. Effects on landscape character would be minimal outside the site itself. The greatest effects would be on the character of the site and the visual amenity of the public footpath passing through it, due to the addition of the solar farm to what is currently a group of small arable fields. The design of the arrays, positioned on a racking system and raised above the ground would have a relatively low impact upon

the existing characteristic of the ground and would provide an opportunity for early enhancement through grass seeding. The site lies within the Coalfield regional landscape character area and Coalfield Village Farmlands landscape character type, and overall there would be a negligible effect on these character areas from the proposed development. The design of the solar farm layout respects and retains the most important landscape assets of the site which are the existing hedgerows, trees and ground profile. Any effects on these assets during the construction phase would be mitigated and the overall biodiversity of the Site improved with the introduction of wildflower grassland.

An Agricultural Land Classification (ALC) Report reveals the land to be Class 3b, by reference to guidelines. This is defined as 'Moderate quality agricultural land' capable of producing moderate yields of a narrow range of crops or lower yields of a wider range of crops.

The Ecology Report considers the habitats within the proposed site, access track and route of transmission cable are common and widespread, and typical of the local area. The potential for the construction and operation of a solar farm in this area to have a significant detrimental impact on biodiversity is considered negligible, so long as best practice construction methods are followed with regard to issues such as pollution control and legal compliance (e.g. wildlife legislation). The potential to convert the land between the rows of solar panels to a wildflower meadow (as opposed to arable land) provides the potential to achieve a tangible biodiversity gain in the short and medium term.

A Flood Risk Assessment (FRA) considers the land is not at risk of flooding from rivers or sea, or groundwater flooding for the lifetime of the project. The solar farm's associated infrastructure would result in a very minor increase to the site's impermeable area at ground level. Subject to percolation testing, it is proposed in the first instance that infiltration techniques are employed to drain this increase in impermeable area. The design of such schemes would be established prior to construction. It is considered that the proposed development would not exacerbate the risk of flooding on the site or to more vulnerable sites upstream or downstream. At the point of proposed HV cable route crossing the existing culvert, best practice methods would be utilised to ensure that the culvert performance and flow is not impeded.

A Heritage Assessment & Geophysical Survey is provided. The geophysical survey identified a number of discrete anomalies across the central and eastern area of the site. These have been interpreted as the possible remains of former industrial activity, most likely former kilns. Industrial activity, specifically clay and coal extraction, has been recorded within the study area and therefore the site is situated within a landscape known to have been utilised for industrial purposes. No evidence for industrial activity is recorded within the site by the desk-based sources consulted as part of this assessment (dating back to the late-18th century). Therefore these anomalies are likely to pre-date the 18th century and are considered to be of some limited heritage significance. However, they are likely to comprise archaeological deposits of relatively robust character and are not considered especially sensitive to the limited development impacts. Below ground remains of ridge and furrow cultivation has been recorded within the site and the Derbyshire Historic Landscape Characterisation records the site as remnants of medieval strip fields, indicating that the site comprised part of the open field system that surrounded the medieval settlement of Hartshorne. The below ground remains of the ridge and furrow cultivation are not considered to be heritage assets.

Potential effects of the proposed development upon the settings of designated heritage assets within the study area have also been assessed. The proposed development would result in no harm to the heritage significance of the Grade II Listed Short Hazels Farm.

Highways Statement

The largest vehicle to be used during the construction phase of the project would be an articulated Heavy Goods Vehicle (HGV) with a maximum length of 16.5m. Other vehicles that would access the site include smaller lorries, vans and cars. Two alternative routes for construction traffic are available from the A511; Heath Lane at the end of the Ashby Bypass and the A514 from Clock Island to the Manchester Lane junction. The former would require increased site access width, removing about 5m of embankment. Traffic management measures would be needed in Manchester Lane, which is not wide enough for two HGVs to pass, by way of a Traffic Management Plan. Either access route is considered to be acceptable by the applicant to accommodate the 71 HGV deliveries predicted for the site. The Applicant acknowledges the potential to access the site through the Goseley Estate but considers this solution as more constrained in comparison. The Public Right of Way that bisects the site would require careful management during the construction phase to ensure the health and safety of both recreational users of the footpath and construction staff.

Planning History

None relevant.

Responses to Consultations

The County Highway Authority comments that whilst the proposal is not ideal in highway terms, being accessed via Manchester Lane; it is considered that an objection would be difficult to sustain in view of the relatively short construction period and the subsequent low level of traffic generated by the use. However in order to ensure that highway safety is maintained throughout the period of construction (and the future decommissioning of the development), deliveries would need to be controlled by means of a Traffic Management Plan secured by condition.

The Environment Agency has no objection subject to a condition to require the provision of a surface water drainage scheme for the site which demonstrates run-off generated will not exceed the run-off from the undeveloped site.

Derbyshire Wildlife Trust notes that the survey work accurately identifies the habitats present on and in proximity to the site and the findings have informed an appropriate layout as well as recommendations for mitigation and biodiversity enhancements, which are welcome. The Trust advises that no impacts upon great crested newt are anticipated, although they maintain the view that insufficient consideration has been given to the potential use of the site by ground nesting priority bird species which would be highly likely to be displaced by the installation of solar arrays. However they advise that mitigation/compensation should be provided to ensure there is no net loss of such habitat, and that details of such measures could be secured by way of condition.

The County Archaeologist notes an archaeological study and geophysical survey has been undertaken, identifying a number of possible archaeological features interpreted

as possible kilns. It is agreed the proposed approach to post-consent evaluation of these features to establish their significance is appropriate, if necessary establishing areas where ground impacts should be avoided (e.g. by 'no dig' support of the solar arrays). A condition is therefore recommended.

The County Rights of Way team notes that Hartshorne Footpath No. 2 crosses the site but has no objection subject to an informative.

Peak and Northern Footpaths object due to concerns of the effects on users of Footpath No. 2 and other nearby footpaths. Footpath No. 2 would, instead of running through an open landscape, be confined between 2m high fences with views dominated by the solar arrays leading to a serious diminution in the enjoyment of the use of the footpath. If minded to approve it should however be possible for the footpath to be diverted around the site on a route screened from the development by planting.

The Crime Prevention Adviser states that large-scale thefts of solar panels are an increasing problem. The reliance on motion activated CCTV cameras raises issues of effective security in the event of a loss of telemetry. The perimeter deer fencing provides an effective barrier to casual or accidental intrusion, but isn't a security provision without effective accompanying perimeter intruder detection systems. However an adequate security system could be secured by condition.

The National Forest Company (NFC) notes that the panels are surrounded by woodlands formed through their grant schemes and thus request a condition to ensure their protection during construction. It is noted that areas of parkland and young woodland would be affected by the cable route, although a commitment to replant or restock an area of woodland lost could be secured. The NFC also requests that the creation of a wildflower meadow with rough grass strips within the solar farm and the planting of a new hedgerow along the access track should be controlled through a Habitat Management Plan.

The Environmental Protection Officer (Contaminated Land) raises no comment or objection.

Responses to Publicity

Three neighbour objections have been received, raising the following concerns:

- a) a recent appeal decision established the importance of the character and ambience of this valley;
- b) its position on sloping ground exaggerates the visual impact;
- c) the land is perfectly good agricultural land;
- d) the effect on bird populations, with several studies showing that birds can be injured by solar farms;
- e) there are plenty of brownfield sites or inconspicuous rooftops that could be used for this purpose;
- f) this site is not big enough to generate enough energy, nor would it work efficiently;
- g) this would devalue houses in the area;

Development Plan Policies

The relevant policies are:

- Saved Local Plan 1998: Environment Policies 1, 9, 10, 11, 13 and 14 (EV1, EV9, EV10, EV11, EV13 and EV14), and Transport Policy 6 (T6).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development); SD2 (Flood Risk); SD4 (Contaminated Land and Mining Legacy Issues); SD6 (Sustainable Energy and Power Generation); BNE1 (Design Excellence); BNE2 (Heritage Assets); BNE3 (Biodiversity); BNE4 (Landscape Character and Local Distinctiveness); INF2 (Sustainable Transport) and INF8 (The National Forest).

National Guidance

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

Environmental Impact Assessment (EIA)

The development has been screened under the EIA Regulations. The proposal is considered to fall within paragraph 3a of Schedule 2 to those Regulations, being an installation for the production of energy. However having taken into account the criteria of Schedule 3 to the Regulations, the proposal is not considered to provide any fundamental alterations of the conclusion previously reached that significant environmental effects would not arise in the context and purpose of EIA. Accordingly the application is not accompanied by an Environmental Statement.

Planning Considerations

With the principle of renewable energy generation acceptable within the open countryside, in this case due to the extent of land required, the main issues central to the determination of this application are:

- visual and landscape impacts;
- highway safety and capacity considerations;
- heritage impacts;
- biodiversity impacts;
- effect on ramblers and neighbouring occupiers; and
- flood risk.

Planning Assessment

The Development Plan, comprising solely of saved policies under the 1998 Local Plan, is silent on renewable energy projects. However large scale installations, such as this one, are invariably unavoidable outside of settlement confines given their need for large and unshaded expanses. Accordingly the primary test of saved policy EV1 is satisfied. Attention is given to the subsequent qualitative tests under the following subheading.

A core principle of the NPPF is to support the transition to a low carbon future in a changing climate and encourage the use of renewable resources. The NPPF states local planning authorities should support the delivery of renewable and low carbon energy, and that this is central to the economic, social and environmental dimensions of sustainable development. It also states that local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy whilst recognising that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The applicant's Planning Statement outlines how recent interim targets towards use of renewable energy have been missed and the legal implications for not meeting EU requirements by 2020. It is therefore clear as to why the NPPF places importance on such schemes – schemes which form an important part in the Government's overall "energy mix". The proposed solar farm would also be capable of generating 5MW, equivalent to providing electricity to 1,330 local households and a carbon saving of more than 3,000 tons per year. Significant weight should be afforded in favour of the proposals and assessment turns to consideration of other impacts to establish if the proposal is sustainable development in the round.

Visual and landscape impacts

There are no formal landscape policy designations applicable to the site or its immediate surroundings. The site falls within the Leicestershire and Derbyshire Coalfield National Character Area and the Wooded Village Farmland Regional Character Area defined by varied topography, scattered farm woodlands, ancient woodlands and tree lined valleys, a well maintained pattern of hedged fields enclosing pasture and arable fields, and it being sparsely settled with a strong sense of landscape history. At a local level the site falls within the Coalfield Village Farmlands Landscape Character Type, which echoes the aforementioned description.

The site is well contained to northern and western aspects, with semi-mature National Forest planting obscuring direct views from footpaths running out of Hartshorne towards the site and from footpaths within the woodland. Views from higher ground along Manchester Lane are screened by roadside hedgerow and intervening trees. These features, along with the surrounding sandstone ridgeline to the south and east, provide a high level of visual containment and prevent long distance views of the proposed development. Hence the impact on a landscape scale is considered to be minor adverse which improves over the life of the development, which must be noted as 'reversible', as existing tree cover continues to mature around the site edges. This view aligns with that set out in the applicant's LVA.

From the northern and eastern edges of the site there are open views to the surrounding suburbs of Woodville, but these views become increasingly filtered by intervening vegetation along the southern and western boundaries. Accordingly views of the site from these receptors would be limited. Equally intervening vegetation and difference in levels means views of the site from properties around Horn Hill to the north would be very limited. However this rising landform to the north means the solar arrays would appear prominent in short distance views from the south and east – especially where public footpaths drop down off the Woodville ridge to the south-east. Furthermore the proposal would have a substantial effect on users of the public footpath passing through the site, where the solar arrays and associated infrastructure such as fencing, CCTV and substations would form a major new element in their view.

It is the views of these latter two receptors (public rights of way) which are form the residual concern in respect of visual harm. The context of this harm is limited to a local level and to sections of the affected footpaths as opposed to their entire length. The views into the site from the south and east are filtered to a degree by intervening trees along the southern edge, where the brook runs. However there is a section where views are unobstructed and the applicant has agreed to a scheme of additional tree planting to provide similar mitigation over time. Users of the footpath through the site would experience a step change in their surroundings with an almost industrial feel. However the views out to the wider landscape from this section of footpath are limited by way of topography and woodland planting, and on balance it is not considered the adverse effects would be significant.

Highway safety and capacity considerations

The focus here is on the construction and decommissioning phases, with traffic generated during the operation of the solar farm considered to be relatively low. Manchester Lane is narrow lane with no footways, banked verges and limited forward visibility, with the access also meeting the carriageway at an angle on both horizontal and vertical planes. The Highway Authority has considered the proposal in detail, and sought provision of swept path evidence to demonstrate the largest vehicles envisaged during the construction phase (articulated lorries) can enter and leave the site in a safe and suitable fashion.

It remains that the proposal is not ideal in highway terms as such vehicles cannot enter and leave unassisted, but given recent appeal decisions indicating that a Traffic Management Plan (TMP) is appropriate in enforcing routing to and from the site, it is considered that an objection would be difficult to sustain in view of the relatively short construction period. The same TMP would likely need to control deliveries to outside of peak hours given the need for escort of sorts to the site from Heath Lane to the east. Hence on balance it is not considered the effects of the development would lead to a severe cumulative impact on the highway network.

Heritage impacts

The application falls on the farmland associated with the Grade II listed farmhouse at Short Hazels Farm. The land is not part of the curtilage of the listed building but it could be said to affect the setting of the listed building, albeit it is some distance away. At a few points on the farm the site and the listed building can be experienced together, but these locations are limited because of the presence of large modern agricultural sheds which block views. There are no strategic or designed views. Public views towards the listed building along Footpath No. 2 would be affected by seeing the building in the distance in the context of the solar farm, but again the presence of the modern agricultural buildings has already significantly affected these views.

The Conservation Officer advises the site does not make any specific contribution to the significance of the listed building. The building was not designed or adapted with views looking outward towards the site or designed to be looked at from specific viewpoints. Whilst changing the appearance of the land from a distance, the land will still remain part of the rural landscape. It is therefore considered that the proposal would not cause harm and can be supported in line with the principles of the NPPF and EV13.

Turning to archaeological interest, the observations of the County Archaeologist are noted and the potential for finds of significance. However the proposal could be adjusted to preserve finds in situ or finds could be recorded and removed. Accordingly this matter is considered acceptable subject to condition.

Biodiversity impacts

Derbyshire Wildlife Trust is satisfied that the nature of the development is such that any disturbance to wildlife habitats would be minimal and of short duration. The development is considered unlikely to have an adverse impact on any protected or priority species or habitat, subject to appropriate control.

The applicant acknowledges the concerns raised by an objector with regard to the potential for birds to collide with solar panels. However RSPB general policy document (December 2014) notes large PV arrays mounted in agricultural fields are unlikely to be a concern from a nature conservation perspective, provided that they are in suitable locations. The proposed solar farm would not lie in close proximity to any protected areas or close to major water features where large aggregations of birds might be expected to congregate, and it is likely that the species supported by farmland in the general vicinity are typical of farmland and woodland habitats in the area, and largely common and widespread species. The birds are also most likely to be associated with habitats such as hedgerows, woodland edges or rough grassland in the general surrounds, rather than the arable fields where the solar panels would be mounted. The solar panels would also be non-reflective reducing the scope for them mimicking a water feature.

It should however, be noted that the proposed habitat management for the site would potentially benefit birds by providing increased feeding opportunities through the encouragement of seed rich plants (that are retained throughout the winter) and insect flora (via the sowing of nectar-rich wildflower mixes). This should result in an overall biodiversity gain for the proposed development site.

The Tree Officer advises the principle of the solar farm is not unacceptable but there are several concerns and potential impacts the installation may have, including shading issues; threats of removal and continual pruning of trees; removal of individual trees pre-development; impact of such removal/pruning on wildlife; aesthetical impact; conservation impacts and ecological impacts. Fox Covert and Goseley Dale Wood provide a high degree of amenity value, uplifted by the fact that there is full public access, and both woodlands form prominent features in the landscape and collectively constitute high ecological value. Elsewhere hedgerows have been coppiced although remaining hedgerow trees have moderate ecological value and provide some aesthetical amenity.

Consideration has been given to applying protection to existing trees and woodlands. Those within the centre of the site, whilst limited in terms of ecological value once the solar farm has been installed, would provide a visual 'break' in an otherwise regular pattern of solar panels and supporting framework when viewed from the public footpath. The southern bank of planting along the brook corridor is similarly of value helping to screen views into the site from other footpaths. The remaining woodland around the west and north of the site remains under a state of control and good management practices due to it being part of a NFC tender scheme. The additional planting would also help to enhance and strengthen the environmental benefits arising.

Effect on ramblers and neighbouring occupiers

The objection from Peak and Northern Footpaths is noted. However as there would be no obstruction of the legal line of Footpath No. 2 there is no need to divert its route – particularly when any alternative would be less convenient and direct, and potentially attract objection from other interested parties. Views out from this footpath are already limited to the immediate to middle distance by way of topography and vegetation such that there are no key local and regional vistas which would suffer considerably. The arrays and fencing would be set back either side of the footpath so to reduce any ‘corridor’ effect created and hedgerow could supplement the proposed deer fencing. Over time this hedgerow would help to screen the array from users along the footpath such that whilst they might be aware of its presence, their enjoyment of their walk overall would not be significantly reduced.

Flood risk

The change in nature of the site from open ground to a series of solar panels creating a hard surface has an impact on the rate of discharge. Whilst run off from the array would in turn fall onto permeable ground, the rate would be more concentrated. However the Environment Agency advises that, subject to condition to secure sustainable drainage, this impact can be satisfactorily mitigated.

Conclusion

The proposal should be afforded significant weight given the meaningful contribution it would make towards the provision of renewable energy on both a local and national basis. Highway safety, biodiversity, heritage and drainage matters can be satisfactorily addressed by way of condition. The landscape impacts are not considered to be significant in the context of the landscape character areas affected, leaving just the visual impacts weighing against the proposal. As noted above immediate views could be softened by way of supplemental planting to security fencing whilst middle distance views of the arrays partially screened by way of supplemental tree planting around the southern edge of the site. With the majority of views in and out of the site limited by topography and/or well screened by semi-mature and dense woodland, the overall visual impact is considered to moderately weigh against the proposal. However when balanced against the environmental and economic gains of the proposal, including biodiversity enhancements, it is considered the proposal represents sustainable development in the round and should be supported.

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

Recommendation

GRANT permission subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with plans/drawings 500, 501, 502, 503, 504, 505, 506 and 01; unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended).

Reason: For the avoidance of doubt.

3. This permission shall be for a limited period only, expiring 25 years after the date on which electricity is first generated by the installation, on or before which date the arrays and associated buildings, structures, tracks and fencing shall be removed and the site reinstated to the satisfaction of the Local Planning Authority unless, prior to that date, an application has been made and permission has been granted for an extended period. The applicant shall inform the Local Planning Authority within 10 working days of the first date on which which electricity is first generated.

Reason: In the interests of the visual amenities of the area, so not to risk redundant equipment, structures, buildings and boundary treatments being left in place in perpetuity and compromise the effective use of the land thereafter.

4. Prior to any other development commencing, modifications shall be made to the site access onto Manchester Lane to accommodate the delivery vehicles, laid out and constructed for the duration of the construction works in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, recognising that the development could lead to unacceptable impacts even at the initial stages of works on site.

5. No development shall commence until a Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Traffic Management Plan shall generally, although not exclusively, accord with the details laid out in the letter to South Derbyshire District Council from TUV SUD PMSS dated 9 June 2015 and be implemented throughout the construction period. For the avoidance of doubt, the means of access to the site should be from the south via Heath Lane and Manchester Lane, in order to minimise the impact of construction traffic on the settlements of Woodville and Hartshorne, and progress along Manchester Lane controlled by operatives with stop/go boards, radios and an escort/convoy vehicle.

Reason: In the interests of highway safety, recognising that the development could lead to unacceptable impacts even at the initial stages of works on site.

6. No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
 - (a) a risk assessment of potentially damaging construction activities;
 - (b) identification of "biodiversity protection zones" (e.g. buffers to trees and hedges or to protected wildlife habitat);

(c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (particularly in relation to works within canopy and root protection areas for hedgerows or protected trees);

(d) the location and timing of sensitive works to avoid harm to biodiversity features (in particular details of how works will avoid impact upon any nesting birds, including any ground nesting species through the appropriate timing of works or through a further breeding bird survey immediately before the commencement of any works);

(e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);

(f) responsible persons and lines of communication; and

(g) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person (as necessary).

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.

Reason: In the interests of maintaining existing habitat provision to the benefit of protected species and wildlife legislation, as well as the wider biodiversity sensitivities of the site, recognising that the development could lead to unacceptable impacts even at the initial stages of works on site.

7. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the Local Planning Authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and
- i. The programme and methodology of site investigation and recording;
 - ii. The programme for post investigation assessment;
 - iii. Provision to be made for analysis of the site investigation and recording;
 - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v. Provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation; and
 - vii. Provision to be made for preservation in situ of archaeological remains where this is the preferred option of the developer or is otherwise justified by their significance.
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under part (a).
- c) The development shall not be first used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under part (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To enable items of archaeological interest to be recorded/and or preserved where possible, recognising that the development could lead to unacceptable impacts even at the initial stages of works on site.

8. Prior to the installation of PV panels and/or supporting infrastructure/buildings, a Habitat Management and Monitoring Plan shall be submitted to and approved in writing the Local Planning Authority. The Habitat Management and Monitoring Plan should be prepared in accordance with the BSI Standards publication BS 42020 and 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; and
 - h) Ongoing monitoring and remedial measures.

The Plan 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 Plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved Plan shall be implemented in accordance with the approved details.

Reason: To secure and ensure the long term biodiversity benefit on habitats on or adjacent to the site.

9. No development involving the construction of a structure, building or hard surface shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100 year + climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:
- details of how the scheme shall be maintained and managed after completion; and
 - sustainable drainage techniques or Sustainable Drainage Systems that are to be incorporated into the design.

Reason: In the interests of flood protection both on and off the site.

10. Notwithstanding the approved plans, prior to construction of the substation/control building precise details, specifications and, where necessary, samples of the facing materials to be used in the construction of the external walls and roof of the building shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

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

11. Prior to the erection of any security fencing and/or CCTV, a Security Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved measures shall be installed and thereafter maintained alongside any management/operation practices also approved to minimise the risk of crime.

Reason: In recognition of criminal activity linked to solar energy installations and the proposed measures presently being inadequate.

12. Prior to the installation of the solar array, a scheme of landscaping shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall include details of seeding or turfing of ground around and beneath the array, the planting of hedgerows in tandem with security fencing and the planting of additional woodland trees to supplement/extend the belt of trees to the southern edge of the solar array. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the construction of the solar array. Any trees which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, whilst any other plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the appearance of the area, prevention of soil erosion and the enjoyment of public rights of way.

13. Prior to the installation being first taken into use, the modified access shall be reinstated and remedial works carried out on Manchester Lane, all as detailed and agreed in the Transport Management Plan.

Reason: In the interests of highway safety.

14. Prior to any works being carried out to decommission the site, a Traffic Management Plan, site access modification and reinstatement details and remedial works program shall be submitted to and approved in writing by the Local Planning Authority; and thereafter implemented throughout the decommissioning period.

Reason: In the interests of highway safety.

Informatives:

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 and promptly 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.

The application site is affected by a Public Right of Way (Footpaths 2 & 4 Hartshorne, as shown on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further information can be obtained from the Rights of Way Duty Officer in the Economy, Transport and Environment Department at County Hall, Matlock.

- Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.

- If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 08456 058058 for further information and an application form.

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

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

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

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.

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.

The applicant is advised to contact Derbyshire County Council's Traffic & Safety section (01629 538592) regarding the contents of the Traffic Management Plan.

The application has been screened in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) and the Authority is satisfied that the development will not give rise to significant environmental effects.

04/08/2015

Item **1.2**

Reg. No. **9/2015/0376/FH**

Applicant:
Mr Richard Thornewill
Housing Department
Civic Offices Civic Way
Swadlincote
DE11 0AH

Agent:
Andrew Bennett
Housing Adaptations
South Derbyshire District Council
Civic Offices
Civic Way
Swadlincote
DE11 0AH

Proposal: **THE ERECTION OF A SINGLE STOREY EXTENSION AT**
 13 NELSON STREET SWADLINCOTE

Ward: **SWADLINCOTE**

Valid Date: **28/04/2015**

Reason for committee determination

The item is presented to Committee as the Council is the applicant.

Site Description

The application property is a mid-terrace dwelling within a residential area.

Proposal

The proposal seeks to gain consent for a single storey rear extension to the ground floor to facilitate a new bathroom for a disabled person. The extension would be finished in brick.

Planning History

None.

Responses to Consultations

None.

Responses to Publicity

None.

9/2015/0376/FH - 13 Nelson Street, Swadlincote DE11 0PU



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Development Plan Policies

The relevant policies are:

- Housing Policy 13 of the adopted local plan.

National Guidance

- National Planning Policy Framework (NPPF) 11-14, 58, 61.
- National Planning Policy Guidance (NPPG) ID21b, ID26.

Local Guidance

- Supplementary Planning Guidance: Extending Your Home (SPG).

Planning Considerations

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

- The scale and character of the proposal.
- The impact on neighbours.

Planning Assessment

Although the materials are different to that of the main house, the extension would not be visible from public vantage points and so is considered acceptable.

In applying SPG, there would be no adverse impact on neighbouring properties.

Recommendation

GRANT permission under Regulation 3 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).

Informatives:

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through 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.

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These

hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority.

Item **1.3**

Reg. No. **9/2015/0426/OS**

Applicant:
Mr & Mrs N Gulliver
Fairleys
Shute Hill
Chorley
Lichfield
WS13 8DA

Agent:
JVH Town Planning Consultants Ltd
Houndhill Courtyard
Houndhill
Marchington
Staffordshire
ST14 8LN

Proposal: **OUTLINE APPLICATION (ALL MATTERS EXCEPT FOR**
 ACCESS RESERVED FOR SUBSEQUENT APPROVAL)
 FOR RESIDENTIAL DEVELOPMENT ON LAND AT
 SK2816 1036 LINTON HEATH LINTON SWADLINCOTE

Ward: **LINTON**

Valid Date: **15/05/2015**

Reason for committee determination

The application is for a major development not in accord with the Development Plan which has attracted more than two objections.

Site Description

The application site, which is rectangular in shape and measures some 0.9 hectares, is on the north-western side of Linton Heath, opposite a row of terraced dwellings, Nos. 4 to 30a. It was previously used as allotment gardens but is now vacant and overgrown with self-set trees and shrubs. It is understood that it was last used for this purpose in 1997. It is screened from the road by a mature high hedgerow with an existing ditch that runs along the site frontage. The site is located outside but adjoining the Linton confine boundary. There is an existing single storey dwelling to the south-west which shares a common boundary with the application site. The north-western boundary of the site backs onto the Linton Primary School playing field, with agricultural land to the north-east. There is a bus stop between the site frontage and the road. The site is predominantly level with the lowest point being in the south-western corner and the highest point in the north-eastern part. There is a change in levels across the site of approximately 2 metres. The site is contained by existing field hedges and a row of conifer trees on the eastern boundary. There are no outstanding landscape features or public footpaths within the site. The site is on the northern fringe of the River Mease SAC.



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South Derbyshire District Council. LA 100019461. 2014

Proposal

The application, which is in outline with all matters other than access reserved for subsequent approval, is for the development of the site for residential purposes. An indicative layout has been submitted which shows how 24 family-sized dwellings could be accommodated with vehicular access proposed off Linton Heath opposite Nos. 24 to 27. A pedestrian link would also be created in order to facilitate access to an existing bus stop. The site access would be fronted by dual aspect properties, giving way to informal groups of detached, link-detached and semi-detached dwellings served by private driveways. The indicative layout shows a dwelling mix of 15, 3-bedroom dwellings and 9, 4-bedroom dwellings. All dwellings would be of two storeys in height.

The proposal would retain existing hedgerows where possible, which would be thickened and enhanced in places.

At least two parking spaces per dwelling are proposed, plus additional single or double garages.

Applicants' supporting information

The application is supported by the following documents, which are summarised for ease of reference:

SDDC's Assessment of 5-year Housing Supply 2014-19

The document is as up-to-date as possible and includes permissions granted up to 1st August 2014. However it does not rely on new strategic housing allocations as they have not yet been examined by an Inspector dealing with the Local Plan. The housing requirement for South Derbyshire was set at 600 dwellings per annum between 2006 and 2026. Work has been undertaken on assessing windfall sites and it was ascertained that a small windfall allowance can be justified. This works out at 23 dwellings per annum across the plan period.

Preliminary Ecological Appraisal

This concludes that habitats for bats are limited within the site and loss of scrub is unlikely to significantly impact local bat populations, particularly as residential development will include gardens which could be used by foraging bats. For any loss or major severance of hedgerows it is recommended that bat transects are undertaken to check whether any important commuting routes are present.

No badger activity was observed on the site at the time of the survey. However, as activity patterns can change over a short period of time should evidence of badger be observed prior to or during construction works, all work must cease and advice sought.

Habitats for nesting and foraging birds should be retained, enhanced or created. Existing trees and hedgerows are likely to be the most valuable to nesting birds and should be retained as far as possible.

Reptile Survey

No reptiles were found on site and therefore no further surveys or mitigation will be required.

Mustelid (Polecat) Survey

No polecats were found on the site and therefore no further surveys will be required. However, small mammal activity was identified and a compensation for the loss of habitat should be put in place for species such as weasels, stoats, polecats and other small mammals.

Development Analysis

The sketch proposal promotes a mix of house type designs with properties being two storeys but could, potentially be selectively increased to 2½ storeys. A range of 3-bedroom semi-detached houses, 3-bedroom detached housing and 4-bedroom detached houses are proposed.

Design and Access Statement, including appeal decision for High Street, Linton

This concludes by stating that the application site is deliverable, achievable and suitable for new residential development and will be able to bring family homes to the market well within a five-year timeframe. This would support the housing strategy of the planning authority in a sustainable location.

The NPPF has made the Government's aim of delivering new homes clear as a priority and these must be in sustainable and appropriate locations. The site meets the requirements of the NPPF and is well placed to deliver homes in a location which will benefit from the proximity to other nearby settlements and will help the existing settlement maintain a critical mass to support existing local services. The application is further supported by the findings of the Planning Inspector for the land at High Street, Linton who confirmed that Linton is a sustainable location for new housing development.

The site will not bring any adverse impacts to the area. There are no adverse effects from contamination or upon natural resources such as water and ecology. All of these matters have been carefully studied to ensure that no adverse impacts will arise. The applicant is willing to enter into a Section 106 Agreement to make payment to deliver those matters that are directly necessitated by the development of this site in accordance with prevailing legislation.

Planning History

9/2014/0292 – Outline for residential development – refused 26/06/2014

Responses to Consultations

The County Highway Authority has no objections subject to conditions in respect of the formation of a temporary access for construction purposes, the provision of space for the storage of plant and materials etc., the provision of wheel cleaning facilities, the formation of the new access, provision of a 2m wide footway, layout of internal streets, drainage, the provision of a swept path diagram, layout, the provision of parking spaces, no gates or barriers within 5m of the highway boundary, the provision of bin stores and the submission of a Travel plan to promote alternatives to single-occupancy car use.

The National Forest Company considers the loss of mature hedgerow in order to provide the pedestrian link is not justified and should be reduced to the width of the footpath. A commuted sum of £3,600 in lieu of on-site tree and landscape planting is requested, which could be used towards a programme of tree planting in Linton as part of an ongoing project of the District Council. Alternatively, ongoing management works at Foxley Wood would benefit from the contribution.

Derbyshire County Council has requested a contribution of £56,995 towards the provision of 5 primary school places at Linton Primary School, as well as access to high speed broadband and the dwellings designed to Lifetime Homes' standards.

The views of the DCC Flood Team are awaited.

The Coal Authority confirms there is no requirement for a Coal Mining Risk Assessment in this instance.

Severn Trent Water has no objections subject to a condition in respect of the disposal of surface water and foul sewage.

The Environmental Protection Officer (contaminated land) requires a precautionary standard condition relating to contamination.

The Strategic Housing Manager requests that 30% of the development be for affordable housing, which should be required by condition. This equates to 7 dwellings. The mix of affordable housing required for this site is:

For rent

2 x 2-bedroom, 4-person bungalows
2 x 3-bedroom, 5-person houses or bungalows
1 x 4-bedroom, 7+person house or bungalow

For Intermediate

2 x 3-bedroom, 5-person houses or bungalows

Responses to Publicity

Linton Parish Council objects to the application on the grounds that it would increase the existing traffic problems on the A444 and there is insufficient primary and secondary school provision for the future residents. There are also severe parking problems nearby, effectively reducing the road to a single carriageway.

County Councillor Kath Lauro expresses concern that the proposed development is on greenfield land and infrastructure, such as education and health services, will not be able to cope with the proposed development both in terms of this proposal and the recent proposal for 110 new dwellings on High Street. She also wishes to see social housing as part of the proposed development, financial contributions towards local recreational facilities and supports the installation of sprinklers.

Three emails objecting to the proposal have been received, with the following points being made:

- a. Poor drainage in the area;
- b. Increased traffic using the road;
- c. Impact on wildlife, such as foxes, birds and their habitats;
- d. Impact on quality of life and standard of living caused by car headlights when leaving the site;
- e. Major shortage of parking at Linton Heath causing people to park on pavements;
- f. Increased potential for accidents to car drivers and pedestrians;
- g. Road widening is essential

Development Plan Policies

The relevant policies are:

Adopted Local Plan:

- Saved Housing Policies 5, 8, 9, 11;
- Saved Environment Policies 1, 9, 10;
- Saved Recreation & Tourism Policy 4;
- Saved Transport Policy 6;
- Saved Community Facilities Policy 1(B)

Emerging Local Plan:

- S2 – Presumption in favour of sustainable development
- S4 – Housing Strategy
- S6 – Sustainable Access
- H1 – Settlement Hierarchy
- H19 – Housing Balance
- H20 – Affordable Housing
- SD1 – Amenity and Environmental Quality
- SD4 – Contaminated Land and Mining Legacy Issues
- BNE1 – Design Excellence
- BNE3 – Biodiversity
- BNE4 – Landscape Character and Local Distinctiveness
- INF1 – Infrastructure and Developer Contributions
- INF2 – Sustainable Transport
- INF6 – Community Facilities
- INF7 – Green Infrastructure
- INF8 – The National Forest
- INF9 – Open Space, Sport and Recreation

National Guidance

National Planning Policy Framework (NPPF), paragraphs, 6, 7, 8, 14, 17, 34, 49, 50, 56, 109, 118, 119, 121, 123, 186, 197, 203, 204, 206

National Planning Practice Guidance (NPPG), Section 9 (Design), Section 13 (Natural Environment), ID 37-001-20140306 (Open space), ID 23b-001-20140306 (Planning obligations), ID 50-001-20140306 (Rural Housing), ID 21a-001-20140306 (Planning Conditions)

Planning Considerations

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

- The principle of the development
- The Council's five-year housing land supply and sustainability
- Landscape and visual impact
- Highway and pedestrian issues
- Drainage
- Ecology
- Financial contributions

Planning Assessment

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 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 the 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 the framework.

The site lies within the defined countryside, outside but attached to the village settlement boundary and has open countryside on one side. Insofar as the policies in the adopted Local Plan are concerned, the weight to be attached to those policies is dependent on their level of consistency with the NPPF (paragraph 215). The adopted Local Plan contains numerous saved policies relating to new residential development and development within the countryside, some of which have been found to be consistent with the NPPF following various appeal decisions by the Planning Inspectorate.

When assessing the proposal against the housing policies in the adopted Local Plan it is clear that the development would be contrary to policies 5 and 8, being located outside the settlement boundary. Consequently, Saved Housing Policy 5 (village development) cannot be met, as this requires new housing development to be restricted to that which can be accommodated within the village confines.

Housing Policy 8 only supports new housing development in the countryside provided that it is necessary to serve a rural-based activity or that it is necessary to be in a countryside location. Again, this is not the case here.

Part A of Saved Environment Policy 1 is similar to Housing Policy 8 in that it requires new development to be either essential to a rural-based activity, or unavoidable in the countryside, and that the character of the countryside, landscape quality, wildlife and historic features are safeguarded and protected. Part B of the policy states that: "If development is permitted in the countryside it should be designed and located so as to create as little impact as practicable on the countryside". Whilst the application is in outline and therefore not sufficiently detailed to assess the finer impacts; nevertheless it is possible to assess the wider impacts and effects of the development within the landscape.

The emerging Local Plan identifies Linton as Key Service Village under Policy H1, which allows for developments of a range of scales up to and including small strategic sites. However, the Plan carries only limited weight as it has not completed its Examination in Public and therefore has not been found to be 'sound'. It would be unwise therefore to rely on this policy to either support or refuse the proposal.

Given that the proposal does not accord with Saved Housing Policies 5 and 8 and Part A of Environment Policy 1, it is considered that the principle of the proposed development is unable to be met when assessing it against the adopted Local Plan. Notwithstanding this, Members will be aware that the decision is not as evident or transparent as these policy considerations would appear to suggest. There are other important material considerations that are fundamental to the outcome of the application. One such consideration is the issue of sustainable development and another is the Council's five-year housing land supply. Both of these are discussed at length in the following paragraphs.

Members will be aware that a similar proposal for this site was refused last year on grounds that the site was not considered to be sustainable and that the proposed number of dwellings (up to 30) was not considered to be sufficient so as to make a meaningful difference to the Council's five-year housing land supply. Since then there have been several appeal decisions, including the High Street, Linton appeal, that have concluded that even a small number of houses can contribute cumulatively to housing land supply; and also, in the case of the High Street appeal, that Linton is a sustainable village that could support additional housing.

The Council's five-year housing land supply and sustainability

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 the housing strategy over the plan period. In addition, there is a burden on the local 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 to be up-to-date if the local planning authority cannot demonstrate a five-year supply of housing.

In 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 as a whole. Notwithstanding recent appeal decisions, it has been made clear through other appeal decisions 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, as does the current application. The mere presence of less than optimal planning circumstances for any given development is not likely to outweigh the presumption.

As already stated, the Council is currently unable to demonstrate that it has a five-year housing land supply. Members are advised that the current figure stands at 4.48 years. Paragraph 49 of the NPPF is specific on this subject. It 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 sites”*. It follows, therefore, that as the Council is unable to demonstrate a five-year housing supply, Members should be approving the current proposal, provided that they consider the site to be sustainable and that there would be no adverse impacts that would *significantly* and *demonstrably* outweigh the benefits the scheme would provide.

The issue of sustainability was the subject of much discussion during the Public Inquiry for the High Street, Linton appeal. The Inspector went into great detail on the issue, assessing the appeal proposal against:

- (i) the three dimensions of sustainability (economic, social and environmental);
- (ii) locational sustainability; and
- (iii) impact on existing community facilities in the village of Linton.

On the subject of locational sustainability he concluded that as Linton has been classed as a Key Service Village, which is the most sustainable settlement outside urban an urban area, it could accommodate a scale of growth up to and including strategic sites (100 dwellings plus).

The Inspector also considered other evidence put forward at the Inquiry to show that the facilities in Linton were declining. However, he took the view that if some shops are in danger of closing and interest is dwindling in some community facilities, there are arguments for more families to move into the village. He took the view that the appeal proposal would not be harmful to the existing community infrastructure of the village; that the proposal would be sustainable in relation to its economic and social impact; and that Linton is a sustainable location for a scheme of the size of the appeal proposal (110 dwellings).

The above appeal decision is a material planning consideration that Members should be mindful of, particularly as it is relatively recent in planning terms, and, as such, the current proposal should be approved provided that there would be no adverse impacts that would significantly and demonstrably outweigh the benefits.

Those benefits from an economic and social view include:

- direct and indirect employment opportunities;
- economic output as a result of the employment opportunities;
- value of the development to the construction industry;
- expenditure from future occupiers;
- New Homes Bonus; and
- Council Tax revenue.

Landscape and Visual Impact

This part of Linton Heath has two distinct characters. The southern side of the road is characterised by fairly dense residential development, comprising long rows of two-storey terraced dwellings that sit on the back edge of the pavement with no front gardens. The village confine boundary was drawn tightly along the front building line of these properties. The opposite side of the road, by contrast, has a more open, rural character with a grass verge, ditch course and mature hedgerow fronting the application site with cultivated agricultural land further to the east. The existing residential properties further eastwards along the road are more widely spread with dwellings each having larger plots including front gardens. Notwithstanding this, the application site is seen in the context of being (more-or-less) enclosed by development on three sides, with the fourth side being a small field. It has a close relationship to the built-up part of the village and is within easy walking distance of local facilities, i.e. shop, school and village hall. The site is densely covered with vegetation and is inaccessible to the public. There are no public rights of way within the site and it contributes little to the character of the village. In terms of visual impact, therefore, it would be difficult to put forward a case to demonstrate that the harm to the countryside caused by the development would demonstrably and significantly outweigh the benefits of the proposed development in terms of its contribution to housing supply.

Highway and pedestrian issues

The County Highway Authority has requested 13 conditions be included on any consent, these being considered necessary in order for the development to be made acceptable in terms of highway safety. It is recognised that the majority of the residents' concerns relate to the current parking situation along Linton Heath, with many of the residents parking outside their homes along the road, although some properties do have land to the rear that is used for parking. The indicative layout for the proposal shows that all of the proposed dwellings would have their own dedicated parking spaces, provided either by garages, driveways or both, and consequently no further pressure for parking on Linton Heath would ensue and the status quo would be maintained.

The provision of a pedestrian access from the site onto Linton Heath in the vicinity of the existing bus stop is to be welcomed as part of the sustainability of the site. The National Forest Company has raised concern that a substantial amount of hedgerow is shown as being removed in order to provide the pedestrian link (27m) and that this is unnecessary. This could be reduced to approximately 6m, which is all that is required in order to create the pedestrian link. This could be controlled by an appropriately worded condition.

Drainage

The application forms state that foul drainage would be directed to an existing foul sewer. With regard to surface water drainage, there is an existing drainage ditch that runs between the front boundary hedge and the back edge of the footpath which is believed to be a highway drain. The CHA has confirmed that it would not be acceptable for third party surface water to drain into this ditch. On further enquiry it has been confirmed that if there is no outfall in immediate proximity then a storm outfall will be requisitioned to the nearest watercourse. The water would be released from the site from a holding solution (either swales or tanks) at the green field run off rate. This could be controlled by condition as the requisition process is the appropriate method to deal with this situation. On the basis that surface water should not be put into the highway drain and subject to a condition requiring the submission of a drainage strategy for the site to ensure greenfield run off rates, there are no objections to the proposal on drainage grounds.

With regard to the River Mease and discharge of foul water to a mains sewer, it is currently uncertain whether the existing mains sewer drains to the water treatment plant at Coton in the Elms or Overseal. If it is confirmed that it drains to Overseal, and ultimately to the River Mease, a contribution would be required towards water quality management as part of the Developer Contributions Scheme for the River Mease SAC.

Ecology

The submitted reports and surveys conclude that there are no protected species that would be adversely affected by the proposed development. Chapter 69 of the Wildlife and Countryside Act 1981 (as amended) protects the destruction of birds and their eggs; and their habitats, including hedgerows, are protected during the nesting season. The applicants should be reminded of this by way of an informative. It is proposed to include a condition that requires the development to be carried out in accordance with the recommendations made in the submitted ecological appraisals.

Financial and other contributions

The following areas of compensation for infrastructure impact mitigation are required and have been tested for compliance with the CIL regulations.

Whilst the application is in outline, with no definitive numbers or sizes of dwellings, the following contributions have been calculated using an average occupation rate of 2.5 persons per dwelling (60 persons in total):

- Recreation
£372 pp for off-site open space (24 x 2.5 persons) = £22,320
£220 pp for outdoor facilities (24 x 2.5 persons) = £13,200
£122 pp for built facilities (24 x 2.5 persons) = £7,320

The above contributions would be put towards Linton Village Hall improvements and/or Coton Park play area.

- Education
£56,995 for 5 primary school places at Linton Primary School
- Off-site National Forest Planting

£3,600 towards SDDC tree planting project in Linton or Foxley Wood Management Project in co-ordination with the Woodland Trust. There is insufficient space within the development site to provide 20% tree and landscape planting on site.

A possible contribution may be required towards water quality management under the Developer Contributions Scheme for the River Mease SAC. Based on the information in paragraph 4.1 of the Planning Statement this would equate to:

- 15 x 3-bedroom dwellings = 15 x £253 = £3,795
- 9 x 4-bedroom dwellings = 9 x £354 = £3,186

However, as the application is in outline the final layout and housing mix has yet to be confirmed. Consequently the Section106 agreement (S106) should be worded to reflect this scenario. Additionally, if the development would drain to the treatment works at Coton in the Elms the contribution would not be required. Again the S106 should be worded to take account of this.

The applicants have been informed of the above requirements and confirmation of their agreement to pay the contributions has been received.

Overall Conclusions

It must be determined as set out in Paragraph 49 of the NPPF it is necessary to apply the tests in paragraph 14. This means that the planning balance must be determined, i.e. whether the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. The provision of up to 24 dwellings towards housing needs must be afforded significant weight given the current shortfall under the five year housing supply, and the fact that up to 30% of these would meet affordable housing needs, which also adds further weight in favour of the proposal. The provision of a contribution towards off-site planting would also contribute in favour to a degree. From an economic and social view, the site would bring many benefits to the village and would support local services as highlighted.

Whilst it is clear that the development would be visible from the residential properties opposite and that their outlook would be changed, there is no right to a view under planning law and this change in street context would not be harmful to the streetscene as a whole. Further enhancements would be possible at reserved matters stage which seek to incorporate into the design a development that would avoid overlooking issues. There are no highway issues associated with the development of the site and, provided sufficient on-site parking is provided within the reserved matters submission, there should be no worsening of the current situation with regard to parking along Linton Heath. More specifically, in terms of environmental impact, the site currently offers little value by way of its contribution towards the character of the settlement. Its location

between existing dwellings and the adjoining the school playing field adds weight to the argument that it would be a logical extension to the village. The majority of the existing frontage hedgerow would be retained and improved and a new hedgerow would be planted to replace that which would need to be removed in order to create the vehicular access. As such, there would be no undue adverse ecological impacts associated with the development of the site, subject to the implementation of the recommendations in the ecology surveys. Overall, detrimental impact to the environment would not be sufficient to significantly and demonstrably outweigh the identified benefits of the scheme.

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

Recommendation

- A** That the Committee delegates authority to the Planning Services Manager to conclude the signing of a Section 106 Agreement in pursuit of the provisions and contributions, as set out in the planning assessment above;
- B** Subject to A, **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 landscaping, to include the replacement and enhanced hedgerow details, 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. Before any development for the construction of any of the dwellings commences details of a scheme for the disposal of surface and foul water, together with a drainage strategy for the site, shall be 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 protection and pollution control and to ensure surface water run-off would occur at green field rates.
 4. Surface water from the development shall not drain to the highway drainage ditch that fronts the site.
Reason: In the interests of flood protection and pollution control.
 5. Before any development for the construction of any of the dwellings commences precise details, specifications and, where necessary, samples of the facing

materials to be used in the construction of the external walls and roof of the building(s) shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area.

6. Before any development for the construction of any of the dwellings commences, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed level(s).

Reason: To protect the amenities of neighbouring properties and the character of the area.

7. 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.

8. No development shall begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority.

The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the NPPF or any future guidance that replaces it. The scheme shall include:

- i. no less than 30% of housing shall be Affordable Housing.
- ii. the type, tenure and location of the Affordable Housing.
- iii. no more than 80% of Market Housing units shall be occupied before completion and transfer of the Affordable Housing Units to an Affordable Housing Provider;
- iv. the arrangements for the transfer of the Affordable Housing Units to an Affordable Housing Provider;
- v. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing to those households on the District Housing Waiting List; and
- vi. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing by means of the District Choice Based Lettings allocation scheme or in such other form as may be proposed by the Local Authority and agreed with the Affordable Housing Provider.

Reason: To ensure the provision of affordable housing within the planned design of the development, so as to ensure that the scheme is not in conflict with the reserved matters submission.

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

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

10. Before any other operations are commenced on site, a temporary access shall be formed into the site for construction purposes, and space shall be provided within the site curtilage for site accommodation, storage of plant and materials, parking and manoeuvring for site operatives' and visitors' vehicles, loading and unloading of goods vehicles, all in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason: The formation of the temporary access at the earliest opportunity is necessary in order to ensure highway safety along Linton Heath, which is a narrow road.

11. Before any operations commence involving the movement of materials in bulk to or from the site, facilities shall be provided that have previously been approved in writing by the Local Planning Authority, to prevent the deposition of mud or extraneous material on the access roads to the site.

Reason: In the interests of highway safety.

12. Before any development for the construction of any of the dwellings commences the new vehicular access shall be constructed in accordance with the application drawing F14004/01 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.

13. Before any development for the construction of any of the dwellings commences a 2m wide footway shall be provided along the entire site frontage, laid out and constructed, drained and lit in accordance with Derbyshire County Council's specification for new housing development roads.

Reason: In the interests of highway safety

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

Reason: In the interests of highway safety.

15. No dwelling shall be occupied until a sustainable drainage scheme for the site, including a management and maintenance plan, 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.

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

Reason: In the interests of highway safety.

17. No dwelling shall 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.

18. Unless otherwise agreed in writing by the Local Planning Authority, provision shall be made within the site for the parking of two vehicles per dwelling and maintained throughout the life of the development free from any impediment to their designated use.

Reason: In the interests of highway safety.

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

Reason: In the interests of highway safety.

20. Bin stores shall be provided within private land at the entrance to shared private accesses, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction on any of the dwellings, 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.

21. No building on the site shall be occupied 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 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.

22. The development hereby approved shall be carried out in accordance with the recommendations made within the Preliminary Ecological Appraisal, the Reptile Survey and the Mustelids Activity Survey submitted as part of the application unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of protecting notable species and their habitats.

Informatives:

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered

during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

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

The developer is advised to consider providing access to high speed broadband services for the future residents of the development.

The new dwellings should be designed to Lifetime Homes standards if possible.

Severn Trent Water advises 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. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.

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.

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

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, by seeking to resolve planning issues, undertaking negotiations and by quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

The proposed vehicular access into the site crosses the highway drainage ditch and therefore culvert consent will be required from the LLFA.

Item **1.4**

Reg. No. **9/2015/0463/FM**

Applicant:
Mr D Snell
Littleholm Kennels
Coton Park
Linton
Swadlincote
DE12 6RG

Agent:
Mrs Aida McManus
AM Planning Consultants Limited
17 Derwent Road
Stapenhill Road
Burton Upon Trent
DE15 9FR

Proposal: **DEMOLITION OF KENNEL FACILITIES AND THE
ERECTION OF 3 DWELLINGS AT LITTLEHOLM
KENNELS COTON PARK LINTON SWADLINCOTE**

Ward: **LINTON**

Valid Date: **27/05/2015**

Reason for committee determination

The application is not in accord with the development plan.

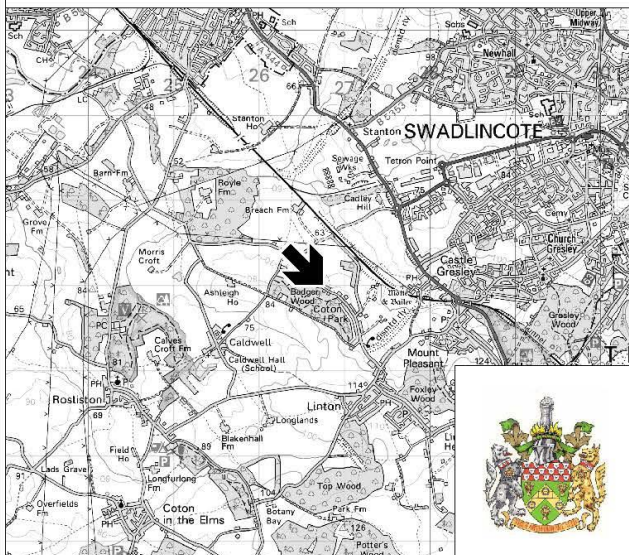
Site Description

The buildings forming Littleholme Kennels are located along the narrow lane leading from Coton Park towards Barn Farm. They comprise a range of single storey breeze block structures with corrugated roofs and wire mesh fronts, sitting on a concrete yard area in a U formation, positioned approximately 30m southeast of an existing single storey dwelling occupied by the applicant. There is an existing small car park opposite the dwelling with a further dwelling (Littleholme View) beyond that. The lane terminates approximately 100m beyond the kennels at Barn Farm.

The route of Public Footpath No.2 Linton runs from the lane to the southeast of the kennels in a northerly direction and skirts the eastern boundary of the application site before joining other footpaths that link Burton and Swadlincote. There are open views from the site to the north. The site lies within open countryside.

Proposal

The application is for the demolition of the vacant dog kennel buildings and the re-development of the site by the erection of three dwellings, comprising three, single storey units forming a loose group facing a central parking and turning area. Each unit would have an area of private amenity space and two parking spaces and would comprise three bedrooms, kitchen, utility, bathroom and living room. Areas of



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landscaping would be provided at the site entrance with herbaceous borders, standard trees and the retention of existing trees.

Applicants' supporting information

The following documents have been submitted in support of the application:

- Design and Access Statement
- Planning Statement
- Ecology Assessment, including bat building assessment

These can be summarised as follows:

Design and Access Statement

The proposal has been designed to consider the location of the site and the surrounding landscape to ensure that it reflects the rural character of the area and the existing development.

Planning Statement

There is a clear presumption in favour of sustainable development in the NPPF and case law/appeal decisions have established that little weight can be given to countryside policies where a Council does not have an adequate five year housing land supply. The application site is not located within an area that enjoys the highest status of protection in relation to landscape and scenic beauty and the proposal would not amount to an isolated dwelling in the countryside. Paragraph 17 states that every effort should be made to identify and then meet housing, business and other development needs of an area, and respond positively to wider opportunities for growth. This high quality residential design scheme promotes housing within this sustainable location, which recognises the intrinsic character and beauty of the countryside whilst ensuring that the rural economy will be supported through the effective re-use of this previously developed site by securing the removal of the unsightly kennel facilities and extensive hard landscaping.

It considers that the scheme accords with the provision of national and local planning policy and will help deliver the authority's identified housing requirements in a sustainable location without resulting in any adverse impact which would significantly and demonstrably outweigh the benefits of granting planning permission.

Ecological and Bat Building Assessment

This document concludes and makes recommendations as follows:

- The buildings and trees were all found to be negligible for their potential to support bats;
- Clearance of vegetation should be undertaken outside of bird breeding season (March to August). If not achievable supervision of the clearance would be required by a qualified ecologist;
- There is no evidence of any badger activity; however a pre-construction badger check is recommended;

- There is no evidence of reptiles despite the suitability of habitats on adjacent land;
- The site offers no suitability to support Great Crested Newts or habitats and no further GCN surveys are recommended.
- No invasive vegetation species were noted;
- Opportunities to encourage biodiversity on completion of the development once are recommended, i.e. bat and bird boxes on walls and trees and the inclusion of native planting.

Planning History

9/2014/0385 – Erection of four dwellings – refused 27/06/2014

Appeal dismissed 26/02/2015 on grounds of height and suburban design.

Responses to Consultations

The Coal Authority confirms that the application site does not fall within the defined Development High Risk Area and recommends the inclusion of its standing advice.

The Peak and Northern Footpaths Society has no objection in principle. However concern has been expressed with regard to the statement on page 13 of the Design and Access Statement that Public Footpath 2 Linton should be closed because it is not well used. The Society confirms that in order to close the path the applicants would need to demonstrate that it is not required by the public and, since it is a long path which links the countryside north of Linton to Burton and Swadlincote it is doubtful the test could be met. The fact that the southern end of the path joins to a 'private driveway' is irrelevant and the public right of way should be legally recognised over the section of driveway between the end of Footpath 2 and the beginning of the adopted section of the driveway.

Natural England has no objections with regard to statutory nature conservation sites.

Derbyshire Wildlife Trust considers the survey work that has been undertaken is sufficient to support the application and recommends conditions with regard to nesting birds, the incorporation of bat and bird roosting and nesting features, the submission of an ecological enhancement strategy and a lighting strategy.

The County Highway Authority has no highway objections subject to conditions in respect of the provision of visibility splays and the parking/manoeuvring space

Severn Trent Water has no objections or comments to make on the proposal.

The County Rights of Way Officer confirms that Linton Public Footpath 2 abuts the eastern boundary of the site and requests the applicant be made aware of the legal line and advised of the legal restrictions.

The Environment Agency has no objections but attaches information for the applicant with regard to water quality and waste.

The Environmental Protection Officer has no objection subject to a condition in respect of ground gas.

Responses to Publicity

One emailed comment has been received which considers the lane is too narrow and dangerous to support additional properties.

Development Plan Policies

The relevant policies are:

Adopted Local Plan:

Saved Housing Policies 5, 8, 11; Environment Policies 1, 10; Transport Policy 6

Emerging Local Plan:

S2, S6, H1, H19, SD1, SD4, BNE1, BNE3, BNE4, INF1, INF2, INF8

Local Guidance

Housing Design and Layout SPG

National Guidance

- National Planning Policy Framework (NPPF) paragraphs 6, 7, 8, 14, 17, 49, 50, 55, 56, 57, 186, 187, 206
- National Planning Practice Guidance (NPPG)

Planning Considerations

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

- The principle of development and sustainability
- Design
- Highway issues

Planning Assessment

Principle and sustainability

The principle of the demolition and re-development of this vacant kennels site was tested at appeal last year following refusal of an application for four detached dwellings on the same site. In his appeal decision the Inspector agreed with the appellant that the appeal scheme would not amount to isolated dwellings in the countryside and would, therefore, accord with the policies in the NPPF, including the sustainability objectives. However, he remained concerned that the proposed two-storey dwellings, garages and surfaced areas would increase the amount of built development across the site. The ridge heights of the proposed dwellings would be materially higher than the existing kennel buildings and the existing open and verdant character and appearance of the surrounding area would be substantially eroded. He considered that the adverse harm

would be accentuated by the suburban design of the proposed dwellings and the associated detached garages and that the need for parts of the frontage hedge to be removed to provide access and the proposed passing place would also have a detrimental effect on the generally rural character of the road.

Consequently, he took the view that the environmental dimension of sustainable development would not be satisfied and the appeal was dismissed. Before dismissing the appeal, however, the Inspector considered the proposal in light of adopted Local Plan Saved Housing Policies 5 and 8 and Saved Environment Policy 1, concluding that Housing Policies 5 and 8 were not entirely consistent with the NPPF but that the appeal proposal would conflict with Environment Policy 1, thereby confirming that the policy remains applicable to development in the countryside.

The above appeal decision is a material planning consideration that Members should be mindful of, particularly as it relates directly to the site and is relatively recent (February 2015). As such, permission should not now be withheld given that the concerns with regard to design and amount have been addressed, provided that there would be no other adverse impacts that would significantly and demonstrably outweigh the benefits.

The benefits of the development from an economic and social view include:

- Direct and indirect employment opportunities;
- Economic output as a result of the employment opportunities;
- Value of the development to the construction industry;
- Expenditure from future occupiers;
- New Homes Bonus; and
- Council tax revenue.

In addition to the above the proposal is now considered to satisfy the environmental role of sustainable development and consequently the proposal would fully meet the sustainability objectives of the NPPF.

Design

The current application has been submitted with the Inspector's concerns in mind, particularly with regard to height and the amount of development within the site. The proposed dwellings have been designed to reflect a barn conversion-type development which would be more in keeping with the surrounding area and the number of residential units has been reduced from four to three. Whilst a small amount of frontage hedgerow would be lost to provide the access, the amount would be considerably less than previously required. The passing bay would no longer be required as the revised design and reduced number of dwellings would result in more on-site manoeuvring space for residents and delivery vehicles.

Following pre-application advice the design of the proposed dwellings is better suited to the rural area with simple elevations incorporating arched window and door heads, timber joinery and doors and the use of red bricks and plain roof tiles.

Highway and pedestrian issues

The County Highway Authority has no objections to the proposal, subject to conditions. Whilst it is acknowledged that the lane is narrow with an extremely pot-holed surface,

this is insufficient reason to warrant refusal and therefore did not feature in the previous rejection of the scheme. The access allows for good visibility in both directions and safe movement for vehicles and pedestrians. The proximity of the site would promote opportunities for walking and cycling, whilst also reducing car dependency and reducing pollution. The route of Public Footpath 2 Linton, which is fairly overgrown, would not be affected by the proposal but its proximity to the application site would assist in encouraging its increased use, thereby ensuring it remains open and more easily used.

Overall conclusion

In policy terms the proposal accords with Saved Housing Policy 11 and Environment Policy 1 of the adopted Local Plan and (given the Inspector's decision) the sustainability objectives of the NPPF. The simple layout and design of the dwellings is acceptable and is considered to accord with the advice on design in the NPPF. The proposal is acceptable in highway safety terms. There are no other issues that would result in a different recommendation and therefore the Members are advised to approve the proposed scheme, subject to conditions.

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

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. Before any part of the development commences for the construction of the dwellings 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 shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details.
Reason: To safeguard the character and appearance of the area.
3. Before the commencement of any development for the construction of the dwellings, a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development, shall be submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the appearance of the area.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar

size and species, unless the Local Planning Authority gives written consent to any variation.

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

5. Notwithstanding any details submitted or the provisions of the Town and Country Planning (General Permitted Development) Order 2015, before any development commences for the construction of the dwellings detailed plans indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. 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.

6. Before the commencement of development involving the construction of the dwellings, details of the finished floor levels of the buildings hereby approved and of the ground levels of the site relative to adjoining land levels, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the agreed levels.

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, none of the dwellings hereby permitted shall be enlarged or extended or windows inserted without the prior grant of planning permission on an application made to the Local Planning Authority in that regard.

Reason: To maintain control in the interests of the character and amenity of the area, having regard to the setting and size of the development, the site area and effect upon neighbouring properties and the street scene.

8. Before development commences involving the construction of the dwellings, a suitable scheme for the prevention of ground gas ingress shall be submitted to and approved in writing by the Local Planning Authority. Alternatively, the site shall be monitored for the presence of ground gas and a subsequent risk assessment completed in accordance with a scheme to be agreed with the Local Planning Authority, 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'.

Upon completion of either, verification of the correct installation of gas prevention measures (if any) shall be submitted to and approved in writing by the LPA prior to the occupation of the development hereby permitted.

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.

9. Prior to the first occupation of the dwellings hereby permitted, visibility splays of 2m x 15m shall be created at the site access in accordance with the submitted application drawing No. 1514/10, laid out, constructed and maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason: In the interests of highway safety.

10. Before the first occupation of the dwellings space shall be provided within the application site in accordance with the submitted application drawing No. 1514/10 for the parking and manoeuvring of residents', service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

Reason: In the interests of highway safety.

11. Before the commencement of development involving the construction of the dwellings an ecological enhancement strategy, including bat and bird roosting and nesting features, shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be implemented in full and maintained thereafter.

Reason: In the interests of enhancing the natural and local environment.

12. Before the commencement of development involving the construction of the dwellings a lighting strategy shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be implemented in full and maintained thereafter.

Reason: In order to reduce the impacts of lighting on wildlife.

Informatives:

For 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. The administration of this application may be expedited if completion or verification evidence 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:

- "" CIRIA C665: Assessing the risks posed by hazardous ground gases into buildings
- "" 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.
- "" BS 8576:2013 Guidance on investigations for ground gas. Permanent gases and Volatile Organic Compounds (VOCs).

In the absence of a public foul sewer within 30m of the development then connection of the foul drainage to a septic tank is acceptable. If the applicant intends to connect to an existing septic tank he will need to ensure it is sized correctly to cope with the increase in effluent. The applicant must ensure that the discharge from the septic tank flows into

a suitably sized drainage field. The septic tank will also need to be emptied on a regular basis. Owing to the size of the development site it is likely that the applicant will need to apply for a permit for the foul discharge. Further details can be found on the following website:

<https://www.gov.uk/permits-you-need-for-septic-tanks>

Unless the applicant is considering using waste in the construction of the properties there will be no need to obtain an Environmental Permit or a suitable exemption. Any waste taken off site must be removed by a registered waste carrier and taken to a site that holds a suitable Environmental Permit that is allowed to receive such waste. The appropriate documentation must be produced (transfer/consignment notes). If demolition of the kennels involves the removal of asbestos a suitable removal contractor must be employed and a suitable site identified for its disposal. If this is the case a consignment note must accompany each load leaving the site. If waste is brought on to the site for use in the construction of any future development the appropriate exemption or permit must be obtained.

Linton Public Footpath 2 abuts the site and must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section at Derbyshire County Council. If a structure is to be erected adjacent to the right of way, it should be installed within the site boundary so that the width of the right of way is not encroached upon.

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 Derbyshire Wildlife Trust, East Mill, Bridge Foot, Belper, Derbyshire, DE56 1XH.

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com.

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.

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions and by quickly determining the application. As such it is considered that the Local Planning Authority has implemented the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Item **1.5**

Reg. No. **CW9/2015/0002/CW**

Applicant:
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Proposal: **ERECTION OF A 15MW RENEWABLE ENERGY CENTRE
AND ASSOCIATED INFRASTRUCTURE (COUNTY REF:
CW9/0615/48) ON LAND AT SK2319 0645 FORMER
DRAKELOW POWER STATION WALTON ROAD
DRAKELOW SWADLINCOTE**

Ward: **LINTON**

Valid Date: **02/07/2015**

Reason for committee determination

The item is presented to Committee at the discretion of the Planning Services Manager.

Background

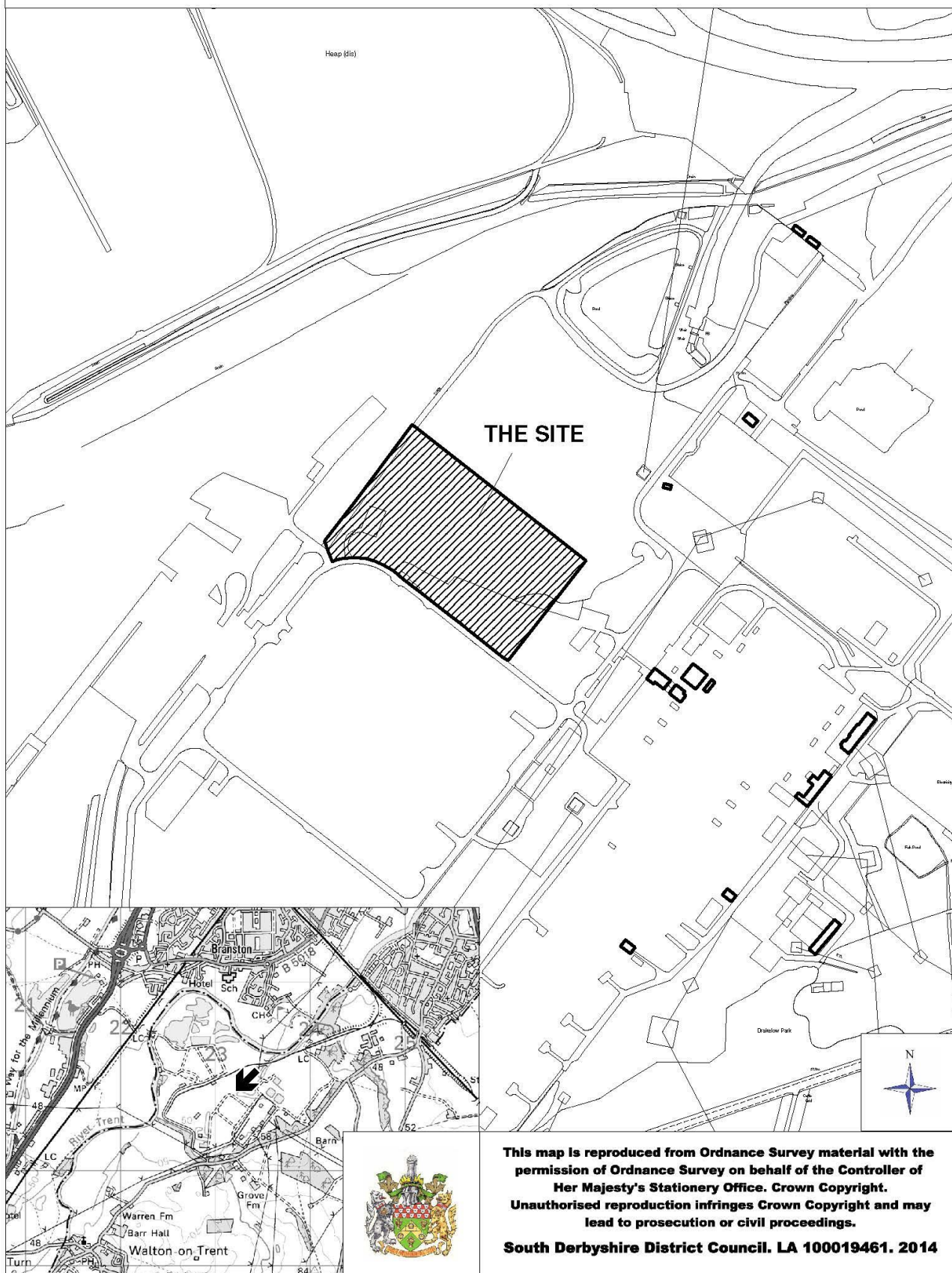
This item is a consultation from the County Council as Waste Planning Authority seeking the views of the District Council on the proposal. This is a major development falling within Schedule 1 Development for the purposes of the 2011 Environmental Assessment Regulations.

Site Description

The site lies within the grounds of the former Drakelow C Power Station, off Walton Road, decommissioned in 2003 and demolished in 2006. The site is a derelict, vegetated parcel of land comprising mounds of demolition material, two cooling tower concrete bases which extend off site and concrete hardstanding formerly occupied by buildings, yard areas and access roads associated with the Power Station.

The site is bounded to the south and east by the Burton South main electrical substation with open brownfield land immediately in other directions. This open land includes a number of ponds along with areas of scrubland and belts of mature woodland that screen the site from the road network and surrounding areas. The River Trent lies to the north-west whilst the consented Drakelow Park mixed use development would lie to the north-east.

**CW9/2015/0002 - Land at SK2319 0645, Former Drakelow Power Station,
Walton Road, Drakelow, Swadlincote (DE15 9TY)**



The consented Drakelow Combined Cycle Gas Turbine Power Station would be located approximately 500m to the west and a solar farm approximately 1km to the west has recently gained planning approval.

Proposal

It is proposed to construct a Renewable Energy Centre (REC) designed to accept up to approximately 169,500 tonnes per annum of Biomass Rich Fuel (BRF). The REC would operate 24 hours per day, 7 days a week all year round and would be designed with capacity for the storage of up to 4 days of fuel feedstock. BRF is produced by the mechanical treatment and shredding of Commercial and Industrial waste arisings, and it may also contain Municipal Solid Waste content after materials that can be recycled have been removed. The proposed facility would use gasification to extract energy (in the form of electricity and heat) from the fuel. Gasification is a partial oxidation process whereby a carbon source such as biomass, is broken down into carbon monoxide and hydrogen, plus carbon dioxide. The process would be undertaken using extreme heat (around 850°C) which leads to a reduced number of hydrocarbons in the product gas and a higher proportion of CO and H.

The majority of the key components associated with the handling of the fuel and generation of energy would be totally enclosed within a purpose built new building designed to fit in with the adjacent Drakelow Park mixed use development. The building would be of a steel frame portal construction and is likely to be finished in a coated steel cladding. At its highest point it would be 22m in height (excluding the stack which would be 45m in height) and would have an overall footprint of around 164m by 80m. External works include access roadways, HGV parking, light vehicle parking and landscaping.

Applicant's supporting information

An Environmental Statement (ES) accompanies the application following Screening and Scoping Opinions issued by the County Council. This ES, and other reports 'scoped out' of the ES, covers the following topics and concludes on each one accordingly:

Traffic and Transportation

The site would have a direct connection to the A38 via the dedicated Walton Bypass that is to be constructed in the near future. Until such time, all vehicles would route to the north onto the A444. Access would be via the existing access into the former Drakelow C Power Station off Walton Road. The traffic generated would be at its greatest during the construction phase. The traffic generated during operation would be made up of fuel delivery vehicles, hazardous waste removal vehicles, occasional maintenance and inspection vehicles. During the decommissioning phase, traffic would again be heavier whilst the work is being undertaken. Construction traffic would comprise a mix of HGVs, passenger vehicles and over-sized vehicles transporting the key components. Prior to the Walton Bypass being constructed vehicles will access the site via the A444. Vehicles transporting the large components would be escorted either by police or a transportation company. Where there are seen to be adverse effects, mitigation measures have been outlined to minimise, as far as possible, the impact of the construction phase. The assessment finds that, during its operation, the Proposed Development would result in minimal changes in traffic volume on the surrounding network, with and without mitigation measures. The findings of the assessment

demonstrate that all traffic could be accommodated on the local road network without compromising operational capacity or safety.

Air Quality

Traffic-related air quality impacts during construction and operation were screened out of assessment due to the low number of vehicles involved.

Dispersion modelling of emissions from the gasification plant has been undertaken. As a worst-case, emissions from the gasification plant stack have been assumed to be at the maximum permissible limits for the thermal treatment of waste. Due to the relatively remote location of the site and lack of sensitive receptors, both human and habitat receptors, the impact of construction activities was considered to be not significant. The key findings of the assessment of operational impacts concluded that there would be no significant effects from process emissions on sensitive human receptors for the gasification plant.

Noise

The noise assessment considers the effects of operational noise from the development on both existing and consented noise sensitive receptors. The prediction of noise assumes that all plant operations and noisy activity will occur continuously and simultaneously, however, in reality this would not happen. Therefore, the predicted noise levels are expected to be higher than would actually occur. dWith regard to Planning Practice Guidance the assessment determined that operational noise, under certain conditions may be 'Noticeable but not intrusive', such that noise can be heard, but does not cause any change in behaviour or attitude.

Land Quality

This discusses the historical and current use of the proposed development with respect to contaminated land and the underlying geology and hydrogeology, as well as providing details of the likely effects of the proposed development in terms of water quality, hydrology and flood risk. Previous site investigations of the area have indicated that the soils and perched groundwater have been impacted by historical activities, and as such there is considered to be a moderate risk from contamination. Further investigatory works would be undertaken as part of the pre-construction works and a remediation strategy may be required. If relevant legislation and industry standard protocols and guidance, such as the Environment Agency's Pollution Prevention Guidelines, are adhered to during construction, operation and decommissioning, no significant residual effects would arise.

Landscape & Visual Impacts

There are no statutory or non-statutory landscape designations within the Study Area. The assessment revealed that the site and immediate surroundings are substantially different to the predominantly rural character described in published assessments. The land cover comprises of brownfield land with patchy grassland, scrub and remnant industrial infrastructure. Lattice tower steel pylons cross the landscape and mature woodland restricts intervisibility with the wider landscape. Other land uses in the locality include factory/storage buildings, a golf course and major road and rail corridors. No significant effects on landscape or visual receptors are predicted during the construction or decommissioning phases of the development. Visual effects during the operational

phase include moderate and not significant effects on users of the National Forest Way long distance footpath, south of Branston. There would also be moderate and not significant visual effects upon localised sections of some local public rights of way. A cumulative assessment was undertaken with three nearby consented developments comprising the combined cycle gas turbine (CCGT) Power Station, the Drakelow Park development and the solar park. Whilst from some elevated viewpoints the developments would be seen in combination, the contribution made by the proposed development in all cases would be not significant and no significant cumulative effects on landscape character or visual amenity are predicted.

Ecology

There are no statutory or non-statutory designated nature conservation sites within the site. The main likely impacts of the proposed works are considered to be the loss of foraging and nesting habitat for birds and the potential for the site to host reptiles. However, considerable areas of similar habitat occur in the wider area. As such the loss of this relatively small area is not considered likely to impact the local populations and mitigation measures have been proposed. Mitigation measures have also been proposed to ensure there is no impact upon any protected species

Cultural Heritage

The evidence gathered for buried heritage indicates human activity in the immediate area of the site from the prehistoric period onwards. No finds or features of any period have been recorded previously within the site itself. The appraisal found that the archaeological potential is negligible due to the depth of previous impacts of the cooling towers of the former power plant.

No intervisibility is anticipated between the site and Conservation Areas, Registered Parks and Gardens or with the majority of Scheduled Monuments. There is evidence of potential views from the Barrow Cemetery located 3km southwest, and limited views from the Grade II Listed Buildings at Drakelow Park, Grove Farm and Branston Depot. The appraisal found that the magnitude of impact on the settings of these heritage assets will be small and the effects will be slight. For these reasons, the proposed development would cause no harm to buried heritage and less than substantial harm to the settings of the designated heritage assets.

Flood Risk Assessment (FRA)

As the site is situated in Flood Zone 1 the FRA is primarily focused on the appraisal of surface water management provisions and measures required to ensure that the development does not result in increased flood risk in the surrounding area. The development is classed as 'essential infrastructure' which is defined as 'appropriate development' in Flood Zone 1 and as such the Sequential Test is passed with no requirement to pass the Exception Test.

Socio-economic Considerations

The proposal is likely to result in the creation of around 100 new jobs during the construction of the scheme and the applicant is keen to ensure that as much of the economic benefit stays in the local area as possible. Initiatives are planned to introduce potential suppliers, contractors and sub-contractors, who would invite local companies to tender for contracts as part of the construction process. Additionally the plant design

has been undertaken by a local plant design and manufacturing company, Biomass Power Limited. During operation the site is expected to employ in the region of 10 new long term jobs as well as produce indirect employment opportunities to the companies that would supply the fuel to the REC, as it is likely additional staff would be required to prepare the fuel. There would also be a likely requirement for additional HGV drivers to deliver the fuel and collect the ash from the site. Furthermore the development would contribute £25,000 to Derbyshire County Council Greenways Strategy as well as contributing to a reduction in greenhouse gas emissions and an improvement in energy security at a national level.

Planning History

9/2015/0256: Solar park – Approved 24 June 2015

9/2009/0321: Consultation from the SoS on the construction and operation of a combined cycle gas turbine power station – No objection subject to conditions July 2009

9/2009/0341: A hybrid planning application with all matters reserved for up to 2,239 dwellings, including a retirement village; an employment park; two local centres comprising retail, services, leisure, employment and community uses; public open spaces; a new primary school, associated landscape and infrastructure including car parking, road and drainage measures; and the refurbishment of the listed stables and cottages – Approved March 2012

Responses to Consultation

The County Council is responsible for carrying out consultation in respect of this application and interpreting consultation responses. As a consequence consultation has not been undertaken with the County Highway Authority, County Archaeologist, County Flood Risk Team and/or the Environment Agency or Derbyshire Wildlife Trust. The following comments have however been received from the Environmental Health Manager:

The nature of the proposed development is likely to fall within Environmental Permitting Regulations. If an Environmental Permit is granted the activity will need to comply with whatever conditions the Environment Agency impose within the Permit as well as meeting an overarching legal duty to take the 'best available techniques' to minimise its environmental impact. The District Council will be a statutory consultee to any Permit application and will have the ability to comment in further detail at that point. Statutory guidance advises that planning authorities should not use planning controls to replicate controls within an Environmental Permit.

The Air Quality Chapter of the ES is noted. However it is requested that the applicant provide some additional information to help reach a fully informed decision. That is:

1. The operational impact of traffic emissions associated with the development has been screened out of the assessment based on guidance issued by the Institute of Air Quality Management (IAQM). In

order to demonstrate that there is no need to specifically assess the impact of the development on the Burton Air Quality Management Areas (AQMA), it is requested that the applicant confirm the IAQM Guidance screening criteria for AQMAs is not exceeded. This requires evidence that the predicted operational phase traffic flows through the AQMA will not exceed the IAQM screening criteria of more than 100 Light Duty Vehicles (Annual average daily traffic (AADT)) or 25 Heavy Duty Vehicles (AADT).

2. Confirmation will need to be provided by East Staffordshire District Council that the proposed development does not, in their opinion, adversely impact on the implementation of their Air Quality Action Plan.

Planning Practice Guidance (PPG) provides guidance on how to reach decisions where a proposed development has a potential air quality impact. The PPG states that concerns could arise if the development is likely to generate air quality impact in an area where air quality is known to be 'poor', where the development is likely to adversely impact upon the implementation of air quality strategies and action plans; and/or where the development is likely to lead to a breach of EU legislation (including that applicable to wildlife). Whilst the development will inevitably add to the existing background air quality, the evidence is that the development will not contribute to breaches of EU legislation or adversely impact upon the implementation of South Derbyshire's air quality actions, and hence an objection is not justified. However it is requested that the applicant be required to submit a Construction Phase Dust Management Plan, to be agreed by this authority prior to the start of the development.

It is not anticipated there would be any adverse odour impacts during the operational phase, and in any case any odour emissions will need to be addressed under the Environmental Permit application.

In terms of noise, the worst case predicted impact of the operational development is that the plant and associated operational noise from the development will be 3-4dBA (LAeq) above the daytime background noise levels at the proposed residential development site to the north-east. The assessment categorises the significance of the impact as being 'noticeable, but not intrusive' within the context of the PPG, and the Guidance recommends that the noise should be mitigated and reduced to a minimum. It is therefore not suggested that operational phase planning conditions are requested in respect of noise control as recommendations can be made in response to the consultation to the Environmental Permit application. Nevertheless in order to control the impact of the development noise during the construction phase, a condition to limit hours of construction is requested.

It is noted the former use of the site has been identified as likely to have caused land contamination. Therefore, it is necessary to demonstrate that the development proposals will not mobilise any contaminants and cause the potential to have an adverse effect on any existing or proposed receptors. It is recommended that conditions be requested to ensure appropriate control.

Responses to Publicity

Again the County Council is responsible for carrying out consultation in respect of this application and interpreting consultation responses.

Development Plan Policies

The relevant policies are:

- Saved Local Plan 1998: Employment Policies 7 and 8 (E7 and E8), Environment Policies 1, 9, 10, 11, 13 and 14 (EV1, EV9, EV10, EV11, EV13 and EV14), and Transport Policy 6 (T6).

Emerging Development Plan Policies

The relevant policies are:

- Submission Local Plan Part 1: S2 (Presumption in Favour of Sustainable Development), S6 (Sustainable Access), E2 (Other Industrial and Business Development), SD1 (Amenity and Environmental Quality), SD2 (Flood Risk), SD4 (Contaminated Land and Mining Legacy Issues), SD6 (Sustainable Energy and Power Generation), BNE1 (Design Excellence), BNE2 (Heritage Assets), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF1 (Infrastructure and Developer Contributions), INF2 (Sustainable Transport) and INF8 (The National Forest).

National Guidance

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

Planning Considerations

The purpose of this report is to assist the Planning Committee to provide South Derbyshire District Council's comments on this significant planning application. The final decision rests with the County Council and the views of this Committee will assist it in reaching a decision without binding the County Planning Authority to following this Council's comments.

Planning Assessment

Principle of development

The ES is comprehensive in considering all the environmental, social and economic dimensions of the development, in the eyes of what constitutes sustainable development when viewed in the round. Whilst there is no specific Development Plan policy supporting energy generation or employment development in this location, the context of the site and that already consented in highly material. Its location adjacent to future energy generation schemes and a distribution station to the National Grid minimises the impact such a scheme might have elsewhere. Its isolation from neighbouring dwellings also minimises the disturbance to existing quality of amenity enjoyed by residents in the area. Accordingly it is recommended that Members support the principle of the proposal given the significant contribution it would make to energy generation for the District and wider region, the reduction in greenhouse gases and the considerable employment and economic benefits the development could bring about.

Notwithstanding this there are some parts of the ES which require further clarification or consideration. The response of the Environmental Health Manager above addresses matters of noise, odour, air quality and land contamination, and the conditions which fall out of this response form part of the recommendation below. However there are wider matters involving transport, flood risk and visual impact which are considered to require further attention.

Highway congestion implications

Whilst the site would have a direct connection to the A38 via the dedicated Walton Bypass that is to be constructed in the near future, a final timescale for this road is yet to be confirmed. Until such time as the new bypass is delivered, vehicles would have to route to the north into Burton and onto the A444. The timing of the bypass is just one of a wider series of planned developments in the immediate area, of which Drakelow Park is already underway. It is not inconceivable that the proposal might be constructed at the same time as Drakelow Park, the solar farm and the CCGT power station. The cumulative impacts therefore require careful consideration given the projections of 100 HGV movements per day during construction and 30 per day thereafter. Hence it may be a useful exercise for the applicant to attempt to document possible construction periods arising from nearby developments with a view to identifying more accurately the potential for construction phase cumulative effects associated with varying schemes in order that local communities can be given an idea of the periods where most intense construction activity is likely to occur and hence when impacts could be most notable.

Similarly there needs to be careful consideration of the highway capacity and safety impacts on Walton Road and surrounding routes during the construction and operational phases. The operational phase projections of 30 HGV movements per day are broken down into 3 two-way trips per hour if evenly spread across the 24 hour operational day, rising to 9 two-way trips per hour in the worst case scenario. The reality is that a figure of around 6 per hour is a reasonable assumption given day shift patterns for third parties who would be supplying fuel and removing ash. However it is noted the applicant projects some 100 HGV movements per day at the peak of construction with this spread across 10 hours. A 10 hour day for construction staff seems somewhat optimistic given normal working practices and seasonal limitations. By compressing these movements into less hours it would have an effect on the modelling underpinning the transport assessment part of the ES. It is therefore recommended that the County give careful consideration to the suitability of this 10 hour assumption.

Safe access and resilience of supply during flood events

The floods on 2007 revealed the vulnerability of many river side energy generation or distribution facilities, either by way of water inundation or by preventing access to start up pumping systems and so forth. Whilst Environment Agency flood risk maps show the site falling outside of high risk areas, the access road crosses a considerable swathe of land at medium risk of flooding from watercourses. There is additional susceptibility to surface water flooding which when combined with a fluvial flood event could amplify the depth of water over the access route considerably.

The effect therefore could be that in a flood event employees could be at risk through attempting to access or leave the facility as part of their shift arrangements, sometimes under the cover of darkness, whilst deliveries and/or collections could be disrupted. Whilst the ES sets out a 4-day stockpiling resilience, there appears to be no

consideration of how flood waters affect this access route. Ultimately the security of energy generation is becoming more and more apparent as old coal fired plants are decommissioned, such that the temporary loss of small plants could be significant in future years. It is therefore recommended the County seek advice from their own Flood Risk team as to the levity of this matter and if necessary, ask that the applicant undertake further modelling work.

Visual impacts

It is acknowledged that the site is well contained by topography and tree planting surrounding the site. Accordingly this serves greatly in mitigating visual impacts. Nevertheless the proposal would be clearly visible in views from the National Forest Way and (likely) the Way for the Millennium. It is considered that attention should be given to additional planting to the immediate west of the facility, without compromising the land set aside for the CCGT power station, so to help mitigate visual and landscape impacts from the west as well as achieve National Forest objectives.

Summary

The matters regarding highway capacity and transport modelling along with access and supply resilience during flood events would be informed by appropriate consultees replying directly to the County Council. Should these matters weigh heavily against the proposal in their view, it is for them to lodge an objection against the application. In this context the recommended conditions below together with the comments identified above are considered sufficient to protect the amenities of occupiers of nearby consented houses as well as improve the visual amenities of the area; all to a point where a response of No Objection subject to conditions and informatives can be recommended to the Planning Committee for consideration.

Recommendation

That Derbyshire County Planning Authority be advised that subject to (1) the applicant providing Environmental Health Officers with the information requested regarding Air Quality, and (2) further consideration (and liaison with the applicant if necessary) of traffic congestion and flood risk matters raised in the above report; South Derbyshire District Council has **NO OBJECTION** to the proposed development subject to the following conditions:

1. No development shall commence until a Construction Phase Dust Management Plan has been submitted to and approved in writing by the County Planning Authority in consultation with the Local Planning Authority. The approved Management Plan shall be adhered to at all times during construction of the facility.
2. During the period of construction of any phase of the development no work shall take place outside the following times: 0730 – 1900 hours Monday to Friday and 0730 – 1600 hours on Saturdays and any time on Sundays, Bank and Public holidays (other than emergency works).
3. Prior to construction of the facility, a scheme for woodland planting to the west of the site shall be submitted to and approved in writing by the County Planning Authority in consultation with the Local Planning Authority. The approved scheme

shall be planted within the first available planting season following that approval or first use of the facility, whichever is the sooner; and any tree that dies, becomes diseased or is removed within 10 years of planting shall be replaced with a tree of similar size and species.